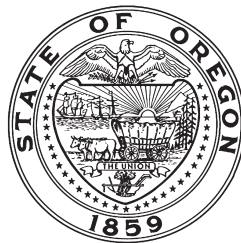


OREGON BULLETIN

Supplements the 2006 *Oregon Administrative Rules Compilation*

Volume 45, No. 4
April 1, 2006

For February 16, 2006–March 15, 2006



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

INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 180 days), using the procedures outlined in the *Oregon Attorney General’s Administrative Law Manual*. The Administrative Rules Unit, Archives Division, Secretary of State assists agencies with the notification, filing and publication requirements of the administrative rules process. Every Administrative Rule uses the same numbering sequence of a 3 digit agency chapter number followed by a 3 digit division number and ending with a 4 digit rule number. (000-000-0000)

How to Cite

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

Understanding an Administrative Rule’s “History”

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2005–2006 Oregon Bulletin Publication Schedule

The Administrative Rule Unit accepts rulemaking notices and filings Monday through Friday 8:00 a.m. to 5:00 p.m. at the Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97301. To expedite the rulemaking process agencies are encouraged file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and submit their filings early in the submission period to meet the following publication deadlines.

Submission Deadline — Publishing Date

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

Reminder for Agency Rules Coordinators

Each agency that engages in rulemaking must appoint a rules coordinator and file an “Appointment of Agency Rules Coordinator” form, ARC 910-2003, with the Administrative Rules Unit, Archives Division, Secretary of State. Agencies which delegate rulemaking authority to an officer or employee within the agency must also file a “Delegation of Rulemaking Authority” form, ARC 915-2005. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and to keep the appropriate forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process. Forms ARC 910-2003 and ARC 915-2005 are available from the Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97301, or are downloadable from the Oregon State Archives Website.

Publication Authority

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

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

TABLE OF CONTENTS

	Page
Information and Publication Schedule	2
Table of Contents	3
Other Notices	4-6
Notices of Proposed Rulemaking Hearings/Notices	
The citations and statements required by ORS 183.335(2)(b)(A) - (D) have been filed with and are available from the Secretary of State.	
Board of Examiners for Speech-Language Pathology and Audiology, Chapter 335	7
Board of Geologist Examiners, Chapter 809	7, 8
Columbia River Gorge Commission, Chapter 350	8
Department of Agriculture, Oregon Processed Vegetable Commission, Chapter 647	8
Department of Consumer and Business Services, Division of Finance and Corporate Securities, Chapter 441	8
Insurance Division, Chapter 836	8
Oregon Occupational Safety and Health Division, Chapter 437	8, 9
Department of Human Services, Addiction Services, Chapter 415	9
Departmental Administration and Medical Assistance Programs, Chapter 410	9
Director's Office, Chapter 407	9, 10
Mental Health and Developmental Disability Services, Chapter 309	10
Public Health, Chapter 333	10
Seniors and People with Disabilities, Chapter 411	10, 11
Vocational Rehabilitation Services, Chapter 582	11
Department of Justice, Chapter 137	11
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	11, 12
Highway Division, Chapter 734	12
Department of Veterans' Affairs, Chapter 274	12
Employment Department, Chapter 471	12, 13
Employment Department, Child Care Division, Chapter 414	13
Oregon Housing and Community Services, Chapter 813	13
Oregon Liquor Control Commission, Chapter 845	13
Oregon State Lottery, Chapter 177	13, 14
Oregon State Treasury, Chapter 170	14
Oregon University System, Chapter 580	14
Oregon University System, Southern Oregon University, Chapter 573	14
Public Utility Commission, Chapter 860	14, 15
Secretary of State, Elections Division, Chapter 165	15
Administrative Rules	
The citations and statements required by ORS 183.335(2)(b)(A) - (D) have been filed with and are available from the Secretary of State.	
Board of Architect Examiners, Chapter 806	16, 17
Board of Massage Therapists, Chapter 334	17
Board of Nursing, Chapter 851	17-19
Board of Optometry, Chapter 852	19
Bureau of Labor and Industries, Chapter 839	19-22
Construction Contractors Board, Chapter 812	22, 23
Department of Administrative Services, Chapter 125	23-28
Department of Agriculture, Chapter 603	28-32
Department of Consumer and Business Services, Building Codes Division, Chapter 918	32, 33
Division of Finance and Corporate Securities, Chapter 441	33-37
Insurance Division, Chapter 836	37-39
Workers' Compensation Division, Chapter 436	39-49
Department of Corrections, Chapter 291	49-51
Department of Environmental Quality, Chapter 340	51-65
Department of Fish and Wildlife, Chapter 635	65-73
Department of Forestry, Chapter 629	73, 74
Department of Human Services, Child Welfare Programs, Chapter 413	74-76
Departmental Administration and Medical Assistance Programs, Chapter 410	76, 77
Director's Office, Chapter 407	77-79
Public Health, Chapter 333	79-81
Self-Sufficiency Programs, Chapter 461	81-83
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837	83-86
Department of Public Safety Standards and Training, Chapter 259	86-88
Department of Transportation, Chapter 731	88-90
Department of Transportation, Motor Carrier Transportation Division, Chapter 740	90, 91
Department of Veterans' Affairs, Chapter 274	91, 92
Employment Department, Chapter 471	92-95
Oregon Department of Education, Chapter 581	95-102
Oregon Health Licensing Agency, Board of Cosmetology, Chapter 817	102-114
Oregon Liquor Control Commission, Chapter 845	114, 115
Oregon Public Employees Retirement System, Chapter 459	115, 116
Oregon State Lottery, Chapter 177	116-119
Oregon Student Assistance Commission, Chapter 575	119-121
Oregon University System, Portland State University, Chapter 577	121, 122
Western Oregon University, Chapter 574	122
Oregon Youth Authority, Chapter 416	122-125
Parks and Recreation Department, Chapter 736	125, 126
Public Utility Commission, Chapter 860	126-129
Secretary of State, Elections Division, Chapter 165	129
Teacher Standards and Practices Commission, Chapter 584	129, 130
Travel Information Council, Chapter 733	130, 131
OAR Revision Cumulative Index	132-156

OTHER NOTICES

CHANCE TO COMMENT ON...

RECOMMENDED NO FURTHER ACTION FOR THE MT. SCOTT INDUSTRIAL SITE, PORTLAND, OREGON

COMMENTS DUE: May 1, 2006

PROJECT LOCATION: 9721 SE 82nd Ave, Portland, Oregon
PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-0100, the Department of Environmental Quality (DEQ) invites public comment on a proposed "No Further Action" cleanup decision for the Mt. Scott Industrial Site in Portland, Oregon.

HIGHLIGHTS: DEQ has completed an evaluation of the investigation and cleanup conducted at the former Mt. Scott Industrial Site. The work was completed by Mt. Scott Industrial Park, LLC under an agreement with DEQ for reimbursement of cleanup costs by the Voluntary Cleanup Program. Soil contamination, attributed to past use of petroleum products and solvents used in auto repairing operations, was found at the site during site investigations completed in 2005. Approximately 685 tons of petroleum contaminated soils were removed from the site from July through November 2005 and disposed of in a solid waste landfill. The objective of the removal action was to remove soil contamination exceeding DEQ risk-based concentrations (RBCs).

A site remediation and soil evaluation report was submitted to DEQ in January 2006 to evaluate residual contamination in soil at the site. The evaluation concluded that there is no significant risk to human health or the environment from residual soil contamination at the site based on a comparison of site concentrations to DEQ risk-based concentrations.

DEQ has made a preliminary determination that cleanup measures undertaken by Mt. Scott Industrial Park, LLC of petroleum contamination released at the site during auto repairing operations are complete and the site achieved a degree of cleanup that is currently 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 Chris Kaufman, Project Manager, at the address listed above or via email at kaufman.chris@deq.state.or.us by 5 p.m., March 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 May 1, 2006 deadline and the Regional Administrator will make a final decision after consideration of these public comments.

PROPOSED CONDITIONAL NO FURTHER ACTION DETERMINATION ODOT AMBLER ROAD SITE, CLACKAMAS, OREGON

COMMENTS DUE: May 3, 2006

PROJECT LOCATION: SE 82nd Avenue and Ambler Road, Clackamas, Oregon

PROPOSAL: Pursuant to Oregon Revised Statutes ORS 465.230 and ORS 465.320, the Oregon Department of Environmental Quality (DEQ) proposes to approve a site remedy and issue and No Further Action (NFA) determination.

HIGHLIGHTS: The site is located just west of SE 82nd Avenue and north of Highway 224. The site was acquired by the Oregon Department of Transportation (ODOT) in 1983 and occupies about 3.8 acres. The site is bounded by Mount Scott Creek on its southwestern side. ODOT conducted preliminary site investigations in the early 1990s and detected relatively high levels of chlorinated hydrocarbons such as trichloroethene (TCE), tetrachloroethene (PCE) and related breakdown products such as cis-1,2 dichloroethene (cis-DCE) and trans-1,2 DCE (trans-DCE) on their property. The source of the contamination at the site appears to be illegal dumping on the ground surface by unknown parties prior to ODOT purchasing the property.

In September 1994, DEQ and ODOT entered into an agreement for completion of a remedial investigation/feasibility study (RI/FS). Initial RI work was completed and documented in a 1996

In 1999, DEQ entered into a Memorandum of Understanding (MOU) with the United States Environmental Protection Agency (EPA) and ODOT to conduct a phytoremediation pilot project.

The project involved planting 800 poplar trees across the site. Poplars uptake large quantities of groundwater resulting in removal of contaminants.

ODOT conducted groundwater and surface water monitoring at the site to evaluate the effectiveness of cleanup measures. Groundwater monitoring indicated that the groundwater contaminant plume was stable and decreasing in concentration. The most marked decrease in concentration occurred subsequent to tree planting, and suggested significant amounts of chlorinated hydrocarbons were being removed from shallow groundwater as the trees matured. ODOT completed a risk assessment in 2005. The risk assessment indicated unacceptable risk to construction or excavation workers at the site from direct or indirect contact with contaminated soil and/or groundwater, but no significant impacts to fish or other wildlife utilizing Mount Scott Creek.

Based on a review of site information DEQ has determined that a NFA is warranted for the site, conditioned on the adoption of certain institutional controls. Proposed institutional controls would prohibit groundwater use or construction of enclosed structures, and require maintenance of the poplar trees and periodic monitoring of surface water throughout the lifespan of the trees, estimated at 20 to 25 years.

HOW TO COMMENT: The Staff Report and other files will be available for public review beginning Monday April 3, 2006. To schedule an appointment to review the site files call Dawn Weinberger at (503) 229-6729. The DEQ project manager is Mark Pugh (503) 229-5587. Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201 by Wednesday, May 3, 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.

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

PROPOSED CLOSEOUT AT PDC BLOCK 76/67 SITE

COMMENTS DUE: April 30, 2006

PROJECT LOCATION: Blocks 76 & 67, north of East Burnside Street between NE 2nd Avenue and NE Martin Luther King, Jr. Blvd, Portland, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve the completion of remedial action at the Portland Development Commission (PDC) Block 76/67 (aka Burnside Bridgehead) site.

HIGHLIGHTS: Starting in the early 1900s, the 0.89-acre site was occupied by commercial development including a hotel, warehouses with a variety of uses, and gasoline fueling stations. Blocks 76 and

OTHER NOTICES

67 were subsequently purchased by the PDC for redevelopment. All buildings have been demolished and the site is currently vacant. Starting in the late 1980s, a series of environmental investigation and cleanup actions occurred at the site. Initial work focused on the UNOCAL gas station located on Block 76, and included removal of tanks, contaminated soil, and collection of soil and groundwater samples. Subsequent work focused on both the UNOCAL area and remaining portions of the site. The last phases of investigation in 2004/2005 were completed under DEQ's Voluntary Cleanup Program. Contamination at the site is primarily related to releases of petroleum hydrocarbons, with the greatest impacts on Block 76 around the former UNOCAL station. A series of soil removal actions were completed in this area, with 1,200 cubic yards of soil removed in 1988, and 760 cubic yards removed, treated, and replaced in 1992. Low levels of petroleum hydrocarbons and their constituent volatile and semi-volatile organic compounds remain in soil and groundwater at the site. These are below EPA or DEQ risk-based concentrations and do not pose a significant risk to humans or ecological receptors. Two known heating oil underground storage tanks (USTs), and two suspected fuel USTs, remain at the site. The PDC has agreed to remove the tanks and associated contamination under DEQ's UST Program as part of upcoming site development work. Based on this information, no further site action appears to be necessary. A staff report presenting DEQ's recommendation will be available for public review beginning April 1, 2006.

HOW TO COMMENT: To review project records, contact Dawn Weinberger at (503) 229-5425. The DEQ project manager is Dan Hafley (503-229-5417). Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by April 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.

THE NEXT STEP: DEQ will consider all comments received and make a final decision after consideration of these comments.

PUBLIC COMMENT PERIOD NOTICE OF NO FURTHER ACTION OAK HARBOR FREIGHT LINES HERBICIDE SPILL, INTERSTATE 5 SOUTHBOUND AT EXIT 6 ASHLAND, OREGON

COMMENT PERIOD: April 15, 2006 to May 31, 2006

PROJECT LOCATION: Oak Harbor Freight Lines Herbicide Spill, Interstate 5 Southbound at Exit 6, near Siskiyou Pass

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing that an herbicide spill cleanup at the I-5 Southbound Exit 6 ramp is complete and requires no further action under ORS465.200, et.seq.

HIGHLIGHTS: On October 24, 2004, a truck owned and operated by Oak Harbor Freight Lines, Inc. crashed on Interstate 5 at Exit 6 near Siskiyou Pass. The crash resulted in spillage of about 500 gallons of Weedar® 64, an herbicide product containing the chemical 2,4-D. Approximately 92 cubic yards of contaminated soil was excavated from the spill site and was shipped to a hazardous waste landfill in Arlington, OR. Residual concentrations of 2,4-D at the spill site do not pose a risk to human health, public safety, or the environment. Trace levels of chemicals associated with the spill were detected in drinking water sources near the spill site for several months following the spill event. At no point during the investigation did any drinking water sample exceed the U.S. EPA Maximum Contaminant Level, indicating that these water supplies are safe for domestic use. As of June 2005, all tap water samples showed no detectable chemicals related to the spill. All surface water samples collected from April 2005 through June 2005 were below water quality criteria. Thus, DEQ recommends that no further investigation or remediation be undertaken for environmental impacts due to the October 2004 release.

HOW TO COMMENT: The DEQ Staff Report will be available for public review beginning May 1, 2006 at the Ashland Public Library. Written comments on the proposed no further action may be submitted to Angie Obery at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene, OR 97401. Comments must be received by May 31, 2006. Questions may be directed to Angie Obery by calling her at 1-800-844-8467 x7464 or 541-687-7464.

A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more.

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

DEQ DETERMINES NO FURTHER ACTION REQUIRED FORMER MEDITE SO-PLY FACILITY, GRANTS PASS

PROJECT: Former Medite SO-Ply Facility

PROJECT LOCATION: 605 SE "J" Street, Grants Pass, Oregon

HIGHLIGHTS: The Department of Environmental Quality (DEQ) has determined that no further action is required for environmental impacts from Petroleum-contaminated soils and groundwater at the former Medite SO-Ply Facility in Grants Pass, Oregon.

Investigations and a removal action were performed at the Former Medite SO-Ply facility to address the impact of petroleum hydrocarbons found in soil and groundwater. These chemicals originated from past practices at the facility. About 1,063 cubic yards of contaminated soil were removed from this area in July of 2005 and disposed of at Riverbend Landfill in McMinnville, Oregon. The remaining contaminated soils are covered by a cap of clean fill, and much of the site will ultimately be paved. With the cap in place, residual soil contamination at this site is documented at levels below selected cleanup and/or screening standards established by the DEQ for this site. In order to protect human health and the environment, a deed restriction has been placed on the property prohibiting future drinking water wells on the site, requiring that the site remain zoned industrial and requiring that any soil removed from the site be properly disposed of.

A file containing detailed information for the site is available for review in DEQ's Eugene office located at 1102 Lincoln St., Suite 210, Eugene, Oregon 97401. Questions concerning this site should be directed to Mindi English at DEQ's Eugene office or by calling her at 541-686-7763 or toll-free in Oregon at 1-800-844-8467, extension 7763.

DEQ DETERMINES NO FURTHER ACTION REQUIRED FORMER GREEN'S WRECKING YARD TALENT, OREGON

PROJECT: Former Green's Wrecking Yard

PROJECT LOCATION: 1007 South Pacific Highway, Talent

HIGHLIGHTS: The Department of Environmental Quality (DEQ) has determined that no further action is required at the Former Green's Wrecking Yard Facility in Talent, Oregon.

The site is a former auto wrecking facility that will be redeveloped for light industrial uses. Between April and August 2005, approximately 95 cubic yards of total petroleum hydrocarbon (TPH) impacted soil was removed and disposed of at the Rogue Valley Transfer Station. There is no unacceptable human health residual risk for this site, as a removal action was undertaken and petroleum contaminated soils have been removed and disposed of. Remaining concentrations of TPH-diesel petroleum hydrocarbons in soil are below residential risk-based concentrations for ingestion, dermal contact, and inhalation human exposure.

A file containing detailed information for the site is available for review in DEQ's Eugene office located at 1102 Lincoln St., Suite 210, Eugene, Oregon 97401. Questions concerning this site should

OTHER NOTICES

be directed to Mindi English at DEQ's Eugene office or by calling her at 541-686-7763 or toll-free in Oregon at 1-800-844-8467, extension 7763.

PROPOSED CONDITIONAL NO FURTHER ACTION BATSELL BROTHERS STATION (FORMER) KLAMATH COUNTY, OREGON

COMMENTS DUE: May 1, 2006

PROJECT LOCATION: 2077 SW Oregon Ave, Klamath Falls, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "Conditional No Further Action" determination based on site investigations and institutional controls performed at the former Batsell Brothers Station (a.k.a. Lakeway Exxon) site located at 2077 SW Oregon Ave in Klamath Falls, Oregon.

HIGHLIGHTS: The facility operated as a retail gas station from before 1931 to about 1990. The site has been vacant since the station's closure in 1990. The property is currently owned by Klamath County through tax foreclosure. All structures on the site have been removed and the site is currently a vacant lot. The site had four substandard, regulated USTs which had held gasoline and used oil that were removed in November 2003. Soil and groundwater petroleum contamination have been identified on the site.

The site has been proposed for a risk-based closure. However, the full extent of soil and groundwater had not been delineated. Activ-

ities performed to date are summarized in DEQ's staff report dated March 20, 2006. Additional investigation activities will be performed in early April to complete delineation requirements. The results of the April 2006 investigation will be screened against the generic risk based concentrations for the applicable pathways and an addendum to this staff report will be prepared documenting the findings.

All of the potential exposure concerns are proposed to be addressed through: 1) elimination of potential pathways and 2) by placement of institutional controls on the property. The institutional control consists of deed restrictions with the following restrictions: 1) no beneficial use of groundwater; 2) no residential use; 3) soil removal or installation of vapor barrier if building placed in an identified portion of the site; and 4) any subsurface excavation of contaminated soil or dewatering of contaminated groundwater (on-site or off-site) must include proper handling, characterization, and disposal.

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 May 1, 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 "Conditional 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.*

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

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

Date: 4-28-06 **Time:** 10:30–11 a.m. **Location:** Rm. 445
800 NE Oregon St.
Portland, OR

Hearing Officer: Nancy Dunn

Stat. Auth.: ORS 681

Stats. Implemented: ORS 681

Proposed Amendments: 335-095-0010, 335-095-0030, 335-095-0055

Last Date for Comment: 4-28-06, 9 a.m.

Summary: Rules 095-0010 and 095-0030 add an alternative way for an applicant to obtain the required number of supervised clinical clock contact hours. Rule 095-0055 better defines the licensing requirement for applicants requesting a permit to supervise speech assistants in the schools.

Note: Comments may be submitted by fax (971) 673-0226 until 9 a.m. on 4/28/06. An informal discussion of the proposed rules will take place from 10:00–10:30 and the public is invited to participate.

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

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

Date: 4-28-06 **Time:** 10:30–11 a.m. **Location:** Rm. 445
800 NE Oregon St.
Portland, OR

Hearing Officer: Nancy Dunn

Stat. Auth.: ORS 681

Stats. Implemented: ORS 681

Proposed Amendments: 335-070-0040, 335-070-0060, 335-070-0065, 335-080-0005

Last Date for Comment: 4-28-06, 9 a.m.

Summary: Rules in Division 70 relate to professional development requirements:

- allows undergraduate coursework as a pre-approved activity for speech-language pathology assistants.
- clarifies definition of allowable inservice topics.
- allows consideration of late requests for approval of professional development activities at most times during the licensing period if the delinquent is paid.
- removes obsolete language regarding professional development requirements for dual licensees.

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

Note: Comments may be submitted by fax (971) 673-0226 until 9:00 a.m. on 4/28/06. An informal discussion of the proposed rules will take place from 10:00–10:30 and the public is invited to participate.

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

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

Date: 4-28-06 **Time:** 10:30–11 a.m. **Location:** Rm. 445
800 NE Oregon St.
Portland, OR

Hearing Officer: Nancy Dunn

Stat. Auth.: ORS 681

Stats. Implemented: ORS 681

Proposed Adoptions: 335-005-0030

Proposed Amendments: 335-005-0025

Last Date for Comment: 4-28-06, 9 a.m.

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

Adoption of rule 335-005-0030 provides consumer protection for consumers who purchase hearing aids from audiologists.

Note: Comments may be submitted by fax (971) 673-0226 until 9:00 a.m. on 4/28/06. An informal discussion of the proposed rules will take place from 10:00–10:30 and the public is invited to participate.

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 Geologist Examiners
Chapter 809

Rule Caption: Provide additional information about the seal's parameters and the use of the registration seal.

Stat. Auth.: ORS 183, 192 & 672

Stats. Implemented: ORS 672.605

Proposed Amendments: 809-050-0000

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

Summary: This rule revision provides dimensions for the seal used by Registered Geologist to stamp final documents. The revision also clarifies the types of documents that must be stamped with the registrant seal.

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Susanna R. Knight
Address: 1193 Royvonne Avenue SE #24, Salem, Oregon 97302
Telephone: (503) 566-2837

.....
Columbia River Gorge Commission
Chapter 350

Rule Caption: Amending the Commission's Land Use Ordinance Implementing the Special Uses in Historic Buildings Plan Amendment.

Date: 6-13-06 **Time:** 9 a.m. **Location:** Hood River Best Western Inn
1108 East Marina Way
Hood River, OR

Hearing Officer: Staff

Stat. Auth.: ORS 196.150

Other Auth.: RCW 43.97.015 & 16 U.S.C. 544e

Stats. Implemented: ORS 196.150, RCW 43.97.015 & 16 U.S.C. 544e

Proposed Adoptions: 350-081-0114

Proposed Amendments: 350-081-0108, 350-081-0190, 350-081-0270, 350-081-0370, 350-081-0450, 350-081-0490

Last Date for Comment: 6-1-06

Summary: The proposed amendments were added to the Management Plan in December 2005 (Plan Amendment File No. PA-05-02). The proposed amendments to the Management Plan are identical to the language adopted into the Management Plan. The purpose of the proposed amendments to Commission Rule 350-81 is thus to make the land use ordinance consistent with the Management Plan. Anticipated effects were addressed during adoption of the amendments to the Management Plan.

Rules Coordinator: Nancy A. Andring

Address: Columbia River Gorge Commission, P.O. Box 730, White Salmon, WA 98672

Telephone: (509) 493-3323

.....
Department of Agriculture,
Oregon Processed Vegetable Commission
Chapter 647

Rule Caption: Amend rules related to assessment rates.

Date: 4-27-06 **Time:** 7:30 p.m. **Location:** 3415 Commercial St. SE
Salem, OR

Hearing Officer: Peter Kenagy

Stat. Auth.: ORS 576.051 - 576.595

Stats. Implemented: ORS 576.051 - 576.595

Proposed Amendments: 647-010-0010

Last Date for Comment: 4-27-06, 7:30 p.m.

Summary: The proposed rule amendments set the assessment rates for the six processed vegetable crops governed by the commission.

Rules Coordinator: John McCulley

Address: Department of Agriculture, Processed Vegetable Commission, PO Box 2042, Salem, OR 97308-2042

Telephone: (503) 370-7019

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

Rule Caption: Securities fees biennial adjustment based on national midpoint for similar fees in all other states.

Date: 5-2-06 **Time:** 9 a.m. **Location:** Labor & Industries Bldg.
Conference Rm. A
Salem, OR

Hearing Officer: Patricia Locnikar

Stat. Auth.: ORS 59.049

Stats. Implemented: ORS 59.049

Proposed Amendments: 441-049-1001

Last Date for Comment: 5-2-06

Summary: Based on analysis of securities fees in other states, this amendment would change the fees for filings of notices for three types of federal covered securities. For unit investment trusts, the initial notice fee would increase from \$270 to \$350 per portfolio, and renewal fee from \$225 to \$350 per portfolio. For a Rule 506 filing, the one-time fee would increase from \$225 to \$250. For other federal covered securities under section 18(b)(3) and (4) of the Securities Act of 1933, the fee would change from an annual variable fee based on the amount offered to a one-time fee of \$200.

Rules Coordinator: Berri Leslie

Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301

Telephone: (503) 947-7478

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

Rule Caption: Recoupment by Insurers of Oregon Insurance Guaranty Association Assessments; Excess Collections.

Date: 5-16-06 **Time:** 10 a.m. **Location:** Conference Rm. B
(in basement)
350 Winter St. NE
Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244 & 734.579

Stats. Implemented: ORS 734.579

Proposed Amendments: 836-031-0855

Last Date for Comment: 5-23-06

Summary: This proposed rulemaking amends a rule that governs insurers' treatment of excess moneys they have collected from policyholders through a recoupment assessment that is authorized by statute for the purpose of enabling insurers to recover the amount of assessments that the Oregon Insurance Guaranty Association has collected from them to pay policy claims against an insolvent insurer. The proposed amendment limits the period for which an insurer may hold excess moneys when the insurer recoups more than the OIGA assessment and to provide for disposition of the excess.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

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

Rule Caption: Propose to adopt new Respiratory Protection standard in Agriculture.

Date: 5-4-06 **Time:** 10 a.m. **Location:** 350 Winter St. NE
Second Flr., Rm. 260
Salem, OR 97301-3882

Hearing Officer: Sue Joye

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

Stats. Implemented: ORS 654.001 - 654.295

Proposed Adoptions: 437-004-1041

Proposed Repeals: 437-004-1040

Last Date for Comment: 5-12-06

Summary: The Respiratory Protection Standard was reworded for clarity and plain language, and to bring the rules up to Division 2/I standards having one rule for all respirator users. **Summary of changes:**

- There are new requirements for voluntary use of respirators. You must provide respirator users with the information contained in Appendix D, and have a medical evaluation required for respirators with the exception of filtering face-pieces, and have cleaning, storing and maintenance procedures in the program.

NOTICES OF PROPOSED RULEMAKING

- There is a requirement for annual fit-testing of required use of respirators.

- There is a change from annual medical evaluations to a medical evaluation before the first fit-test.

- New appendix A, B1, B2 and D were added for procedures on Fit testing (A), user seal check (B1) and proper cleaning (B2) the medical questionnaire was moved to (C) and Voluntary use information (D). The mandatory appendices C and D are also in Spanish.

- There is a section on interior structural firefighting requiring the two in two out rules.

- Training is required annually.

- A change out schedule for canisters and cartridges is required.

Please visit our web site www.orosha.org Click 'Rules & Laws' in the left vertical column and view our proposed, adopted, and final rules.

Rules Coordinator: Sue C. Joye

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

Telephone: (503) 947-7449

.....

Department of Human Services, Addiction Services Chapter 415

Rule Caption: DHS Office of Mental Health and Addiction Services Rulemaking procedures for Chapter 415.

Date:	Time:	Location:
4-17-06	10:30 a.m.–12 p.m.	Rm. 137C 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Repeals: 415-001-0005, 415-001-0010

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

Summary: The Department of Human Services (DHS), Office of Mental Health and Addiction Services (OMHAS) will repeal rule 415-001-0005 concerning rules of administrative practice and procedure and Rule 415-001-0010 concerning notice of proposed rule-making. DHS OMHAS services in Chapter 415 will be following the department-wide rules on these topics being adopted in OAR 407-001-0000 and 407-001-0005.

Rules Coordinator: Diana Nerby

Address: Department of Human Services, Addiction Services, 500 Summer St. NE, E-86, Salem, OR 97301

Telephone: (503) 947-1186

.....

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

Rule Caption: DHS Repeal of Fee and Alternate Format Rules.

Date:	Time:	Location:
4-17-06	10:30 a.m.–12 p.m.	DHS Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Repeals: 410-001-0010, 410-001-0030, 410-002-0000

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

Summary: Department of Human Services (DHS) will repeal 410-001-0010, concerning fees, because the rule does not conform to current practices. DHS will repeal 410-001-0030, concerning documents in alternate format, as this information is outdated based upon the adoption of rules on the topic in OAR 407-005-0000 through 407-

005-0030. Rule 410-002-0000 was adopted when the Department of Human Resources (now Department of Human Services), was involved in deducting support enforcement service fees from support money received on behalf of the obligee. Currently, the Department does not deal with these support enforcement matters, therefore, there is no longer a need for this rule.

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-03, Salem, OR 97301

Telephone: (503) 947-5250

.....

Rule Caption: DHS Office of Medical Assistance Programs, (OMAP) Rulemaking procedures for Chapter 410.

Date:	Time:	Location:
4-17-06	10:30 a.m.–12 p.m.	Rm. 137C 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Amendments: 410-001-0000, 410-001-0005, 410-001-0020

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

Summary: The Department of Human Services (DHS) Office of Medical Assistance Programs (OMAP) will amend OAR 410-001-0000, 410-001-0005 and 410-001-0020, concerning Notices of Proposed Rulemaking, Notice of Rulemaking and Adoption of Temporary Rules and Delegation of Authority, to indicate DHS OMAP services in Chapter 410 will be following the department-wide rules on these topics being adopted in OAR 407-001-0000, 407-001-0005 and 407-001-0010.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6927

.....

Department of Human Services, Director's Office Chapter 407

Rule Caption: Rulemaking Procedures for the Department of Human Services for Chapter 407.

Date:	Time:	Location:
4-17-06	10:30 a.m.–12 p.m.	DHS Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341, 409.050 & 409.130

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Adoptions: 407-001-0000, 407-001-0005, 407-001-0010

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

Summary: The Department developed Chapter 407 in the Oregon Administrative Rules for certain rules specific to agency-wide functions and support services. The Department will adopt rules to bring the agency into compliance concerning Model Rules, Notice of Rule-making, and Delegation of Authority, including language applicable to the Department agency-wide, in Chapter 407. The Department will adopt: OAR 407-001-0000 to adopt the current Attorney General Model Rules (with one exception) concerning rulemaking; OAR 407-001-0005 to provide clearer and updated guidelines about who will receive notice of rulemaking, interested parties lists, and the use of e-mail; and, 407-001-0010 to conform Delegation of Authority requirements to ORS 183.325.

NOTICES OF PROPOSED RULEMAKING

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>. For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Director's Office, 500 Summer St. NE, Salem, OR 97301-1080

Telephone: (503) 947-5250

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

Rule Caption: DHS Office of Mental Health and Addiction Services Rulemaking procedures for Chapter 309.

Date:	Time:	Location:
4-17-06	10:30 a.m.-12 p.m.	Rm. 137C 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Repeals: 309-012-0000, 309-012-0005

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

Summary: The Department of Human Services (DHS), Office of Mental Health and Addiction Services (OMHAS) will repeal rule 309-012-0000 concerning administrative practice and procedure and rule 309-012-0005 concerning Notices of Proposed Rulemaking. DHS OMHAS services, in Chapter 309, will be following the department-wide rules on these topics being adopted in OAR 407-001-0000 and 407-001-0005.

Rules Coordinator: Diana Nerby

Address: Department of Human Services, Mental Health and Developmental Disability Services, 500 Summer St. NE, E-86, Salem, OR 97301

Telephone: (503) 947-1186

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

Rule Caption: DHS Public Health Rulemaking Procedures for Oregon Administrative Rule Chapter 333.

Date:	Time:	Location:
4-17-06	10:30 a.m.-12 p.m.	DHS Bldg., Rm. 137C 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Repeals: 333-001-0000, 333-001-0005

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

Summary: DHS Public Health will repeal 333-001-0000 concerning the Notice of Proposed Rule for public health and 333-001-0005 concerning the Model Rules of Procedure for public health. DHS Public Health Rulemaking procedures in Chapter 333, will be following the department-wide rules on these topics being adopted by the DHS in Chapter 407, Model Rules of Procedure 407-001-0000 and Notice of Proposed Rulemaking 407-001-0005. Entities removed by the repeal of 333-001-0000, Notice of Proposed Rule, will continue to receive notification of Chapter 333 rulemakings.

Rules Coordinator: Christina Hartman

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

Telephone: (971) 673-1291

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

Rule Caption: Instrumental Activities of Daily Living Policy.

Date:	Time:	Location:
4-18-06	10:30 a.m.	500 Summer St NE Rm. 160 Salem, OR 97301

Hearing Officer: Lisa Richards

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Proposed Adoptions: 411-015-0007

Last Date for Comment: 4-18-06, 5 p.m.

Summary: This rule explains Instrumental Activities of Daily Living (IADL). IADL needs are identified in service assessments and may be included in a plan of care. The purpose of this rule is to clarify and define the Department's understanding of each Instrumental Activity of Daily Living.

Rules Coordinator: Lisa Richards

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

Telephone: (503) 945-6398

.....
Rule Caption: Amend rule to clarify abuse reporting requirements for Provider Organizations & housekeeping purposes.

Date:	Time:	Location:
4-17-06	2 p.m.	500 Summer St NE Rm. 137A Salem, OR 97301

Hearing Officer: Lisa Richards

Stat. Auth.: ORS 409.050 & 410.070

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

Proposed Amendments: 411-340-0020, 411-340-0030, 411-340-0040, 411-340-0050, 411-340-0060, 411-340-0110, 411-340-0120, 411-340-0130, 411-340-0140, 411-340-0150, 411-340-0160, 411-340-0170, 411-340-0180

Last Date for Comment: 4-19-06, 12 p.m.

Summary: Adds the phrase "services provided at sites owned or lease by" to OAR 411-340-0020(1). All other changes are for housekeeping purposes only.

Rules Coordinator: Lisa Richards

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

Telephone: (503) 945-6398

.....
Rule Caption: Confidentiality requirements, statewide criminal history approval, paid leave provisions and discontinued FICA refunds.

Date:	Time:	Location:
4-17-06	1 p.m.	500 Summer St. NE Rm. 137A Salem, OR 97301

Hearing Officer: Lisa Richards

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Proposed Amendments: 411-031-0020, 411-031-0040, 411-031-0050

Proposed Repeals: 411-031-0020(T), 411-031-0050(T)

Last Date for Comment: 4-18-06, 12 p.m.

Summary: OAR chapter 411, division 031 has been updated to include maintaining client confidentiality as a Homecare Worker enrollment criteria and a reason for termination if violated. Sections were added to Criminal History Clearance Rechecks to reflect the approval period, to indicate approval is specific to Homecare Worker enrollment, and that approval is applied statewide whether the fitness determination was made by an SPD or AAA office. Changes were made to paid leave provisions for Homecare Workers as negotiated in the Home Care Commission's collective bargaining agreement. Language was deleted concerning issuing FICA refunds to

NOTICES OF PROPOSED RULEMAKING

those not subject to withholding. Clarification was added that DHS (not DOJ Medicaid Fraud) determines when an overpayment has resulted from fraudulent provider activity. The term "Immediate Suspension" was changed to "Immediate Termination" and "Termination Pending Appeal" was added to reflect the standard form of termination when there is no imminent danger. Information was added about protective services information that must not be disclosed in a termination letter.

Rules Coordinator: Lisa Richards

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

Telephone: (503) 945-6398

Rule Caption: Updating Seniors and People with Disability rule-making procedures.

Date:	Time:	Location:
4-17-06	10:30 a.m.	500 Summer St NE Rm. 137C Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Amendments: 411-001-0010, 411-001-0100, 411-001-0110, 411-001-0120

Proposed Repeals: 411-001-0000

Last Date for Comment: 5-5-06, 12 p.m.

Summary: Department of Human Services (DHS) Seniors and People with Disabilities (SPD) will amend rule 411-001-0010 to remove references to adoption of rulemaking rules and to update the adoption of Attorney General Model rules and repeal rule 411-001-0000 concerning Notices of Proposed Rulemaking. DHS SPD services in Chapter 411 will be following the department-wide rules on rule-making adopted in OAR 407-001-0000 and 407-001-0005. DHS SPD will amend rules 411-001-0100, 411-001-0110, and 411-001-0120 to update outdated program references.

Rules Coordinator: Lisa Richards

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

Telephone: (503) 945-6398

Department of Human Services, Vocational Rehabilitation Services Chapter 582

Rule Caption: DHS Office of Vocational Rehabilitation Rulemaking procedures for Chapter 582.

Date:	Time:	Location:
4-17-06	10:30 a.m.	Rm. 137C 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.050 & 409.120

Proposed Amendments: 582-001-0005

Proposed Repeals: 582-001-0001

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

Summary: The Department of Human Services (DHS) Office of Vocational Rehabilitation (OVR) will amend rule 582-001-0005 to remove references to adoption of rulemaking rules and to update the adoption of Attorney General Model rules and repeal rule 582-001-0001 concerning Notices of Proposed Rulemaking. DHS OVR will be following the department wide rule on this topic being adopted in OAR 407-001-0005. All persons, organizations or publication formerly referenced in this rule will be placed on the interested parties list as listed in proposed rule OAR 407-001-0005.

Rules Coordinator: Ron Barcikowski

Address: Department of Human Services, Vocational Rehabilitation Services, 500 Summer St. NE, E-87, Salem, OR 97301

Telephone: (503) 945-6734

Department of Justice Chapter 137

Rule Caption: Establishes fees related to application for approval/amendment of nonprofit hospital conversion order.

Date:	Time:	Location:
4-18-06	1:30 p.m.	800 NE Oregon St. Portland, OR 97232-2162

Hearing Officer: Ross Laybourn

Stat. Auth.: ORS 65.815

Stats. Implemented: ORS 65.813(3)

Proposed Adoptions: 137-015-0005, 137-015-0010

Last Date for Comment: 4-25-06

Summary: ORS 65.800 et seq. requires the parties involved in the conversion of a nonprofit hospital to apply to the Attorney General for approval of the transaction. ORS 65.813(3) provides that the Attorney General may impose, by administrative rule, an application fee to cover the costs of reviewing and evaluating the proposed transaction.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4096

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

Rule Caption: DMV's review criteria for non-mandatory reports focused on affect of condition or impairment on driving.

Date:	Time:	Location:
4-19-06	2 p.m.	ODOT Bldg. 355 Capitol St. NE Rm. 122 Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.310, 807.340, 807.350, 807.710 & 809.419

Stats. Implemented: ORS 807.070, 807.090, 807.120, 807.310, 807.340, 807.350, 807.710 & 809.419

Proposed Adoptions: 735-074-0212, 735-076-0002, 735-076-0015, 735-076-0035, 735-076-0052

Proposed Amendments: 735-074-0050, 735-074-0060, 735-074-0080, 735-074-0110, 735-074-0120, 735-074-0140, 735-074-0180, 735-074-0200, 735-074-0210, 735-076-0000, 735-076-0005, 735-076-0010, 735-076-0020, 735-076-0050

Proposed Repeals: 735-074-0150, 735-076-0030, 735-076-0040

Proposed Ren. & Amends: 735-074-0160 to 735-076-0007, 735-074-0170 to 735-076-0018

Last Date for Comment: 4-21-06

Summary: OAR Chapter 735, Division 74 currently establishes the medical certification program and addresses both the mandatory and non-mandatory reporting of drivers who have medical conditions or impairments that may affect the person's ability to safely operate a motor vehicle upon the highways. The bulk of the division is devoted to the specific requirements of the mandatory reporting program.

OAR Chapter 735, Division 76 currently establishes the driver re-examination program that addresses drivers reported to DMV for unsafe driving behaviors. The rules contained in this division are now obsolete. DMV no longer has a separate driver re-examination program. Re-examination (testing) is now just one of the ways in which a person might be required to re-establish eligibility as a result of a report of medical conditions, medical impairments or unsafe driving behaviors.

DMV has renamed the Medical Certification Program the At-Risk Driver Program. The At-Risk Driver Program addresses both the

NOTICES OF PROPOSED RULEMAKING

mandatory and non-mandatory report of drivers with medical conditions or impairments that may affect the person's ability to drive safely. The At-Risk Driver Program also addresses those drivers reported to DMV for unsafe driving behavior who are required to reestablish eligibility by re-examination. These reports are considered to be non-mandatory reports.

In an attempt to clarify and simplify the program, DMV is proposing that all non-mandatory reports of an at-risk driver be included in Chapter 735, Division 76. DMV is also proposing these rule amendments to clearly outline new procedures used in reviewing and acting upon non-mandatory reports. The changes made to the non-mandatory program were made to be consistent with the mandatory program, so that all drivers, no matter how reported to DMV would follow similar processes. Each report is considered using established criteria to determine the best action for that report. This action might include requiring additional medical information, asking the State Health Office for a Certificate of Eligibility or requiring the person to demonstrate the ability to drive safely by testing.

OAR 735-074-0212 and 735-076-0052 are proposed to allow DMV to issue a restricted applicant permit to an at-risk driver whose driving privileges have been cancelled and denied further testing specifically for the purposes of allowing the person to take driving lessons.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

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

Rule Caption: Petition received to allow summertime weekend movement of overwidth loads east of the Cascade Range.

Date:	Time:	Location:
4-17-06	6:30 p.m.	State Office Bldg, Conference Rm. 130 700 SE Emigrant Ave. Pendleton, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619 & 818.200

Stats. Implemented: ORS 818.220 & 818.225

Proposed Amendments: 734-082-0021

Last Date for Comment: 4-21-06

Summary: A petition was received from the Oregon Wheat Growers League (OWGL) to amend the current rule that prohibits movement of loads over 8'6" wide during daylight hours Saturday after noon and Sundays from Memorial Day to Labor Day. The proposed amendment would limit the prohibition to operations west of the Cascade Range. OWGL states the current rule poses an economic hardship to its members by restricting flexibility needed to timely obtain harvest equipment. Many wheat farmers lease combines to harvest their crop, and it is essential that the movement of the combines from out-of-state locations to an Oregon staging yard is not restricted.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

.....
Rule Caption: Adoption of the May 2006 Oregon Temporary Traffic Control Handbook.

Stat. Auth.: ORS 184.616, 184.619 & 810.200

Stats. Implemented: ORS 810.200

Proposed Amendments: 734-020-0005

Last Date for Comment: 4-21-06

Summary: The rule being amended adopts the Manual on Uniform Traffic Control Devices (MUTCD), the Oregon Supplements to the MUTCD and the Oregon Temporary Traffic Control Handbook (OTTCH) to establish uniform standards for traffic control. The proposed amendment adopts the Oregon Temporary Traffic Control Handbook dated May 2006 as a standard for temporary traffic control on public roads in Oregon for operations of three days or less, in accordance with ORS 810.200. OAR 734-020-0005 was amended in 2005 to adopt the OTTCH dated July 2005. Subsequently, a need for some corrections and clarifications was identified and Errata no.1 was adopted by temporary rule effective December 14, 2005. This proposed permanent rule will replace the temporary rule.

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

.....
**Department of Veterans' Affairs
Chapter 274**

Rule Caption: Oregon Veterans' Emergency Financial Assistance Program.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Other Auth.: HB 3504 & 5163 of the 2005 Regular Legislative Session

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Proposed Adoptions: 274-012-0001, 274-012-0100, 274-012-0105, 274-012-0110, 274-012-0115, 274-012-0120, 274-012-0125, 274-012-0130, 274-012-0131

Proposed Repeals: 274-012-0001(T), 274-012-0100(T), 274-012-0105(T), 274-012-0110(T), 274-012-0115(T), 274-012-0120(T), 274-012-0125(T), 274-012-0130(T), 274-012-0131(T)

Last Date for Comment: 4-21-06

Summary: This rule repeals and supersedes the Temporary Administrative Rule filed on February 23, 2006, and effective through August 18, 2006.

House Bill 3504 of the 2005 Regular Legislative Session created the Oregon Veterans' Emergency Financial Assistance Program (OVEFAP) to provide emergency financial assistance to Oregon veterans and their immediate families. The Department of Veterans' Affairs has adopted these rules to implement the program and to set the criteria for determining eligibility to receive emergency financial assistance.

House Bill 5163 appropriated \$500,000 for the biennium beginning July 1, 2005 to be expended for the OVEFAP.

Rules Coordinator: Herbert D. Riley

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

Telephone: (503) 373-2055

.....
**Employment Department
Chapter 471**

Rule Caption: OAR 471-010-0050 Definitions.

Date:	Time:	Location:
4-18-06	9 a.m.	Employment Dept. Auditorium Salem, OR

Hearing Officer: Lynn Nelson

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.610 & 657.734

Proposed Amendments: 471-010-0050

Last Date for Comment: 4-23-06, 5 p.m.

Summary: The Employment Department is amending this rule because the opt in/opt out portion of the law is no longer required under the Privacy Act.

Rules Coordinator: Lynn M. Nelson

NOTICES OF PROPOSED RULEMAKING

Address: Employment Department, 875 Union St. NE, Salem, OR 97311
Telephone: (503) 947-1724

.....
**Employment Department,
Child Care Division
Chapter 414**

Rule Caption: Participating Provider Eligibility Requirements — OAR 414-700-0060.

Date:	Time:	Location:
4-18-06	10 a.m.	Employment Dept. Auditorium Salem, OR

Hearing Officer: Lynn Nelson

Stat. Auth.: ORS 657A.706

Stats. Implemented: ORS 657A.700 - 657A.718

Proposed Amendments: 414-700-0060

Last Date for Comment: 4-18-06, 5 p.m.

Summary: This rule sets out the requirements for participating eligibility requirements and is being amended to specify the percent that will be charged to families under ORS 657A.718(1)(g).

Rules Coordinator: Lynn M. Nelson

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

Telephone: (503) 947-1724

.....
**Oregon Housing and Community Services
Chapter 813**

Rule Caption: Defines eligibility criteria for tax credits and designates the term of the tax credit.

Date:	Time:	Location:
4-25-06	2 p.m.	725 Summer Street NE Suite B (Rm 124) Salem, Oregon

Hearing Officer: Carol Kowash

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Proposed Adoptions: 813-110-0012, 813-110-0050

Proposed Amendments: 813-110-0005, 813-110-0010, 813-110-0015, 813-110-0020, 813-110-0021, 813-110-0022, 813-110-0023, 813-110-0025, 813-110-0030, 813-110-0033, 813-110-0035

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

Summary: 813-110-0005 sets forth the purpose for the Rules. Clarification language has been incorporated. 813-110-0010 clarifies the common terms and definitions found within the Rules. 813-110-0012 defines eligible sponsors to participate in the program. Amendments to 813-110-0015 updates the application requirements to participate in the program and how the tax credits can be utilized. Amendments to 813-110-0020 consists of administrative changes and does not include any substantive changes. 813-110-0021 provides clarification language requiring a firm commitment of financing as part of the application process. Amendments to 813-110-0022 consists of administrative changes only. 813-110-0023 clarifies that the Department at its discretion may establish an application standby list but removes language requiring a nonrefundable application fee, prioritization and notice requirements for applications placed on standby. Amendments to 813-110-0025 provides clarification language regarding the certification of eligible projects. Amendments to 813-110-0030, 813-110-0033 and 813-110-0035 consists of administrative changes only. 813-110-0050 adds waiver language already provided for by statute.

Rules Coordinator: Sandy McDonnell

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

Telephone: (503) 986-2012

.....
**Oregon Liquor Control Commission
Chapter 845**

Rule Caption: Amend rule regarding use of Age Verification Equipment to offset civil penalty for certain violations.

Date:	Time:	Location:
4-26-06	10 a.m.–12 p.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Katie Hilton

Stat. Auth.: ORS 471, 471.030, 471.040, 730(1) & (5)

Stats. Implemented: ORS 471.342

Proposed Amendments: 845-009-0140

Last Date for Comment: 5-10-06

Summary: 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 in the case of sale of alcohol to a minor, or failure to properly verify the age of a minor purchaser. We intend to amend the rule to simplify 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

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

Telephone: (503) 872-5004

.....
Rule Caption: Amend rule regulating issuance of authority to operate to person with security interest

Date:	Time:	Location:
4-24-06	10 a.m.–12 p.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Katie Hilton

Stat. Auth.: ORS 471, 471.030, 471.040, 730(1) & (5)

Stats. Implemented: ORS 471.292(2)

Proposed Amendments: 845-005-0450

Last Date for Comment: 5-8-06

Summary: This rule describes the Commission's requirements and processes when a licensee can no longer operate a business and one of the parties listed in the title of the rule needs Commission approval to receive an authority to operate the business for a reasonable time to allow orderly disposition of the business. This situation arises when a licensee dies, or is unable to meet contractual obligations for the business. We intend to amend the rule to update terminology used, to specify a length of time such authority will be issued, and to clarify precisely who needs to receive authority to operate in these situations.

Rules Coordinator: Katie Hilton

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

Telephone: (503) 872-5004

.....
**Oregon State Lottery
Chapter 177**

Rule Caption: Suspension of Lottery retailer's OLCC license by the OLCC; Effect on Lottery retailer contract.

Date:	Time:	Location:
4-21-06	10–10:30 a.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott

Stat. Auth.: ORS 461

Other Auth.: OR Const., Art. XV, §4(4)

Stats. Implemented: ORS 461.300

Proposed Amendments: 177-040-0160

Last Date for Comment: 4-21-06, 10:30 a.m.

Summary: The Oregon Lottery has initiated permanent rulemaking to amend this rule to: Require all Lottery retailers to report the suspension of their OLCC license to the Lottery; Clarify the Director's authority to disable or reactivate Lottery equipment and suspend sales of Lottery tickets and shares when an OLCC license is suspended; Authorize an investigation of the circumstances of a traditional Lottery retailer's OLCC license suspension; and authorize the Director to impose sanctions in lieu of terminating the retailer

NOTICES OF PROPOSED RULEMAKING

contract if warranted by the circumstances of the OLCC license suspension.

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

.....
Oregon State Treasury
Chapter 170

Rule Caption: Terms, Conditions, and Reporting Requirements for an Agreement for Exchange of Interest Rates.

Stat. Auth.: ORS 287.025 as amended by Ch. 443, OL 2005
Other Auth.: SB 23, 2005 Oregon Legislative Assembly
Stats. Implemented: ORS 287.025 as amended by Ch. 443, OL 2005

Proposed Amendments: 170-060-1010

Last Date for Comment: 4-24-06

Summary: Clarifies terms, conditions and reporting requirements for local government issuers of bonds when entering into agreements for exchange of interest rates.

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

.....
Oregon University System
Chapter 580

Rule Caption: To adopt the 2006–07 tuition and fee rates and the room/board changes.

Date:	Time:	Location:
5-11-06	10–11 a.m.	Rm. B214 Kerr Admin. Bldg. OSU

Hearing Officer: Shonna Butler
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Proposed Amendments: 580-040-0040
Last Date for Comment: 5-12-06

Summary: To establish tuition and fees for the 2006–07 Academic Year, including room and board rates.

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

.....
Oregon University System,
Southern Oregon University
Chapter 573

Rule Caption: Freshman Live-In Requirement; Residence Hall Room and Board Agreement.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Proposed Amendments: 573-070-0005, 573-070-0011
Last Date for Comment: 5-10-06

Summary: 573-070-0005 changed to require notarized parental approval to live off campus. 573-070-0011 revised to provide flexibility in assessing moving and room change fees. These fees have not been amended since 1996.

Rules Coordinator: Deborah S. Drost
Address: Oregon University System, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520
Telephone: (541) 552-8550

.....
Public Utility Commission
Chapter 860

Rule Caption: Adopts and amends safety rules governing construction and maintenance of utility poles, conduits, and facilities

Date:	Time:	Location:
5-18-06	1:30 p.m.	Public Utility Commission Workshop with Commissioners Main Hearing Rm., First Flr. 550 Capitol St. NE Salem, OR
6-1-06	9 a.m.	Public Utility Commission Hearing Main Hearing Rm., First Flr. 550 Capitol St. NE Salem, OR

Hearing Officer: Christina Smith
Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.035
Proposed Adoptions: 860-024-0011, 860-024-0012, 860-024-0014, 860-024-0016
Proposed Amendments: 860-024-0001, 860-024-0050
Last Date for Comment: 6-1-06, 5 p.m.

Summary: This rulemaking is the first phase of a two phase effort to establish more comprehensive safety and joint use rules that would apply to electric utilities, telecommunications utilities, telecommunications providers, cable television operators, and other entities that operate electric and communication lines. The purpose of this rulemaking is to ensure that Oregon's utility lines and facilities accommodate competitive changes and are constructed, operated, and maintained in a safe and efficient manner.

This notice, for the first phase, will address new and amended safety rules associated with the construction, operation, and maintenance of electric and communication lines. The proposed rules focus on inspection and compliance work, facility owner responsibilities, vegetation clearance requirements, and other safety provisions.

The second phase of the rulemaking will commence later this year and will involve the adoption and amendment of rules applicable to owners and occupants in the shared use of utility poles, conduits, and facilities. This later phase will address owner-occupant contracts (i.e., presumptively reasonable rates, terms, conditions), dispute resolution processes, and other joint use provisions.

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

.....
Rule Caption: Ensures customer and utility rights and responsibilities are defined concerning connection of energy utility service.

Date:	Time:	Location:
5-3-06	9:30 a.m.	Public Utility Commission Small Hearing Rm., 2nd Flr. 550 Capitol St. NE Salem, OR

Hearing Officer: Michelle Mhoon
Stat. Auth.: ORS 183 & 756
Stats. Implemented: ORS 756.040
Proposed Adoptions: 860-021-0057, 860-021-0328
Proposed Repeals: 860-021-0328(T)
Last Date for Comment: 5-3-06, 5 p.m.

Summary: Proposed permanent rule 860-021-0328 modifies the temporary rule by referring to an energy utility rather than a natural gas utility, by clarifying how tariff charges for reconnection will be assessed, by clarifying that reconnections due to system outages are governed by OAR 860-021-0021, and by addressing the reconnection timeframe and tariff charges if a customer delays requesting reconnection for 14 or more days. Proposed rule 860-021-0057 addresses the timeliness of service connection that is requested for a location where service facilities currently exist. Text of the proposed rules can be found on the agency website at http://www.puc.state.or.us/PUC/admin_rules/proposed/index.shtml

Rules Coordinator: Diane Davis

NOTICES OF PROPOSED RULEMAKING

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

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

Rule Caption: Method of calculating total eligible voters as
required by Article XI, Section 11(8) Oregon Constitution.

Date:	Time:	Location:
4-21-06	9-9:30 a.m.	900 Court St. NE Rm. 257 Salem, OR 97301

Hearing Officer: Brenda Bayes

Stat. Auth.: ORS 246.120, 246.150, 254.465, 254.470 & OR Const.,
Art. XI, Sec. 11(8)

Stats. Implemented: OR Const., Art. XI, Sec. 11(8)

Proposed Amendments: 165-007-0130

Last Date for Comment: 4-21-06

Summary: The rule governs the calculation of eligible voters for
purposes of determining whether the election has sufficient turnout
for an election conducted under Article XI, section 11(8), of the Ore-
gon Constitution. This rule is proposed for amendment to clarify the
calculations and to remove reference to the SEL 954 which is no

longer needed, as the calculation will occur in the Oregon Central-
ized Voter Registration system.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Rule Caption: Revises fees for providing copies of public records.

Date:	Time:	Location:
4-21-06	9-9:30 a.m.	900 Court St. NE Rm. 257 Salem, OR 97301

Hearing Officer: Brenda Bayes

Stat. Auth.: ORS 192.440 & 246.150

Stats. Implemented: ORS 192.440

Proposed Amendments: 165-002-0010

Last Date for Comment: 4-21-06

Summary: This rule is proposed for amendment to better service our
customer requests for information and to provide a more consistent
fee schedule.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

ADMINISTRATIVE RULES

Board of Architect Examiners Chapter 806

Rule Caption: Participation in Design Competitions.

Adm. Order No.: BAE 1-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 2-1-06

Rules Amended: 806-010-0037, 806-010-0075

Subject: This rule amendment provides allowance for individuals/firms that are not registered in Oregon to participate in public architectural design competitions, and clarifies when/how the architect title may be used and when Oregon registration is required after being selected as the architect for the project.

Rules Coordinator: Carol Halford—(503) 763-0662

806-010-0037

Architect Title

The title of "Architect" is a protected title and may be used only by certain qualified individuals and businesses, as follows:

(1) Those individuals who have been notified by the Board that they have qualified as an Oregon architect and hold an active Oregon registration.

(2) Individuals may use the title of "Consulting Architect" only as prescribed by ORS 671.010 and 671.020(2).

(3) Individuals may use the title of "Foreign Architect" only as prescribed by ORS 671.010 and 671.020(3).

(4) Those individuals who have submitted an application to the Oregon Board for consideration as Oregon architects by reciprocity under OAR 806-010-0035 (applicants) are entitled to use the title "Architect" under certain conditions. Applicants may not practice architecture until such time as an active Oregon architect registration is granted. Applicants may use the title "Architect," along with the name of the state in which the individual holds an active architect license (for example; "John Smith, CA Architect"), but only after all of the following have been completed:

(a) The Board receives a completed reciprocity application;

(b) The Board receives all the required fees from the applicant;

(c) The Board receives a written notice from the applicant of the applicant's intent to offer architectural services in Oregon; and

(d) The prospective client(s) has been advised, in writing, by the applicant that the applicant may not commence the project until Oregon registration is granted.

(5) Individuals/firms who hold an active registration to practice architecture in another jurisdiction recognized by the Board may participate and use the architect title in a public design competition in Oregon without first being registered. Once selected for the project, the individual/firm must comply with OAR 806-010-0075 and will not perform further architectural services on the project until registered by the Oregon Board.

(6) Firms registered with the Board under OAR 806-010-0080 and 806-010-0110 as providing architectural services in Oregon must use a derivative of the architect title within the firm name to identify the firm appropriately, according to OAR 806-010-0110.

(7) Except as provided in this rule, no title, sign, cards, or device may be used to indicate or tend to indicate that the person or firm or business using the title is practicing architecture or is an architect, or represents in any manner that the person or firm or business is an architect or architectural practice.

(8) For purposes of this rule and OAR 806-010-0035(5), the phrase "offering to render architectural services" includes to solicit for an architectural project in Oregon.

(9) Those notified by the Board that they have been granted Architect Emeritus status may use the title "Architect Emeritus" following their name on any plaques, signs, letterhead, and the like.

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.050, 671.0671.065, 671.080 & 671.085

Hist.: BAE 2-2004, f. & cert. ef. 3-2-04; BAE 6-2005, f. & cert. ef. 12-13-05; BAE 1-2006, f. & cert. ef. 3-10-06

806-010-0075

The Practice of Architecture

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

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

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

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

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

(3) With the exception of the setting described in ORS 671.030(g) and OAR 806-010-0078, the primary contract or agreement to provide architectural services for an architectural project must be between the architect or firm providing architectural services and the person or entity for which architectural services are provided (see also direct control and supervision as defined in OAR 806-101-0045).

Stat. Auth.: ORS 670 & 671

Stats. Implemented: ORS 671.010

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

Rule Caption: Contracts/agreements for architectural services.

Adm. Order No.: BAE 2-2006(Temp)

Filed with Sec. of State: 3-14-2006

Certified to be Effective: 3-15-06 thru 9-8-06

Notice Publication Date:

Rules Amended: 806-010-0075

Subject: The existing requirement is for the primary contract for architectural services for an architectural project to be between the architect/firm providing architectural services and the person/entity for which they are provided. This rule amendment modifies that requirement to only pertain to architectural services on non-exempt structures. It also corrects a reference to an incomplete statute number.

Rules Coordinator: Carol Halford—(503) 763-0662

806-010-0075

The Practice of Architecture

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

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

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

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

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

(3) With the exception of the setting described in ORS 671.030(2)(g) and OAR 806-010-0078, the primary contract or agreement to provide architectural services for a non-exempt structure must be between the architect or firm providing architectural services and the person or entity for which architectural services are provided (see also direct control and supervision as defined in OAR 806-010-0045).

Stat. Auth.: ORS 670 & 671

Stats. Implemented: ORS 671.010

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

Rule Caption: The AG's Uniform and Model Rules of Procedure.

Adm. Order No.: BAE 3-2006

Filed with Sec. of State: 3-14-2006

ADMINISTRATIVE RULES

Certified to be Effective: 3-15-06

Notice Publication Date:

Rules Amended: 806-001-0004, 806-001-0005

Subject: This rule is housekeeping in nature to adopt the current versions of the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act. The current version is the one DOJ follows and from which the DOJ's attorneys give advice to agencies. DOJ publishes a new version about every two years.

Rules Coordinator: Carol Halford—(503) 763-0662

806-001-0004

Rules of Procedure

The Board adopts the January 1, 2006, version of the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act to govern the Board's rulemaking and contested cases or equivalent proceedings.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Architect Examiners.]

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 183.341

Hist.: AE 5, f. 12-22-64; AE 11, f. 2-15-74, ef. 3-11-74; AE 13, f. & ef. 4-2-76; AE 2-1978, f. & ef. 3-6-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1980, f. & ef. 2-14-80; AE 3-1981, f. & ef. 12-21-81; AE 1-1984, f. & ef. 8-22-84; AE 1-1987, f. & ef. 3-30-87; AE 3-1992, f. & cert. ef. 6-30-92; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 3-2000, f. & cert. ef. 7-24-00, Renumbered from 806-010-0055; BAE 3-2004, f. & cert. ef. 5-5-04; BAE 3-2006, f. 3-14-06, cert. ef. 3-15-06

806-001-0005

Model Rules of Procedure

The Board adopts the January 1, 2006, Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act by reference as the Board's general administrative procedural rules.

[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 Architect Examiners.]

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.080

Hist.: AE 8, f. 12-15-71, ef. 1-1-72; AE 10, f. 10-26-73, ef. 11-25-73; AE 2-1997, f. & cert. ef. 9-24-97; BAE 3-2004, f. & cert. ef. 5-5-04; BAE 3-2006, f. 3-14-06, cert. ef. 3-15-06

Board of Massage Therapists Chapter 334

Rule Caption: Explains the new renewal system.

Adm. Order No.: BMT 2-2006(Temp)

Filed with Sec. of State: 2-16-2006

Certified to be Effective: 2-16-06 thru 8-7-06

Notice Publication Date:

Rules Amended: 334-010-0015

Subject: Outlines the details of the new renewal system.

Rules Coordinator: Michelle Sherman—(503) 365-8657

334-010-0015

Licensure

(1) Licenses issued expire on the last day of the licensees' birth month of even numbered years for licensees with an even numbered birth year and odd numbered years for licensees with an odd numbered birth year. Thereafter, licenses may be renewed every other year upon completion of the application requirements and returned to the Board postmarked no later than the 1st day of the month of expiration. If the application requirements are not received by the due date, a delinquent fee shall be paid. For the purposes of converting to the revised renewal system all licenses issued will follow the Conversion Renewal Chart created by the Board. The conversion is in effect through December 31, 2006.

(2) An applicant for a renewal or initial massage therapist license shall complete, without alterations, an application furnished by the Board.

(3) Application for a massage therapist license shall contain information stating whether the applicant has ever been arrested or convicted of a misdemeanor or crime and if so, stating the nature of the offense, the location of the arrest or conviction and the date(s) of occurrence(s).

(4) Applicants for renewal of licensure shall sign a statement of completion of a minimum of 25 hours of continuing education.

(5) Applicants for initial licensure must apply within one year of the successful completion of the license examination:

(a) If an applicant does not apply within one year, then re-examination shall be required.

(b) At the time of re-examination, the applicant must meet all current licensing requirements and submit original documents as required by the Board.

(6) All applicants for initial, renewal, or reinstated license must sign a statement verifying that they have read all current Oregon Statutes (ORS 687), Rules (OAR 334), and policy statements of the Board.

(7) Licenses issued by the Board shall not be transferable.

Stat. Auth.: ORS 687.121 & 687.051

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121
Hist.: HB 88, f. 3-16-56; Renumbered from 333-035-0006; MTB 1-1979, f. & ef. 5-22-79; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92; BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 1-2004, f. & cert. ef. 2-23-04; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 2-2006(Temp), f. & cert. ef. 2-16-06 thru 8-7-06

Board of Nursing Chapter 851

Rule Caption: Procedures Established for Recognition of Registered Nurse First Assistants.

Adm. Order No.: BN 1-2006

Filed with Sec. of State: 2-22-2006

Certified to be Effective: 2-22-06

Notice Publication Date: 1-1-06

Rules Adopted: 851-031-0088

Subject: These rules establish the standards for licensure of Registered Nurses and Licensed Practical Nurses. This rule amendment establishes procedures for the recognition of registered nurses who become registered nurse first assistants by receiving additional certification through nationally recognized professional organizations.

Rules Coordinator: KC Cotton—(971) 673-0638

851-031-0088

Registered Nurse First Assistant Status

(1) The Board shall maintain a registry of Registered Nurse First Assistants.

(2) Oregon Registered Nurses may apply for placement on the registry pursuant to ORS 678.366.

(3) An applicant for initial placement on the registry shall:

(a) Hold a current, unencumbered Registered Nurse license in the State of Oregon;

(b) Submit a registry application; and

(c) Submit evidence of current certification as a Registered Nurse First Assistant from a Board-approved national certifying body; or

(d) Submit evidence of current certification as a Certified Operating Room Nurse (CNOR); and

(e) Submit documentation showing successful completion of a Registered Nurse First Assistant program which meets the Association of Perioperative Registered Nurses' "AORN Recommended Education Standards for RN First Assistant Programs" as stated in the 2005 AORN Standards, Recommended Practices, and Guidelines.

(4) To maintain placement on the registry an applicant shall:

(a) Submit the registry application and evidence of current certification as a Registered Nurse First Assistant from a Board-approved national certifying body; or

(b) Submit the registry application and evidence of current certification as a CNOR.

Stat. Auth.: ORS 678.021 & 678.040

Stats. Implemented: ORS 678.021 & 678.040

Hist.: BN 1-2006, f. & cert. ef. 2-22-06

Rule Caption: Nurse Practitioner Formulary Updated.

Adm. Order No.: BN 2-2006

Filed with Sec. of State: 2-22-2006

Certified to be Effective: 2-22-06

Notice Publication Date: 1-1-06

Rules Amended: 851-050-0131

Subject: The Board is authorized by ORS 678.385 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner acting under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. The amendments add the December 2005 and January and February 2006 updates to Drug Facts and Comparisons to the formulary.

Rules Coordinator: KC Cotton—(971) 673-0638

ADMINISTRATIVE RULES

851-050-0131

Formulary for Nurse Practitioners with Prescriptive Authority

(1) The following definitions apply for the purpose of these rules:

(a) "Appliance or device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

(b) "Formulary" means a specific list of drugs determined by the Board. The formulary for nurse practitioners with prescriptive authority shall be all the drugs in the Drug Facts and Comparisons dated February 2006 with the exception of certain drugs and drug groups, which are listed below.

(c) "Board" means the Oregon State Board of Nursing.

(2) The Board as authorized by ORS 678.385 (1993), shall determine the drugs which nurse practitioners may prescribe, shall periodically revise the formulary by rulemaking hearing at each regular Board meeting and shall transmit the list of those drugs which are exceptions to the formulary, and which nurse practitioners may not prescribe, to nurse practitioners with prescriptive authority and other interested parties.

(3) The formulary is constructed based on the following premises:

(a) Nurse practitioners may provide care for specialized client populations within each nurse practitioner category/scope of practice;

(b) Nurse practitioner prescribing is limited by the nurse practitioner's scope of practice and knowledge base within that scope of practice;

(c) Nurse practitioners may prescribe the drugs appropriate for patients within their scope of practice as defined by OAR 851-050-0005;

(d) Nurse practitioners may prescribe drugs for conditions the nurse practitioner does not routinely treat within the scope of their practice provided there is ongoing consultation/ collaboration with another health care provider who has the authority and experience to prescribe the drug(s);

(e) Nurse practitioners shall be held strictly accountable for their prescribing decisions;

(f) All drugs on the formulary shall have Food and Drug Administration (FDA) approval.

(4) Nurse practitioners with prescriptive authority are authorized to prescribe:

(a) All over the counter drugs;

(b) Appliances and devices.

(5) Nurse practitioners are authorized to prescribe the following drugs as listed in Drug Facts and Comparisons dated February 2006:

(a) Nutrients and Nutritional Agents — all drugs except Flavocoxid (Limbrel).

(b) Hematological Agents — all drugs except Drotrecogin Alfa (Xigris); and Trepstinil Sodium (Romodulin).

(c) Endocrine and Metabolic Agents — all drugs except:

(A) I 131;

(B) Gallium Nitrate; and

(C) Mifepristone (Mifeprex); and

(D) Abarelix (Plenaxis).

(d) Cardiovasculars — all drugs except:

(A) Cardioplegic Solution;

(B) Fenoldopam Mesylate (Corlopan);

(C) Dofetilide (Tikosyn); and

(D) Bosentan (Tracleer).

(e) Renal and Genitourinary Agents — all drugs;

(f) Respiratory Agents — all drugs;

(g) Central Nervous System Agents:

(A) Class II Controlled Substances — Only the following drugs:

(i) Tincture of opium;

(ii) Codeine;

(iii) Hydromorphone;

(iv) Morphine;

(v) Oxycodone, Oxymorphone;

(vi) Topical Cocaine Extracts and Compounds;

(vii) Fentanyl;

(viii) Meperidine;

(ix) Amphetamines;

(x) Methylphenidates;

(xi) Pentobarbital;

(xii) Secobarbital;

(xiii) Methadone Hydrochloride (in accordance with OAR 851-045-0015(2)(n) and 851-050-0170); and

(xiv) Levorphanol.

(B) General Anesthetic Agents — no drugs which are general anesthetic barbiturates, volatile liquids or gases, with the exception of nitrous oxide; and

(C) Chymopapain is excluded.

(D) Ziconotide (Prialt) is excluded.

(E) Sodium Oxybate (Xyrem) is excluded.

(h) Gastrointestinal Agents — all drugs except: Monoocetanoin;

(i) Anti-infectives, Systemic — all drugs;

(j) Biological and Immunologic Agents — all drugs except Basiliximab (Simulect);

(k) Dermatological Agents — all drugs except Psoralens;

(l) Ophthalmic and Otic Agents — all drugs except:

(A) Punctal plugs;

(B) Collagen Implants;

(C) Indocyanine Green;

(D) Hydroxypropal (Methyl) Cellulose;

(E) Polydimethylsiloxane;

(F) Fomivirsin Sodium (Vitravene);

(G) Verteporfin;

(H) Levobetaxolol HCL (Betaxon);

(I) Travoprost (Travatan);

(J) Bimatoprost (Lumigan); and

(K) Unoprostone Isopropyl (Rescula);

(L) Pegaptanib Sodium (Macugen);

(M) Triptan Blue (VisionBlue); and

(N) Retisert.

(m) Antineoplastic Agents — all drugs except:

(A) NCI Investigational Agents;

(B) Samarium Sm53;

(C) Denileukin Diftitox (Ontak);

(D) BCG, Intravesical (Pacis);

(E) Arsenic Trioxide (Trisenox);

(F) Ibritumomab Tiuxetan (Zevalin);

(G) Tositumomab and Iodine 131 I-Tositumomab (Bexxar);

(H) Sclerosol; and

(I) Clofarabine (Clolar).

(n) Diagnostic Aids:

(A) All drugs except Arbutamine (GenESA);

(B) Thyrotropin Alfa (Thyrogen);

(C) Miscellaneous Radiopaque agents — no drugs from this category except:

(i) Iopamidol;

(ii) Iohexol; and

(iii) Ioxilan (Oxilan).

Stat. Auth.: ORS 678.375 & 678.385

Stats. Implemented: ORS 678.385

Hist.: NB 11-1993(Temp), f. 10-26-93, cert. ef. 11-4-93; NB 2-1994, f. & cert. ef. 4-15-94; NB 7-1994, f. & cert. ef. 9-28-94; NB 3-1995, f. & cert. ef. 4-12-95; NB 6-1995(Temp), f. & cert. ef. 6-15-95; NB 8-1995, f. & cert. ef. 6-29-95; NB 11-1995, f. & cert. ef. 10-9-95; NB 1-1996, f. & cert. ef. 2-29-96; NB 3-1996, f. & cert. ef. 6-11-96; NB 8-1996, f. & cert. ef. 10-30-96; NB 10-1996, f. & cert. ef. 12-2-96; NB 5-1997, f. & cert. ef. 3-6-97; NB 7-1997, f. & cert. ef. 5-13-97; NB 8-1997, f. & cert. ef. 7-1-97; NB 13-1997, f. & cert. ef. 9-29-97; NB 14-1997, f. & cert. ef. 12-11-97; NB 4-1998, f. & cert. ef. 3-13-98; NB 5-1998, f. & cert. ef. 5-11-98; NB 8-1998, f. & cert. ef. 7-16-98; NB 12-1998, f. & cert. ef. 9-22-98; NB 13-1998, f. & cert. ef. 12-1-98; NB 1-1999, f. & cert. ef. 3-4-99; NB 3-1999, f. & cert. ef. 5-4-99; NB 5-1999, f. & cert. ef. 7-1-99; NB 9-1999, f. & cert. ef. 10-20-99; NB 13-1999, f. & cert. ef. 12-1-99; NB 3-2000, f. & cert. ef. 2-25-00; NB 5-2000, f. & cert. ef. 4-24-00; NB 8-2000, f. & cert. ef. 7-3-00; NB 9-2000, f. & cert. ef. 9-18-00; NB 10-2000, f. & cert. ef. 12-15-00; NB 2-2001, f. & cert. ef. 2-21-01; NB 6-2001, f. & cert. ef. 4-24-01; NB 9-2001, f. & cert. ef. 7-9-01; NB 13-2001, f. & cert. ef. 10-16-01; NB 4-2002, f. & cert. ef. 3-5-02; NB 11-2002, f. & cert. ef. 4-25-02; NB 14-2002, f. & cert. ef. 7-17-02; NB 19-2002, f. & cert. ef. 10-18-02; NB 21-2002, f. & cert. ef. 12-17-02; NB 2-2003, f. & cert. ef. 3-6-03; NB 4-2003, f. & cert. ef. 4-23-03; NB 8-2003, f. & cert. ef. 7-7-03; NB 10-2003, f. & cert. ef. 10-2-03; NB 13-2003, f. & cert. ef. 12-9-03; NB 6-2004, f. & cert. ef. 2-26-04; NB 10-2004, f. & cert. ef. 5-4-04; NB 12-2004, f. & cert. ef. 7-13-04; NB 15-2004, f. & cert. ef. 10-26-04; NB 16-2004, f. & cert. ef. 11-30-04; NB 2-2005, f. & cert. ef. 2-17-05; NB 3-2005, f. & cert. ef. 4-26-05; NB 4-2005, f. & cert. ef. 6-30-05; NB 8-2005, f. & cert. ef. 10-13-05; NB 11-2005, f. & cert. ef. 12-21-05; NB 2-2006, f. & cert. ef. 2-22-06

Rule Caption: Date Extended for Teaching and Assigning CNA Additional Tasks.

Adm. Order No.: BN 3-2006

Filed with Sec. of State: 2-22-2006

Certified to be Effective: 2-22-06

Notice Publication Date: 1-1-06

Rules Amended: 851-063-0040

Subject: These rules cover standards and authorized duties for Certified Nursing Assistants and Certified Medication Aides. This rule amendment extends the date of the provision for teaching and assign-

ADMINISTRATIVE RULES

ing additional tasks of nursing care to CNAs in settings where an RN is always available for client assessment and supervision of CNAs. The date is to be extended to December 30, 2009.

Rules Coordinator: KC Cotton—(971) 673-0638

851-063-0040

Teaching and Assignment of Additional Task(s) of Nursing Care to CNAs in Settings Where an RN is Always Available for Client Assessment and Supervision of CNA(s)

Notwithstanding OAR 851-063-0030, a CNA may be taught and perform those additional tasks as authorized by the Board and listed in OAR 851-063-0060 in accordance with these rules. Such additional tasks may be taught and performed only in settings where there is continuous on-site RN or LPN supervision of CNAs, including a RN who is always available for the purpose of client assessment. Additional task(s) of nursing care are site specific. A CNA who is trained to perform additional task(s) of nursing care in one facility is not authorized to perform those task(s) in another facility without validation of skills for that facility.

(1) A CNA may perform additional tasks of nursing care when:

(a) The CNA has been taught to do those additional tasks according to these rules;

(b) The CNA has demonstrated initial competency to perform additional tasks as they were taught;

(c) The CNA performs the additional task(s) of nursing care under the assignment and supervision of a RN or LPN; and

(d) The CNA has maintained competency to perform additional tasks.

(2) Role of RN and LPN at a site that allows a CNA to perform additional tasks of nursing care:

(a) A RN at the site must document competency of the CNA to perform additional task(s) of nursing care;

(b) A RN at the site must assess the client and determines that assignment of the additional task(s) of nursing care to the CNA by a RN or LPN is appropriate for the client care situation and for the CNA;

(c) The RN or LPN who makes the specific assignment must periodically assess and evaluate the client care situation and the abilities of the CNA;

(d) The RN at the site must determine the interval for periodic assessment and evaluation based on the condition of the client and the nature of the nursing care task(s) being performed; and

(e) A RN at the site must ensure that there is RN or LPN supervision of CNAs performing additional task(s) of nursing care according to these rules.

(3) Program of Training for additional tasks:

(a) A RN who has the knowledge and skills necessary to teach additional task(s) is responsible to:

(A) Develop the training curriculum according to these rules;

(B) Teach the curriculum to CNAs employed at that site; and

(C) Develop the mechanisms for validating that a CNA has initial and ongoing competency to perform additional task(s) of nursing care.

(b) Additional tasks of nursing care may be taught at the site where additional tasks are to be performed or at a community college under terms and conditions specified in these rules.

(A) Each site specific training program for additional tasks shall:

(i) Be specific to that site;

(ii) Be specific to the needs of its specific client population(s); and

(iii) Specify those tasks which may be performed at the specific site.

(B) A community college may enter into a written agreement to teach additional tasks under the following conditions:

(i) There is a written agreement between the site and the community college for a RN to teach additional tasks;

(ii) Tasks taught are specific to the site that has the written agreement with the college for the teaching; and

(iii) A mechanism exists that is satisfactory to both the college and the site which documents that the CNA has demonstrated competency in the additional tasks of nursing care.

(4) Additional Tasks sunset December 30, 2009.

Stat. Auth.: ORS 678.440 & 678.442

Stats. Implemented: ORS 678.440 & 678.442

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 3-2004, f. 1-29-04, cert. ef. 2-12-04; BN 3-2006, f. & cert. ef. 2-22-06

Board of Optometry

Chapter 852

Rule Caption: Implement changes effected by 2005 legislative session.

Adm. Order No.: OPT 1-2006

Filed with Sec. of State: 3-8-2006

Certified to be Effective: 3-8-06

Notice Publication Date: 1-1-06

Rules Amended: 852-060-0075

Subject: Rule is revised to correspond with changes made in discovery effected during the 2005 Legislative session.

Rules Coordinator: David W. Plunkett—(503) 399-0662, ext. 21

852-060-0075

Discovery

An order requiring discovery will be responded to pursuant to OAR 137-003-0025 included in the Uniform and Model Rules of Procedure under the Administrative Procedures Act and ORS 676.175. In addition, ORS 676.175 provides that contested case hearings are closed to members of the public.

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.155 & 182.466

Hist.: OPT 2-2004, f. & cert. ef. 5-20-04; OPT 1-2006, f. & cert. ef. 3-8-06

Bureau of Labor and Industries

Chapter 839

Rule Caption: Clarifies when certified payroll reports are required to be filed by forest fire suppression contractors

Adm. Order No.: BLI 3-2006

Filed with Sec. of State: 2-16-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 1-1-06

Rules Amended: 839-015-0130, 839-015-0145, 839-015-0300

Subject: The rule amendments clarify when certified payroll records/wage certifications are required to be submitted to the Bureau of Labor and Industries by contractors employing contract forest fire suppression crews. The rules define the term "contract" for purposes of the certified payroll filing requirements to mean the acceptance of each dispatch order to a fire incident by a contractor supplying a contract crew, and provide that the acceptance of a dispatch order for each separate crew will be deemed to constitute a separate and distinct contract. The rule amendments also provide that the failure of a contractor to submit certified payrolls for each contract firefighting crew as required constitutes a separate violation. Additional "housekeeping" amendments correct an erroneous rule reference in OAR 839-015-0130(16) and provide missing language in OAR 839-015-0145.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-015-0130

Exemptions from Licensing

The following persons are not required to obtain a farm or forest labor contractor's license:

(1) A farmer or owner or lessee of land intended to be used for the production of timber dealing with workers or worker groups only concerning employment in their own operation.

(2) A nursery owner or operator dealing with workers or worker groups only concerning employment in their own operations.

(3) A processor of farm products dealing with workers or worker groups only concerning employment in their own farm operations.

(4) A permanent employee of a farmer, nursery owner, or processor of farm products, or a permanent employee of an owner or lessee of land intended to be used for the production of timber so long as the employee is engaged solely in activities which would not require the employer to be licensed if the employer were performing the activity.

(5) A person engaged only in the solicitation or recruitment of workers for agricultural day-haul work and not engaged in arranging for board or lodging for migrant workers and not performing as an employer of the workers.

(6) A platoon leader.

(7) A leader, or a leader's agent, of an organization operating as a labor union, provided that the only payment received from the workers is in the form of membership dues for which the workers are accorded membership status in the conduct of the affairs of the organization.

(8) An employee of a farm or forest labor contractor except for any employee who:

ADMINISTRATIVE RULES

(a) Recruits, solicits, supplies or employs workers on behalf of the farm or forest labor contractor; or

(b) For an agreed remuneration or rate of pay recruits, solicits, supplies or employs workers to perform labor for any other person in forestation or reforestation of lands or the production or harvesting of farm products; or

(c) Recruits, solicits, supplies or employs workers to gather wild forest products; or

(d) Furnishes board or lodging for such workers (but cooks employed by the contractor are not required to be licensed by reason of this sole activity); or

(e) On his or her own behalf bids or submits prices on contracts offers for those activities or enters into a subcontract with another for any of those activities.

(9) A crew leader provided that if the crew leader engages in any activity or receives any compensation with respect to any worker which exceed the permitted activities or compensation allowed by the definition in OAR 839-015-0004(7)(a), the crew leader is not exempt with respect to any activities or workers.

(10) A person who is primarily a supplier of on-farm equipment (sheep shearer, potato digger, or other farm machinery) or cottonwood tree harvesting machines unless the person also supplies temporary workers other than workers engaged in driving or maintaining the equipment.

(11) The advertising media.

(12) Employees of the Employment Department who are acting within the scope of their employment.

(13) A person performing work of a mental, technical, professional or managerial nature as defined in OAR 839-015-0004(18).

(14) An individual who performs work, other than recruiting, soliciting, supplying or employing workers to perform labor for another, or recruiting, soliciting, supplying or employing workers to gather wild forest products, alone or with only the assistance of the individuals named in section (15) of this rule.

(15) The spouse, son, daughter, brother, sister, mother or father of the individuals named in sections (14) and (16) of this rule.

(16) Individuals who perform labor in connection with an agreement for the exchange of labor or services with each other, provided that the work is performed on land owned or leased by the individuals, and provided further that the labor or services involved are performed solely by said individuals, their immediate families as specified in section (15) of this rule, or their permanent employees.

(17) An educational institution which is recognized as such by the Oregon Department of Education.

(18) An individual who collects tree seed cones or an individual who buys tree seed cones from other individuals. This section applies to individuals only and not to persons who are otherwise defined as farm or forest labor contractors.

(19) Persons who recruit, solicit, supply or employ workers to perform labor under a contract or agreement solely for the following activities, provided that the person performs no other activities which would require licensing:

(a) Stream or creek debris removal;

(b) Provision of security services;

(c) Any activity which does not have the primary purpose of forestation or reforestation of lands, the gathering of wild forest products or of production or harvesting of farm products.

(20) Persons engaged in logging operations who would only otherwise be farm or forest labor contractors because they engage in reforestation activities that are incidental to contracts the primary purpose of which is the sale of timber, provided that they perform such incidental reforestation work using their own employees. If the incidental reforestation activities are carried out using a subcontractor, the subcontractor is required to be licensed.

Stat. Auth.: ORS 658.407

Stats. Implemented: ORS 658.405 - 658.503

Hist.: BL 6-1984, f. & ef. 4-27-84; BL 16-1988, f. & cert. ef. 12-13-88; BL 3-1990, f. & cert. ef. 3-1-90; BL 2-1996, f. & cert. ef. 1-9-96; BL 5-1996, f. 6-14-96, cert. ef. 7-1-96; BLI 7-2000, f. & cert. ef. 2-23-00; BLI 3-2006, f. 2-16-06, cert. ef. 3-1-06

839-015-0145

Character, Competence and Reliability

The character, competence and reliability contemplated by ORS 658.405 to 658.475 and these rules includes, but is not limited to, consideration of:

(1) A person's record of conduct in relations with workers, farmers and others with whom the person conducts business.

(2) A person's reliability in adhering to the terms and conditions of

any contract or agreement between the person and those with whom the person conducts business.

(3) A person's timeliness in paying all debts owed, including advances and wages.

(4) Whether a person has unsatisfied judgments or felony convictions.

(5) Whether a person has been refused a bond.

(6) Whether a person has provided workers' compensation coverage for each worker or paid worker's compensation insurance premium payments when due.

(7) Whether a person has violated any provision of ORS 658.405 to 658.503 or these rules.

(8) Whether a person has employed an agent who has had a farm or forest labor contractor license denied, suspended, revoked or not renewed or who has otherwise violated any provisions of ORS 658.405 to 658.503 or these rules.

(9) Whether a person has notified the bureau of any change in the circumstances under which a license was issued.

(10) Whether a person has failed to comply with federal, state or local laws or ordinances relating to the payment of wages, income taxes, social security taxes, unemployment compensation tax, or any tax, fee or assessment of any sort.

(11) Whether a person, when required by law, has failed or refused to seek food, water, shelter, or medical attention, or to provide any other necessary goods or services required for the safety and health of workers.

(12) Whether a person has repeatedly failed to file or furnish all forms and other information required by ORS 658.405 to 658.503 and these rules.

(13) Whether a person has made a willful misrepresentation, false statement or concealment in the application for a license.

(14) Whether a person has willfully made or caused to be made to any person any false, fraudulent or misleading representation, or publish or circulate any false, fraudulent or misleading information concerning the terms, conditions, or existence of employment at any place or by any person.

(15) Whether a person failed to maintain the bond or cash deposit as required by ORS 658.405 to 658.503.

Stat. Auth.: ORS 651 & 658

Stats. Implemented ORS 659.405 - 658.503

Hist.: BL 6-1984, f. & ef. 4-27-84; BL 16-1988, f. & cert. ef. 12-13-88; BL 2-1996, f. & cert. ef. 1-9-96; BLI 12-2001, f. 8-31-01, cert. ef. 9-1-01; BLI 3-2006, f. 2-16-06, cert. ef. 3-1-06

839-015-0300

"Wage Certification" Form

(1) Every farm and forest labor contractor must, unless otherwise exempt, submit a certified true copy of all payroll records to the Wage and Hour Division when the contractor or the contractor's agent pays employees directly as follows:

(a) The first report is due no later than 35 days from the time the contractor begins work on each contract and must include whatever payrolls the contractor has paid out at the time of the report;

(b) The second report is due no later than 35 days following the end of the first 35 day period on each contract and must include whatever payrolls have been issued as of the time of the report;

(c) If the contract lasts more than 70 days, succeeding wage certification reports must include whatever payrolls the contractor has paid out at the time of the report, with the reports due at successive 35 day intervals, e.g. 105 days, 140 days from the time the contractor begins work on the contract.

(2) The certified true copy of payroll records may be submitted on Form WH-141. This form is available to any interested person. Any person may copy this form or use a similar form provided such form contains all the elements of Form WH-141.

(3) The wages paid to the officers of the corporation may be omitted from the Form WH-141 or the other records submitted under this rule.

(4) The certified true copy of payroll records shall be submitted to: Bureau of Labor and Industries, Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, NE, Bldg. E-1, Salem, OR 97305.

(5) Contractors who have recruited, solicited or supplied workers from the state of Oregon who are employed on farm or forestation/reforestation contracts located outside the State of Oregon must comply with the provisions of this rule.

(6) For purposes of forest fire suppression by contract crew, the term "contract" as used in this rule means the acceptance of each dispatch order to a fire incident by a contractor supplying a contract crew to perform such work.

(7) The acceptance of a dispatch order for each separate crew will be deemed to constitute a separate and distinct contract such that the failure of

ADMINISTRATIVE RULES

a contractor to submit certified payrolls for each crew as required by this rule is a separate violation.

Stat. Auth.: ORS 658.417(3)
Stats. Implemented: ORS 658.417(3)
Hist.: BL 7-1983(Temp), f. & ef. 8-5-83; BL 6-1984, f. & ef. 4-27-84; BL 16-1988, f. & cert. ef. 12-13-88; BL 2-1996, f. & cert. ef. 1-9-96; BL 5-1996, f. 6-14-96, cert. ef. 7-1-96; BL 12-2001, f. 8-31-01, cert. ef. 9-1-01; BLI 28-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 3-2006, f. 2-16-06, cert. ef. 3-1-06

Rule Caption: Amendment to January 1, 2006 State PWR/Davis Bacon Wage Rates Publication.

Adm. Order No.: BLI 4-2006

Filed with Sec. of State: 2-23-2006

Certified to be Effective: 2-24-06

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the January 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 February 10, 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 January 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 January 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 January 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 January 20, 2006).

(c) Amendments/Corrections to January 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 January 27, 2006).

(d) Amendments/Corrections to January 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 February 10, 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 January 1, 2006, and the determinations and amendments referenced in subsection (1)(a) and (b) 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
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

Rule Caption: Repeals redundant rulemaking notice rules which have been replaced in OAR 839-002-0002.

Adm. Order No.: BLI 5-2006

Filed with Sec. of State: 3-7-2006

Certified to be Effective: 3-7-06

Notice Publication Date: 1-1-06

Rules Repealed: 839-014-0025, 839-015-0002, 839-017-0001, 839-019-0002, 839-025-0002

Subject: The rules repealed include rulemaking notice provisions for the agency's division -014; -015; -017; -019; and -025 rules (pertaining to farm-worker camp operators; farm and forest labor contractors; private employment agencies; civil penalties for child labor violations; and prevailing wage rates on public works).

The Bureau of Labor and Industries has adopted rulemaking notice provisions for all agency rules in OAR 839-002-0002. The rules to be repealed are, therefore, redundant and unnecessary.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

Rule Caption: Amendment to OAR 839-025-0750

Adm. Order No.: BLI 6-2006

Filed with Sec. of State: 3-9-2006

Certified to be Effective: 3-13-06

Notice Publication Date:

Rules Amended: 839-025-0750

Subject: The rule adopts prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for 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 for Residential Project, "Civic Redevelopment," Project #2005-03*, dated May 26, 2005, for the period of June 1, 2005 through June 30, 2006.

(b) *Special Prevailing Wage Rate Determination for Residential Project, Prairie House, Project #2005-04*, dated May 26 2005, for the period of June 1, 2005 through June 30, 2006.

(c) *Special Prevailing Wage Rate Determination for Residential Project, Ariel South, Project #2005-05*, dated June 20, 2005, for the period of June 21, 2005 through June 30, 2006.

(d) *Special Prevailing Wage Rate Determination Extension for Residential Project, Headwaters Apartments, Project #2004-06*, dated October 14, 2004. Rate extension dated June 20, 2005, for the period of July 1, 2005 through June 30, 2006.

(e) *Special Prevailing Wage Rate Determination for Residential Project, Tri-Harbor Landing Apartments, Project #2005-06*, dated July 18, 2005, for the period of July 21, 2005 through June 30, 2006.

(f) *Special Prevailing Wage Rate Determination for Residential Project, Sunflower Park Apartments, Project #2005-07*, dated July 18, 2005, for the period of July 21, 2005 through June 30, 2006.

(g) *Amended Special Prevailing Wage Rate Determination for Residential Project, Prairie House, Project #2005-04*, dated July 20, 2005, for the period of July 22, 2005 through June 30, 2006.

(h) *Special Prevailing Wage Rate Determination for Residential Project, Quail Run Apartments Project #2005-08*, dated August 9, 2005, for the period of August 10, 2005 through June 30, 2006.

(i) *Special Prevailing Wage Rate Determination for Residential Project, Hazedel Seniors Limited Partnership, Project #2005-09*, dated August 26, 2005, for the period of August 29, 2005 through June 30, 2006.

(j) *Special Prevailing Wage Rate Determination for Residential Project, Mt. Angel, Project #2005-10*, dated October 26, 2005, for the period of October 28, 2005 through June 30, 2006.

(k) *Special Prevailing Wage Rate Determination for Residential Project, Penny Lane Apartments, Project #2005-11*, dated December 21, 2005, for the period of December 23, 2005 through June 30, 2006.

ADMINISTRATIVE RULES

(l) *Special Prevailing Wage Rate Determination — Second Rate Extension — for Residential Project, Madrone Street Affordable Housing, Project #2004-01*, dated April 22, 2004. Rate extension dated December 21, 2005, for the period of January 1, 2006 through June 30, 2006.

(m) *Special Prevailing Wage Rate Determination for Residential Project, Clark Center Annex, Project #2006-01*, dated March 10, 2006, for the period of March 13, 2006 through June 30, 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

Construction Contractors Board

Chapter 812

Rule Caption: Home Inspector Rule Amendments — House-keeping.

Adm. Order No.: CCB 3-2006

Filed with Sec. of State: 3-2-2006

Certified to be Effective: 3-2-06

Notice Publication Date: 2-1-06

Rules Amended: 812-008-0050, 812-008-0090, 812-008-0202

Subject: OAR 812-008-0050 is amended to change the title from “Agreements” to “Contracts.”

OAR 812-008-0090 is amended to correct the cite reference.

OAR 812-008-0202 is amended to change the title from “Purpose and Scope” to “Contracts and Reports” to reflect the topic of the rule. This rule also is amended to place a heading above it of “Standards of Practice.”

Rules Coordinator: Catherine Dixon—(503) 378-4621 ext. 4077

812-008-0050

Testing Requirements

(1) The agency shall provide a written test for certification of individuals.

(2) The test shall be divided into five sections and weighted as follows:

- (a) 20 percent: Structure, roofing, site, exterior, and interior.
- (b) 20 percent: Heating, cooling, insulation, ventilation, fireplaces and wood stoves.
- (c) 20 percent: Electrical.
- (d) 20 percent: Plumbing.
- (e) 20 percent: Contracts, reports and standards.

(3) To be certified, applicants must successfully pass the test.

(4) Applicants shall schedule an appointment with the agency, or designated proctors throughout the state, to take the test after receipt of a letter of authorization from the agency and payment of the fee prescribed in division 8.

(5) The passing score shall be 75 percent or higher based on 100 percent possible.

(6) Applicants shall score 75 percent or higher on each of five sections of the test.

(7) Applicants shall not take the same test version on consecutive attempts.

(8) The agency will notify applicants by mail of their test scores on each section of the test.

(9) Applicants who fail one or more sections of the test need not retake test sections already passed except as provided in (10) below.

(10) Applicants shall pass all sections of the test within one year of the date the person first took the test or retake all sections of the test.

(11) Applicants shall complete the certification process within one year from the date the person passed all sections of the test or retake the entire test.

(12) Applicants shall show picture identification before taking the test.

(13) Applicants shall not be accompanied by another individual while taking the test unless it is a translator.

(14) Applicants needing a translator shall pay for translator.

(15) Applicants taking the test shall not leave the testing room.

(16) Applicants shall not retain notes or other materials during the test.

(17) Applicants who attempt and fail the first test may take all subsequent tests in no less than 30 days.

(18) Applicants shall not review test questions or answer sheets.

Stat. Auth.: ORS 670.310, 701.235 & 701.350

Stats. Implemented: ORS 701.350 & 701.355

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 5-1998(Temp), f. & cert. ef. 5-28-98 thru 7-1-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 6-1999, f. 9-10-99, cert. ef. 11-1-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 3-2006, f. & cert. ef. 3-2-06

812-008-0090

Revocation of Certification

The Construction Contractors Board may revoke the certificate of an Oregon certified home inspector or the license of a business that performs work as a home inspector for failure of the Oregon certified home inspector to:

(1) Comply with one or more of the “Standards of Practice” set forth in OAR 812-008-0202 through 812-008-0214.

(2) Comply with one or more of the “Standards of Behavior” set forth in OAR 812-008-0201.

(3) Comply with OAR 812-008-0078(1).

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355

Stats. Implemented: ORS 701.350 & 701.355

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 4-1999, f. & cert. ef. 6-29-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 3-2006, f. & cert. ef. 3-2-06

812-008-0202

Contracts and Reports

(1) Home inspections undertaken according to division 8 shall be based solely on the property conditions, as observed at the time of the home inspection.

(2) Oregon certified home inspectors shall:

(a) Provide a written inspection contract, signed by both the Oregon certified home inspector and client, prior to completing a home inspection that shall:

(A) State that the home inspection is in accordance with standards and practices set forth in division 8 of OAR chapter 812;

(B) Describe the services provided and their cost;

(C) State where the planned inspection differs from the standard home inspection categories as set forth in OAR 812-008-0205 through 812-008-0214; and

(D) Conspicuously state whether the home inspection includes a wood destroying organism inspection and if such inspection is available for a fee.

(E) For the purpose of this rule, a home inspection shall be deemed completed when the initial written inspection report is delivered.

(b) Observe readily visible and accessible installed systems and components listed as part of a home inspection as defined by these rules unless excluded pursuant to these rules in OAR 812-008-0200 through 812-008-0214; and

(c) Submit a written report to the client that shall:

(A) Describe those systems and components as set forth in OAR 812-008-0205 through 812-008-0214;

(B) Record in the report each item listed in OAR 812-008-0205 through 812-008-0214 and indicate whether or not the property inspected was satisfactory with regard to each item of inspection; it will not be sufficient to satisfy subsection (2)(c) of this rule that the certified home inspector prepare a report listing only deficiencies;

ADMINISTRATIVE RULES

(C) State whether any inspected systems or components do not function as intended, allowing for normal wear and tear; and how, if at all, the habitability of the dwelling is affected.

(D) State the inspector's recommendation to monitor, evaluate, repair, replace or other appropriate action.

(E) State the Construction Contractors Board license number of the business and the name, certification number and signature of the person undertaking the inspection.

(d) Submit to each customer at the time the contract is signed a copy of Summary of Oregon Home Inspector Certification Law (ORS 701) or Summary of Oregon Home Inspector Certification Law (ORS 701) and Standards of Practice for Home Inspectors.

(3) Division 8 does not limit Oregon certified home inspectors from reporting observations and conditions or rendering opinions of items in addition to those required in division 8.

(4) All written reports, bids, contracts, and an individual's business cards shall include the Oregon certified home inspector's certification number.

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355

Stats. Implemented: ORS 701.350 & 701.355

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 2-2000, f. 2-25-00, cert. ef. 3-1-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; Renumbered from 812-008-0080, CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; CCB 3-2006, f. & cert. ef. 3-2-06

Rule Caption: Past Unresolved Activity — Increased Bond Amount.

Adm. Order No.: CCB 4-2006(Temp)

Filed with Sec. of State: 3-9-2006

Certified to be Effective: 3-9-06 thru 9-5-06

Notice Publication Date:

Rules Adopted: 812-003-0175

Subject: OAR 812-003-0175 is adopted to establish the responsible parties for past unresolved activity requiring an increased bond amount. Because consumers protected by the construction contractor laws may have inadequate protection from contractors previously associated with businesses with unpaid debts, and because ORS 701.102, as amended, may not adequately provide protection where inconsistent with federal bankruptcy law, the Board adopts this rule to require, under certain circumstances, increased bonds for contractors. This rule, authorized by ORS 701.085(8), provides immediately necessary consumer protection without imposing restrictions on contractor applicants and licensees that may be impermissible under federal bankruptcy law.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-003-0175

Increased Bond Amounts, Past Unresolved Activity

(1) A business, including an individual person, applying for or renewing a license will file a bond in an amount up to five times the amount required for the category of license under OAR 812-003-0170, if:

(a) The business has unpaid debts under a final order or arbitration award of the board;

(b) An owner or officer of the business has unpaid debts under a final order or arbitration award of the board; or

(c) An owner or officer of the business was an owner or officer of another business at the time the other business incurred a debt that is the subject of a final order or arbitration award of the board and such debt remains unpaid.

(2) For purposes of this rule, "owner" means an "owner" as defined in ORS 701.077 and OAR 812-002-0537.

(3) For purposes of this rule, "officer" means an "officer" as defined in OAR 812-002-0533.

(4) Debts due under a final order or arbitration award of the board include amounts not paid by a surety on owner or non-owner claims.

Stat. Auth.: ORS 670.310, 701.085(8) & 701.235

Stats. Implemented: ORS 701.085(8)

Hist.: CCB 4-2006(Temp), f. & cert. ef. 3-9-06 thru 9-5-06

Department of Administrative Services Chapter 125

Rule Caption: Amend and reinstate rules to allow Measure 37 Claims to be accepted by the state as ordered by Marion County Circuit Court.

Adm. Order No.: DAS 2-2006(Temp)

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-13-06 thru 9-8-06

Notice Publication Date:

Rules Amended: 125-145-0010, 125-145-0020, 125-145-0030, 125-145-0040, 125-145-0045, 125-145-0060, 125-145-0080, 125-145-0090, 125-145-0100, 125-145-0105

Rules Suspended: 125-145-0010(T), 125-145-0020(T), 125-145-0030(T), 125-145-0040(T), 125-145-0045(T), 125-145-0060(T), 125-145-0080(T), 125-145-0090(T), 125-145-0100(T), 125-145-0105(T)

Subject: Administrative Rules, OAR 125-145-0010 to 125-145-0105, are being amended to reinstate the rules to comply with the February 21, 2006, Oregon Supreme Court, opinion in the MacPherson vs. DAS which reverses the trial court decision and upholds Measure 37 as constitutional. The Marion County Circuit Court has entered its judgment on remand and Measure 37 claims will again be accepted starting March 13, 2006.

Rules Coordinator: Kristin Keith—(503) 378-2349, ext. 325

125-145-0010

Purpose

The purpose of OAR chapter 125, division 145, is to establish procedures for filing and reviewing Claims against the State of Oregon under Measure 37.

Stat. Auth.: ORS 293.295 - 293.515

Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0020

Definitions

The following definitions apply to this division:

(1) **Agency** means any state officer, board, commission, council, department or Division of state government, whose costs are paid wholly or in part from funds held in the State Treasury, except:

(a) The Legislative Assembly, the courts and their officers and committees;

(b) The Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices.

(2) **Claim** means a written demand for compensation under Measure 37.

(3) **Claimant** means the owner who submitted a Claim, or the owner on whose behalf a Claim was submitted.

(4) **Department** means the Department of Administrative Services.

(5) **Land Use Regulation** has the meaning provided in ORS 197 (Measure 37, 2004).

(6) **Lot** means a single unit of land that is created by a subdivision of land as defined in ORS 92.010.

(7) **Measure 37** means Oregon Laws 2005, Chapter 1.

(8) **Parcel** means a single unit of land that is created by a partitioning of land as defined in ORS 92.010 and 215.010.

(9) **Property** means the Lot or Parcel that is or includes the private real property that is the subject of a Claim.

(10) **Reduction in Fair Market Value** means the difference in the fair market value of the Property resulting from enactment or enforcement of the Land Use Regulation(s) identified in the Claim as of the date the Claim is submitted to the Department.

(11) **Registry** means the database of information about Claims required by OAR 125-145-0060.

(12) **Regulating Entity** means an Agency that has enacted or enforced, or has authority to remove, modify or not to apply, the Land Use Regulation(s) identified in the Claim.

Stat. Auth.: ORS 293.295 - 293.515

Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS

ADMINISTRATIVE RULES

13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0030

Submitting a Claim

(1) Claims must be submitted by an owner or an authorized agent on behalf of an owner. A Claim must contain sufficient information, as described in OAR 125-145-0040, for review of the Claim by the Department or a Regulating Entity and may be submitted on a form available from the Department at the address provided in this rule or from the Department's website.

(2) Claims must be submitted to the Department at: 1225 Ferry Street SE, U160 Salem, OR 97310-4292. Claims shall not be submitted by facsimile or electronically.

(3) A Claim is made under Section 4 of Measure 37 on the date a Claim is received by the Department.

(4) The Department may send written notice to the person who submitted the Claim noting the date that Claim was received by the Department, the Regulating Entity or Entities reviewing the Claim and the recipients of any notices sent to third parties under OAR 125-145-0080.

Stat. Auth.: ORS 293.295 - 293.515

Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0040

Contents of a Claim

A Claim should contain the information described in this rule. A Claim that does not contain this information may be denied as provided in OAR 125-145-0090.

(1) The name, mailing address, and telephone number of the Claimant, and the person submitting the Claim if different.

(2) The name, mailing address and telephone number of every owner of the Property, including but not limited to:

(a) Every lessee and lessor of the Property;

(b) Every person or entity holding a lien against, or a security interest in, the Property;

(c) Every person or entity holding a future, contingent, or other interest of any kind in the Property.

(3) A description of the interest in the Property held by each owner listed.

(4) The location, including a street address, if applicable, of the Property, including the city or county in which it is located, and the legal description of the Property, including reference to the township, range, section and tax lot number in which it is located.

(5) Evidence that the Claimant is an owner of the Property, including the date of acquisition by the Claimant, date of acquisition by any family member of the Claimant if the Claim is based on ownership by a family member and, if so, the chain of title from the family member to the Claimant, and the nature and scope of the Claimant's ownership.

(6) Evidence or information describing any encroachments, easements, Covenants Conditions and Restrictions, and any other recorded or unrecorded interests applicable to the Property.

(7) Evidence or information describing any federal, state and local restrictions on the Property, including all applicable zoning, comprehensive plan and other land use and development regulations.

(8) An explanation, including a citation to each Land Use Regulation on which the Claim is based and evidence or information that demonstrates the following:

(a) The manner in which each cited Land Use Regulation restricts the use of the Property, compared with how the owner, or family member, if applicable, was permitted to use the Property under Land Use Regulations in effect at the time the owner, or family member, if applicable, acquired the Property; and

(b) The amount by which the restriction in use imposed by each cited Land Use Regulation has caused a Reduction in the Fair Market Value of the Property.

(9) Written permission from the Claimant and all other owners with a right to restrict access, authorizing the Department, the Regulating Entity and their officers, employees, agents and contractors as necessary to enter the Property to appraise it and to verify information in the Claim.

(10)(a) A statement acknowledged by signature of the Claimant, or the person submitting the claim if other than the Claimant, as follows: "The information contained in this Claim is true and correct to the best of my knowledge. I understand it is a crime under ORS 162.085 to certify the

truth of a statement when I know the statement is not true. This offense is a Class B misdemeanor and is punishable by a jail sentence of up to six months, a fine of up to \$2,500, or both."

(b) If the Claim is submitted by a person other than the Claimant, a written statement by the claimant authorizing the person submitting the Claim to do so on the Claimant's behalf.

(11) Evidence and information that may be submitted to address the requirements of this section include, but are not limited, to the following: the most recent tax assessor's maps; title reports; appraisal reports by certified appraisers; deeds; Covenants, Conditions & Restrictions; and affidavits.

Stat. Auth.: ORS 293.295 - 293.515

Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0045

Additional Information

In addition to the information described in OAR 125-145-0040, the Department and Regulating Entity may consider additional information regardless of its inclusion in a Claim. Such additional information may include but is not limited to the following:

(1) An appraisal report of the Property prepared by a certified appraiser that addresses the Reduction in Fair Market Value of the Property resulting from enactment or enforcement of the cited Land Use Regulation(s) as of the date the Claim was filed;

(2) Information about any Land Use Regulation(s) on any owner's tax status, including without limitation any property tax deferrals or tax reductions related to the Land Use Regulation(s) cited in the claim;

(3) Information about any Land Use Regulation in effect at the time the Claimant, or Claimant's family member if applicable, acquired the property explaining how the use that is now not permitted by any Land Use regulation described in OAR 125-145-0040(7) was permitted at the time the owner acquired the property;

(4) Names and addresses of owners of all real property located within 100 feet of the Property if the Property is located in whole or in part in an urban growth boundary, 250 feet of the Property if the Property is located outside an urban growth boundary and not within a farm or forest zone, and 750 feet of the Property if the Property is located in a farm or forest zone.

(5) Information about the Property including but not limited to its location, topography, soil types, vegetation or other natural resources or structures located on the property.

Stat. Auth.: ORS 293.295 - 293.515

Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0060

Registry of Claims

The Department shall maintain a Registry of Claims. The Registry shall be accessible to the public electronically and at the location described in OAR 125-145-0030. The Registry shall be the means for providing public notice of Claims filed. Entry of information about a Claim in the Registry provides public notice that the Claim was filed and begins the comment period for third parties as described in OAR 125-145-0080. The registry shall contain at least the following information about each Claim as it becomes available:

(1) The name of the Claimant, and the name of the person submitting the Claim, if different;

(2) The location of the Property, including the county and city in which it is located, street address and reference to its township, range, section and tax lot number;

(3) The amount of Reduction in Fair Market Value alleged in the Claim;

(4) The date the Claim was filed;

(5) The date the Claim was entered into the Registry;

(6) The disposition of the Claim, including whether granted or denied, and whether compensation was paid or whether the cited Land Use Regulation(s) was modified, removed or not applied;

(7) Additional information deemed appropriate by the Department.

Stat. Auth.: ORS 293.295 - 293.515

Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)

Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS

ADMINISTRATIVE RULES

13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0080

Third Party Participation

(1) The Department shall mail written notice of a Claim to any person or organization that has requested notice, to any person who is an owner of record of real property located within 100 feet of the Property, if the Property is located in whole or in part in an urban growth boundary, 250 feet of the Property if the Property is located outside an urban growth boundary and not within a farm or forest zone, and 750 feet of the Property if the Property is located in a farm or forest zone, any neighborhood, or community organization(s) whose boundaries include the site when the city or county in which the site is located provides to the Department or Regulating Entity, contact information for the organization(s).

(2) Any person or organization receiving notice under this rule, or any other person, may submit written comments, evidence and information addressing any aspect of the Claim.

(3) Comments, evidence and information from third parties must be submitted within ten (10) days of the date the notice under this rule is sent or information about the Claim first appeared in the Registry, whichever is later, and must be submitted to the location and in the manner described in OAR 125-145-0030. Comments, evidence and information will be submitted in a timely fashion if either postmarked on the tenth (10) day or actually delivered to the Department by the close of business on the tenth (10) day.

Stat. Auth.: ORS 293.295 - 293.515
Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)
Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0090

Department Review and Decision Process, Forwarding Claim to Regulating Entities

(1) When a Claim is wholly based on Land Use Regulation(s) for which there is no Regulating Entity, the Department shall be the Regulating Entity for purposes of carrying out the process described in OAR 125-145-0100.

(2) Upon receipt of a Claim that is based in whole or in part on Land Use Regulation(s) for which there is a Regulating Entity, the Department shall forward the Claim to the Regulating Entity. When a Claim alleges that Land Use Regulations of multiple Regulating Entities restrict the use of the Property, the Department may consult with one or more Regulating Entities and may appoint a Lead Regulating Entity to issue the final decision required by OAR 125-145-0100. Each Regulating Entity shall provide the Lead Regulating Entity with a staff report addressing at least the issues listed in OAR 125-145-0100(3) with regard to its Land Use Regulation cited in the Claim.

(3) Upon review of the Claim, if the Department or the Regulating Entity determines that it lacks sufficient information to evaluate the Claim, the Department or Regulating Entity may notify in writing the person who submitted the Claim. The written notice shall specify the material or information that would enable the Department or Regulating Entity to evaluate the claim, and shall provide a time certain for Claimant, or the person who submitted the Claim on Claimant's behalf, to submit the material or information. Failure to submit the information requested by the Department or Regulating Entity within the time specified in the notice may result in denial of a Claim.

(4) The Department may issue the final order itself or jointly with the Regulating Entity, or it may authorize a Regulating Entity to issue a final order if, after consulting with the Regulating Entity as required by OAR 125-145-0100(6), the final order modifies, removes or does not apply the Land Use Regulation(s) on which the Claim is based.

Stat. Auth.: ORS 293.295 - 293.515
Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)
Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0100

Regulating Entity Review and Decision Process

(1) A Regulating Entity that receives a claim from the Department, shall issue a staff report addressing at least the issues listed in subsection (2). The staff report shall be mailed to the Claimant, person who submitted the Claim, if different, and any third parties who submitted comments

under OAR 125-145-0080, and shall be mailed or otherwise delivered to the Department and other Regulating Entities, if any.

(2) The staff report shall address the following issues:

(a) Whether the Claim was timely filed under Section 5 of Measure 37;

(b) Whether the Claimant is an owner under Section 11(c) of Measure 37;

(c) Whether the Claimant's request for compensation is based on the prior ownership of a family member under Section 11(A) of Measure 37;

(d) Whether any of the Land Use Regulations relied on in the Claim are exempt under Section 3 of Measure 37;

(e) Whether any of the Land Use Regulations relied on in the Claim restricted the use of the property permitted at the time the owner or family member, if applicable, acquired the Property;

(f) Whether any of the Land Use Regulations relied on in the Claim has the effect of reducing the fair market value of the property and the amount of any such reduction;

(g) Any other issue relevant to evaluation of the Claim, including without limitation the effect of any other land use regulation or other restriction on use of the Property; and

(h) The Regulating Entity's conclusions and recommendation for just compensation or to modify, remove or not apply any of the Land Use Regulation relied on in the Claim to allow a use permitted at the time the owner acquired the property.

(3) The Claimant or the Claimant's authorized agent and any third parties who submitted comments under OAR 125-145-0080 may submit comments, evidence and information in response to the staff report. Such response must be filed no more than ten (10) days after the date the staff report is mailed to the Claimant and any third parties, at the location and in the manner described in OAR 125-145-0030. Such responses will be submitted in a timely fashion if either postmarked on the tenth (10) day, or actually delivered to the Department by the close of business on the tenth (10) day.

(4) The staff of the Regulating Entity shall issue a revised report following receipt of any submissions under subsection (3) of this rule.

(5) The Regulating Entity may recommend approval or denial of a claim based on the revised staff report and any comments, evidence and information submitted to the Department or the Regulating Entity.

(6) The Regulating Entity may issue a final order jointly with the Department, or the Regulating Entity may issue a final order after consultation with the Department if the decision is to modify, remove or not apply Land Use Regulation(s).

Stat. Auth.: ORS 293.295 - 293.515
Stats. Implemented: ORS 293.306 & 197 (Measure 37, 2004)
Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

125-145-0105

The Record for Final Administrative Decisions on a Claim

Final administrative decisions approving or denying a Claim shall be based on a written record that includes the following, if available:

(1) The Claim;

(2) The contents of the Registry as to the Claim;

(3) Comments, evidence and information properly submitted by or on behalf of the Claimant or third parties;

(4) Staff reports, evidence and information submitted by the Department and the Regulating Entity;

(5) Response and rebuttal properly submitted by or on behalf of the Claimant or third parties; and

(6) Final decisions on the Claim by a Regulating Entity or the Department as provided in OAR 125-145-0090 and 125-145-0100.

Stat. Auth.: ORS 293.295 - 293.515
Stats. Implemented: ORS 293.306 & OL 2005 (Measure 37, 2004)
Hist.: DAS 5-2004(Temp), f. 11-30-04, cert. ef. 12-1-04 thru 5-29-05; DAS 2-2005(Temp), f. & cert. ef. 2-24-05 thru 5-29-05; DAS 6-2005, f. & cert. ef. 5-27-05; Suspended by DAS 13-2005(Temp), f. & cert. ef. 11-4-05 thru 5-3-06; DAS 2-2006(Temp), f. 3-10-06, cert. ef. 3-13-06 thru 9-8-06

.....

Rule Caption: Requirements and procedures associated with the planning and review process for statewide facilities and projects.

Adm. Order No.: DAS 3-2006

Filed with Sec. of State: 3-15-2006

Certified to be Effective: 3-15-06

Notice Publication Date: 12-1-05

ADMINISTRATIVE RULES

Rules Amended: 125-125-0050, 125-125-0100, 125-125-0150, 125-125-0200, 125-125-0250, 125-125-0300, 125-125-0350, 125-125-0400, 125-125-0450

Subject: These rules provide a process for developing, planning and evaluating projects engaged in capitol construction or improvement including those covered by the Capitol Mall Area Plan.

Rules Coordinator: Kristin Keith—(503) 378-2349, ext. 325

125-125-0050

Purpose, Application, and Authority

These rules are adopted under ORS 276.227. They set forth the statewide facility planning process for state agencies and the duties of the Board, which assists the Department with the planning process. State agencies other than institutions of higher education are required to provide information about their facilities and projects to the Department. Additionally, they implement a planning and review process for facilities and projects within the area described in ORS 276.010.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

125-125-0100

Definitions

As used in these rules, the following terms have the meanings indicated, unless the context requires otherwise:

(1) "Area Plan" means a plan for development in one of the specified geographical areas described in ORS 276.010.

(2) "Biennial Leasing Plan" means a summary of all continuing leases or changes in leasing activity proposed for the coming biennium. This will summarize agency leasing activities or requests and provide a context for individual leasing plans.

(3) "Board" means the Capital Projects Advisory Board appointed under ORS 276.227(3), which is advisory to the Director of the Department.

(4) "Building Maintenance Plan" means a plan to be completed by an agency that owns a building of 10,000 or more square feet.

(5) "Committee" means the Capitol Mall Project Review Committee, which reviews projects on the Capitol Mall for compliance with the Capitol Mall Area Plan standards and policy.

(6) "Department" means the Department of Administrative Services.

(7) "Director" means the Director of the Department of Administrative Services.

(8) "Leasing Plan" means a proposed new lease, business case and cost benefit analysis completed by state agencies that lease or plan to lease a site with 10,000 or more square feet of conditioned space for a term of ten years or more.

(9) "Project Plan" means a plan to be completed for each major capital construction project of \$500,000 or more that a state agency is anticipating within the next three biennia which is either new construction or adds area to an existing facility.

(10) "Space Needs Plan" means a plan to be completed by state agencies that own or plan to build or buy a building with 10,000 or more square feet; lease or plan to lease a site with 10,000 or more square feet of conditioned space for a term of ten years or more; plan to seek any legislative or Emergency Board approval for a major construction, acquisition or leasing project; or plan to seek planning funds for a project that is anticipated to cost more than \$500,000 over the next three biennia.

(11) "Statewide Program" means a program of the Facilities Division of the Department of Administrative Services that implements OAR 125-125-0050 to 125-125-0450.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

125-125-0150

Statewide Facility Planning Process

(1) The statewide planning process provides a means of evaluating if state facilities are planned, financed, acquired, constructed, managed and maintained in a manner that maximizes and protects this investment.

(2) The described budget review process program does not apply to institutions of higher education, community colleges, Oregon Health Sciences University, SAIF Corporation, Lottery, Secretary of State, Treasurer's Office, or to the Legislative or Judicial branches.

(3) The Department shall implement and maintain a planning process. This process shall coordinate state facilities' data, standards, maintenance

planning, leasing planning and capital project planning. The Department shall use the Board to assist in the review of agency plans and other associated documents and to advise the Director.

(4) The Statewide Facilities Program shall develop the State Facilities Planning Process Manual. The manual shall provide definitions, examples, and detailed descriptions of required reports to aid agencies in supplying information to the Statewide Program. The manual shall be reviewed biennially before the budget process begins and updated, if needed.

(5) Following the guidelines contained in the State Facilities Planning Process Manual, Agencies shall submit a State Facility Plan through the statewide facilities coordinator if it meets one or more of the following criteria:

(a) The agency owns buildings or plans to build or buy a building of 10,000 or more square feet;

(b) The agency plans a major re-organization;

(c) The agency proposes to enter into a lease of 10,000 or more square feet of conditioned space for a period of ten years or more;

(d) The agency proposes to request a budget to construct a major capital project;

(e) The agency plans to seek a legislative or Emergency Board approval for a major construction or acquisition project.

(f) The agency plans to seek planning funds for a major construction or acquisition project for which the total cost will be \$500,000 or more.

(6) To best coordinate and distribute the facilities data, the Statewide Program shall maintain a State Facility Inventory. The inventory shall be a database of state agency facilities covered under this rule and valued over \$1 million, which shall be updated biennially by agencies. The inventory shall include basic information on these buildings, such as the age, roof replacement schedule, deferred maintenance plan, etc. The data shall be used to make effective decisions on capital projects, space needs, and maintenance of the buildings.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

125-125-0200

Capital Projects Advisory Board

(1) CPAB shall assist the Department in the review of agency plans. It shall be comprised of seven members. Five members shall be public members knowledgeable about construction, facilities management, and maintenance issues. One member shall be from the City of Salem Community Development Department and one member from the City of Salem Public Works Department. The Director shall appoint the chairperson of the Board.

(2) The term of each member of the Board is determined by the Director.

(3) The Board shall meet monthly or at times deemed advisable by the majority of its members. In addition, the Director may call the Board to meet for the purpose of considering agency reports.

(4) The Board members shall serve without compensation from the Department for travel or per diem.

(5) The Board is advisory to the Director of the Department and is not a governing body of a public body under ORS 192.610. Meetings of the Board shall be treated as public meetings and shall generally follow the notification and other procedures described in the Attorney General's Public Records and Meetings Manual. The Department shall send notice of upcoming meetings to an established and iterative mailing list of interested parties, using electronic methods, where practical. The Department shall also provide information regarding meetings on the Department's website.

(6) The Board shall provide a place on the agenda for public comment. Public comment should be limited to the review process criteria listed in ORS 276.227(3)(d). The Board will accept public comment only on the review items listed on the meeting agenda. The Board shall acknowledge any public comment and include it in the formal review record.

(7) The Board will not make a recommendation on a plan or other document reviewed without a majority of its members present. If a duly scheduled and noticed meeting does not have a majority of the members present, those present will be considered to be a subcommittee of the Board. The subcommittee will report to the next scheduled Board meeting when a majority is present, and formal action may be taken at that time.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

ADMINISTRATIVE RULES

125-125-0250

Procedure for Submitting Reports for Review

(1) Each state agency shall report to the Board by July 1 of even-numbered years a long-range facility plans and funding strategies that reflect changes in technology and priorities. The reports shall include a Space Needs Plan, a Project Plan, a Biennial Leasing Plan, and a Building Maintenance Needs Plan, if applicable.

(2) The Board shall review the information submitted and presented under section (1) of this rule and make recommendations to the Director by September 1 of even-number years related to long-range plans, the condition of facilities, maintenance schedules, funding strategies and options for new facilities.

(3) The statewide facilities coordinator shall request updated plans from agencies biennially and establish a submittal schedule. This schedule shall include the report due dates and presentation date for each agency to appear before the Board.

(4) The Agency shall provide one electronic copy to the statewide facilities coordinator no later than the due date stated for the agency on the facility planning schedule.

(5) If an Agency has project(s) that require review under OAR 125-125-0350 Salem Area Project Review, then a supplemental listing and description of those projects should be prepared and submitted with the other required materials.

(6) The statewide facilities coordinator will provide a substantive analysis of the plans, including review for completeness and responsiveness to issues and provide the information to the Board. The coordinator may return a list of questions to the agency or recommended changes.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

125-125-0300

Procedure for Board Review

(1) Following review of the information by the Department, the agency shall present its plans before the Board, for the purpose of determining if the projects are compatible with the criteria established in the State Facilities Planning Process Manual. The Board may pose further questions to the agency or determine if additional action is required and postpone acceptance or comment on the plans.

(2) In order to grant acceptance or favorable comment on the plans, the Board must find the project is compatible with the criteria listed in the State Facilities Planning Process Manual and the Budget Instructions.

(3) No agency subject to this rule shall seek Legislative or Emergency Board approval of projects meeting the criteria of 125-125-0150 without first having obtained review of the project by the Board.

(4) The Board shall accept the report after consideration of agency submissions, testimony, and public testimony, if any. Their comments shall be kept in the formal meeting minutes and provided to the Director and budget analysts for inclusion in the agency's budget package.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

125-125-0350

Salem Area Project Review

(1) The Department shall conduct a special review process for projects on state-owned property, located within the boundaries of the city of Salem.

(2) This review process applies to any state officer, board, commission or department authorized by law to engage in capital construction or improvement projects in the areas described by ORS 276.010.

(3) The Department shall use the Board to assist with this review for major projects or those requiring public input. Reviews will be based upon the development standards and policies contained in the Area Plans previously developed by the Capitol Planning Commission or as modified by the Department after review by the Board.

(4) Area Plans cover the following state properties: Capitol Mall Area; Airport Road Area; Hillcrest Area; Oregon State Corrections Area; State Fair and Exposition Center Area; Oregon State Hospital and Penitentiary Properties Area; Oregon School for the Blind Area; and, Oregon School for the Deaf Area.

(5) For the purposes of the review required under this section, project means expenditures for capital construction or for capital improvement. A project does not include the following:

(a) Interior remodeling that does not substantially change the existing use of space to another use (e.g., office space, or space used by the public);

(b) Repair or maintenance that does not substantially change the existing use of space, that does not add additional square footage to a building, and that does not change exterior building design;

(c) Individual plantings within an established landscape plan that do not alter the overall plan concept.

(6) A minor improvement to the building or grounds means an improvement that does not fall within the exceptions under OAR 125-125-0350 and impacts the appearance of the building grounds or exterior.

(7) A major improvement to the building or grounds, addition, or new construction means a total rework of the building exterior or landscaping, an addition to the building, or construction of a new building.

(8) No state agency may expend funds for any project subject to the requirements of this section unless the project has been reviewed and approved through the described review process.

(9) An agency seeking project review will submit a written request to the Statewide Facilities Program not less than 21 days before the next scheduled meeting of the Board. The Department shall provide a standard form for agencies to use to request project review. The Department may waive the notification period for good cause. The requesting agency shall provide 10 copies of materials submitted.

(10) Projects for minor improvements to the building or grounds shall include:

(a) A completed project application form;

(b) A written description of the project;

(c) Site, architectural, and landscaping plans (if applicable) for the project;

(d) Sufficient information to demonstrate compliance with the applicable Area Plan; and

(e) Sufficient information to demonstrate compliance with local zoning and other applicable standards.

(11) Projects for major improvements to buildings or grounds, additions, or new construction shall include an initial submittal including:

(a) A completed project application form;

(b) A written description of the project;

(c) Preliminary site, architectural, and landscaping plans (if applicable) for the project;

(d) A description of the process planned to be used to ensure compliance with the Area Plan and local zoning and other applicable standards; and

(e) A description of any planned meetings with neighborhood groups or other interested members of the public.

(12) Once the design of the major project is completed, the state agency shall make a final project submittal, which shall include:

(a) Site, architectural, and landscaping plans (if applicable) at a design development stage or later;

(b) Sufficient information to demonstrate compliance with the applicable Area Plan;

(c) Sufficient information to demonstrate compliance with local zoning and other applicable standards; and

(d) A record of meetings with neighborhood groups or other interested members of the public.

(13) For new construction projects, facility siting review will be required before starting design and making the required submittals under OAR 125-125-0350(11). For siting review, the following shall be provided:

(a) A completed site need and description form;

(b) A written description of the proposed improvements that will be constructed;

(c) A vicinity map showing the proposed site and its proximity to major streets and surrounding functions;

(d) A topographic map of the proposed site indicating the boundaries for proposed improvements, prominent features, surrounding buildings, and other related information to provide a context for the project;

(e) Preliminary information about whether sewer, water, streets, and other infrastructure is available to service the proposed use;

(f) A preliminary assessment of any wetland, flood plain, environmental, or archeological issues on the site and whether development would likely impact them;

(g) Sufficient information to demonstrate compliance with local zoning, comprehensive plan, and other related land use standards.

(h) If the proposed site is on state-owned property, sufficient information to demonstrate that the proposed use is in compliance with the applicable Area Plan; and

ADMINISTRATIVE RULES

(i) If the proposed site is to be acquired, an assessment of what state-owned properties were considered and why none were acceptable, plus information required by the Facility Siting Policy 125-6-115.

(14) If the project is within the areas included in the Capitol Mall Area Plan, the required submittals shall also include the conclusions from the Capitol Mall Project Review Committee according to the requirements of OAR 125-125-0450.

(15) The Board shall review the material submitted by the agency and acknowledge if the applicable requirements were met. The Board shall also provide an opportunity for interested members of the public to comment about the project's compliance with the Area Plan. The Board will then pass the record of the project review to the agency and the Director.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

125-125-0400

Area Plan Update Responsibilities

(1) Each agency owning property in the Salem area shall be responsible for helping maintain an Area Plan for property it owns.

(2) The Department shall develop a standard template for Area Plans, which shall structure any modifications to existing plans. The Department shall also develop and maintain a coordination plan that addresses the inter-relationship among the different Area Plans and the state's presence in the City of Salem.

(3) The Department shall develop and maintain a review schedule for the Area Plans and a process for coordinating any required changes with the affected agencies and the City of Salem. If outside assistance is required to update the plan, it shall be at the expense of the property owning agency or agencies.

(4) The review schedule shall result in each Area Plan being reviewed before the Board at least once every five years and updated as may be required. At the time of the review, the Board shall provide an opportunity for public comment on any proposed revisions to the plan.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

125-125-0450

Capitol Mall Area Project Review

(1) The Department shall investigate, review and make recommendations on all proposals of state agencies to add to, reduce or otherwise change a building or grounds in the areas described in ORS 276.028.

(2) The Department shall create and maintain a special Capitol Mall Project Review Committee to provide an additional level of design review for Capitol Mall projects. The committee will be comprised of the following members: the manager of the Facilities Division Statewide Program; a representative from the Legislative Assembly; a representative from the City of Salem; and a private design practitioner.

(3) This review process applies to any state office, board, commission or department authorized by law to engage in capital construction or improvement projects in the areas described by ORS 276.010.

(4) In addition to the procedures described for Salem Area projects, any projects covered by the Capitol Mall Area Plan shall have these additional requirements:

(a) Before submitting the materials for Salem Area Project Review, the agency shall submit the material to the Capitol Mall Project Review Committee.

(b) The Committee will determine if the proposed project is consistent with the policies and design standards for the Capitol Mall.

(c) The Committee will pass its conclusions to the Board.

(d) For major projects, both the initial submittal and final design submittal will require review by both the Capitol Mall Project Review Committee and the Capital Projects Advisory Board.

Stat. Auth.: ORS 276.227

Stats. Implemented:

Hist.: DAS 1-2004(Temp), f. & cert. ef. 3-5-04 thru 9-1-04; DAS 3-2004, f. 7-15-04, cert. ef. 9-1-04; DAS 3-2006, f. & cert. ef. 3-15-06

Department of Agriculture

Chapter 603

Rule Caption: Increases annual pesticide product registration fee by \$40 per product.

Adm. Order No.: DOA 3-2006

Filed with Sec. of State: 3-8-2006

Certified to be Effective: 3-8-06

Notice Publication Date: 11-1-05

Rules Amended: 603-057-0006

Rules Repealed: 603-057-0006(T)

Subject: Changes rule language to be more consistent with language of enabling statute. Increases the annual pesticide product registration fee by \$40 per product, with the additional revenue to be used in implementing a comprehensive pesticide use reporting system.

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

603-057-0006

Pesticide Registration Fees

The annual registration fee for each pesticide product shall be \$160, with \$40 of that fee to be used by the department for the implementation of the pesticide use reporting system under, chapter 1059, Oregon Laws 1999.

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Hist.: AD 855(27-67), f. 10-9-67, ef. 1-1-68; AD 1008(22-73)(Temp), f. & ef. 12-5-73; AD 1014(4-74), f. 1-18-74, ef. 2-11-74; AD 7-1977, f. & ef. 4-5-77; AD 24-1981, f. & ef. 12-1-81; AD 17, f. & cert. ef. 11-15-89; DOA 21-1999, f. 9-30-99, cert. ef. 11-1-99; DOA 26-2001, f. & cert. ef. 11-6-01; DOA 38-2003(Temp), f. 10-15-03 cert. ef. 11-23-03 thru 5-19-04; DOA 40-2003, f. & cert. ef. 10-17-03; DOA 41-2003(Temp), f. 11-14-03, cert. ef. 11-23-03 thru 5-20-04; DOA 42-2003, f. & cert. ef. 12-23-04; DOA 17-2005(Temp), f. 10-14-05, cert. ef. 1-1-06 thru 6-29-06; DOA 3-2006, f. & cert. ef. 3-8-06

Rule Caption: Amends *Phytophthora ramorum* regulations to harmonize with federal protocols, adjusts quarantine boundaries in Curry County.

Adm. Order No.: DOA 4-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 1-1-06

Rules Amended: 603-052-1230, 603-052-1250

Subject: Amendments will update the *Phytophthora ramorum* quarantine and regulated area for nursery stock, including the *Phytophthora ramorum* host list, references to current federal protocols, and the boundaries of the area quarantined in Curry Co. Eight additional square miles are proposed for addition, expanding the Curry County quarantined area on its eastern and northern boundaries.

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

603-052-1230

Quarantine: *Phytophthora ramorum*

(1) Establishing a quarantine: A quarantine is established against *Phytophthora ramorum*, the cause of sudden oak death and other plant diseases. This quarantine is established under ORS 561.510 and 561.540 to protect Oregon's agricultural industries and natural resources from the artificial spread of *P. ramorum*. This pathogen causes mortality in susceptible oak (*Quercus spp.*), tanoak (*Lithocarpus spp.*), Rhododendron (*Rhododendron spp.*), viburnum (*Viburnum spp.*) and evergreen huckleberry (*Vaccinium ovatum*). In other susceptible plants it causes leaf spots, twig dieback and/or stem cankers. Methods for exclusion of commodities potentially infected with this disease and procedures for eradication of incipient infections are prescribed in this quarantine.

(2) Area under quarantine:

(a) The following counties in California: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma.

(b) The following portion of Curry County, Oregon: T39S R13W Sections 32, 33, and 34; T40S R13W Sections 3, 4, 5, 8, 9, 10, 15, 16, 17, the southeastern quarter-section of 19, 20, 21, 22, 27, 28, 29, the northeastern quarter-section of 30, 32, 33, and 34.

(c) Any country, state, county, province or area covered by federal quarantine, 7 CFR 301.92 through 301.92-11, *Phytophthora ramorum*; quarantine and regulations or federal order.

(d) Any property in Oregon where *P. ramorum* is found, including a buffer-zone of up to 0.5 miles surrounding the infected site during any eradication program.

(3) The following definitions apply to ORS 603-052-1230:

(a) "Hosts and associated plants" means plants on USDA's official list of *P. ramorum* hosts and associated plants, last revised February 3, 2006. (NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.)

(b) "Nursery stock" is defined in ORS 571.005. Tissue culture plantlets in sealed, sterile containers are exempt from this regulation.

ADMINISTRATIVE RULES

(4) Commodities covered:

(a) All plants and plant parts of hosts and associated plants: Examples of covered commodities include all above ground portions of the plants including, but not limited to nursery stock, logs, bark, wood chips, mulch, firewood, sawdust, green waste, other plant products that may contain bark or foliage.

(b) Any other plant found to be naturally infected with *P. ramorum*, any product or article that an official inspector determines to present a risk of spreading *P. ramorum*. All life stages of *P. ramorum*.

(5) Provisions of the quarantine: Covered commodities originating from the area under quarantine, and any other area found to be infested with *P. ramorum* during the life of this quarantine, are prohibited unless one of the following requirements has been met:

(a) All regulated commodities must be kiln-dried or heat-treated to 71.1°C (160°F) for 75 minutes measured at the core prior to shipment. Treatments must be officially verified. The official certificate must include the following additional declaration "The (type of covered commodity) from (name of county) County has been treated for *Phytophthora ramorum* as required prior to shipment." The length and temperature of the treatment must be recorded on the official certificate.

(b) Nursery stock grown in a quarantined county or area may be eligible for shipment to Oregon providing the nursery is part of an official certification program and has been inspected and tested annually for *P. ramorum*. The official certificate must include the following additional declaration: "The (covered commodity) from (name of county) County has met the *Phytophthora ramorum* quarantine requirements for shipment into Oregon."

NOTE: Recipients of tree and shrub nursery stock imported into the state must notify the ODA no later than two business days after its arrival as required by OAR 603-054-0027.

(c) Soil and potting media from the quarantine area at a known infected site or from within five meters of an infected host plant must be sterilized before shipment. The soil or potting media must reach a minimum temperature of 60°C (135°F) for 1 hour measured at the center of the mass of soil or potting media. Soil or potting media that has never been associated with the covered commodities is exempt. Treatments must be officially verified. The official certificate must include the following additional declaration "The (soil or potting media) from (name of county) County has been treated for *Phytophthora ramorum* as required prior to shipment." The length and temperature of the treatment must be recorded on the official certificate.

(6) Infected properties in Oregon: Confirmation of a *P. ramorum* infection must be made by the ODA or an official cooperator. The disease must be eradicated from the property as quickly as possible in accordance with USDA's Confirmed Residential and Landscape Protocol, last revised Nov. 8, 2004. (NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.) Affected property owners will be issued infection location and eradication requirements in the form of an Administrative Order. For public and private forested lands, the Oregon Departments of Agriculture (ODA) and Forestry (ODF) will work with the landowner to develop an eradication plan that will be based on the best available science. The program may include some or all of the following activities: cutting and piling susceptible trees and shrubs, burning the wood and plant debris when safe to do so, herbicide spraying of stumps and sprouts, fungicide spraying, sampling and monitoring.

(7) Infected nurseries in Oregon: Confirmation of a *P. ramorum* infection must be made by the ODA or an official cooperator. Nurseries are required to eradicate the disease as quickly as possible in accordance with USDA's Confirmed Nursery Protocol, last revised Oct. 15, 2004 (version 6.0) (NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.). The ODA will work with the nursery owner to implement an eradication and monitoring program utilizing protocols prescribed by USDA (Confirmed Nursery Protocol).

(8) Special permits: The Department, upon receipt of an application in writing, may issue a special permit allowing entry into this state and transport within this state of quarantined commodities for research purposes only. Movement of such commodities will be subject to any conditions or restrictions stipulated in the permit.

(9) Violation of quarantine: Violation of this quarantine may result in a fine, if convicted, of not less than \$500 no more than \$5,000, as provided by ORS 561.990. In addition, violators will be subject to civil penalties of up to \$10,000 as provided by ORS 561.995. Commodities shipped in violation of this quarantine may be treated, destroyed or returned to their point of origin without expense or indemnity paid by the state.

Stat. Auth.: ORS 561.190 & 561.560

Stats. Implemented: ORS 561.560

Hist.: DOA 1-2001(Temp), f. & cert. ef. 1-5-01 thru 4-4-01, DOA 5-2001, f. & cert. ef. 3-27-01; DOA 1-2005, f. & cert. ef. 1-24-05; DOA 4-2006, f. & cert. ef. 3-10-06

603-052-1250

Phytophthora ramorum Regulated Area for Nursery Stock

(1) A regulated area is established as authorized under ORS 570.305, 571.015 and 571.145, to protect Oregon from introduction of *Phytophthora ramorum* (sudden oak death, ramorum canker and blight). This pathogen causes leaf blight, dieback or death in certain trees and shrubs including tanoak, rhododendron, viburnum and camellia. Susceptible plants include species important to Oregon's native forests, horticultural landscapes and nursery industry.

(2) This regulated area includes the entire state of Oregon.

(3) The following definitions apply to OAR 603-052-1250:

(a) "Hosts and associated plants" means plants on USDA's official list of *P. ramorum* hosts and associated plants, last revised February 3, 2006. (NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.)

(b) "Grower" and "nursery stock" are defined in ORS 571.005.

(c) Tissue culture plantlets in sealed, sterile containers are exempt from this regulation. Also exempt are: seeds; turf or sod, bulbs; tubers, corms or rhizomes (except those species listed as hosts or associated plants); greenhouse grown cactus, succulents and orchids; aquarium grown aquatic plants; and greenhouse, container or field grown palms and cycads.

(4) All growers of host and associated plants in the regulated area shall enter into compliance agreements with the department and/or USDA, APHIS as described in section (6). Before growers can enter into a compliance agreement they must be inspected, tested and certified free of *P. ramorum*, as described in sections (5) or (7).

(5) Growers in the certification program shall be inspected and tested annually for *P. ramorum* in accordance with USDA's Emergency Federal Order of Dec. 21, 2004. (NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.) Inspection and sampling procedures will meet or exceed USDA standards for nurseries in regulated areas not under quarantine. The department, using state and federally approved laboratory protocols, will test the samples.

(6) Growers who enter compliance agreements will be required to:

(a) Comply with OAR 603-054-0027 that requires all recipients of shipments of tree and shrub nursery stock imported from out-of-state, to notify the department within two business days of arrival of the shipment;

(b) Purchase hosts and associated hosts only from certified sources when such purchases originate in a Federally quarantined or regulated areas where official *P. ramorum* certification programs acceptable to the department exist;

(c) Have an official inspector inspect and test for *P. ramorum*, hosts and associated hosts purchased from sources in Federally quarantined or regulated areas where no official certification program exists; these plants must be safeguarded, segregated and held off sale until test results are complete;

(d) Maintain records of all incoming and outgoing shipments of hosts and associated hosts for a minimum of 24 months;

(e) Include appropriate Federal or State certification with all host nursery stock and associated plants shipped interstate.

(7) Alternately, such nurseries may be inspected, sampled and tested through an official "State Nursery Stock Cleanliness Program (SNSCP), which documents inspection of all nursery stock for the presence of *P. ramorum*, at the appropriate time of year. The SNSCP inspection, sampling, and testing program must be approved by USDA, APHIS. Until testing is completed and the nursery is found free of evidence of *P. ramorum* the following plants must be withheld from interstate shipment:

(a) All host nursery stock and associated plants;

(b) All plants within same genus as any host or associated plant; and

(c) Any plants located within 10 meters of a host or associated plant.

(8) Failure to comply with all articles of a compliance agreement will result in revocation of the compliance agreement and decertification.

(9) Growers of nursery stock that is not on the list of hosts and associated plants must be inspected annually for any evidence of *P. ramorum*. Plants showing symptoms of *P. ramorum* infection upon inspection will be sampled and tested. If symptomatic plants are found upon inspection, the following plants must be withheld from interstate shipment until testing is completed and the nursery is found free of evidence of *P. ramorum*:

(a) All symptomatic plants;

ADMINISTRATIVE RULES

- (b) Any plants located in the same lot as the suspect plant; and
- (c) Any plants located within 2 meters of this lot of plants.

(10) A list of growers compliant with these rules will be maintained on the department's web site. The department will update the list as necessary to maintain an accurate accounting of growers participating in the program.

(11) If *P. ramorum* is found, delimitation and eradication procedures as outlined in USDA's Confirmed Nursery Protocol, as amended October 15, 2004 will be implemented immediately. (NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.) Hosts and associated hosts shall not be moved from the nursery/growing site until all conditions of the protocol are met and the department releases the plants.

(12) Unless renewed, or revised and re-issued, this order shall be considered revoked when the Federal Order expires, currently three years from enactment, December 21, 2004.

(13) Violators of this regulated area are subject to the penalties provided by ORS 570.410 and 570.990 and 570.995, including civil penalties up to \$10,000.

Stat. Auth.: ORS 561.510 & 570.305
Stats. Implemented: ORS 561.190
Hist.: DOA 13-2005, f. & cert. ef. 3-25-05; DOA 4-2006, f. & cert. ef. 3-10-06

Rule Caption: Repealing the license fees established in Division 21 for bakeries and non-alcoholic beverage plants.

Adm. Order No.: DOA 5-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 1-1-06

Rules Repealed: 603-021-0008, 603-021-0709

Subject: OAR 603-021-0008 and OAR 603-021-0709 establish license fees for bakeries, domestic kitchen bakeries, bakery distributors and non-alcoholic beverage plants. The purpose is to remove the fees from regulation because the license fees are not established in statute.

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

Rule Caption: Repealing the license fees established in Division 25 and adopting the 2005 version of the CFR's.

Adm. Order No.: DOA 6-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 1-1-06

Rules Amended: 603-025-0010, 603-025-0030, 603-025-0190

Rules Repealed: 603-025-0040, 603-025-0210

Subject: OAR 603-025-0210 establishes license fees for various categories of retail food stores, food warehouses and food processors. This change will remove the fees from regulation because they have been established in statute. It adopts the 2005 version of the Code of Federal Regulations (CFR's) and it removes the organic regulations that were repealed by the 2001 Legislature. Several changes were made to the Food Code such as replacing the word "permit" with "license," storage of food dispensing utensils in 130°F vs. 140°F water, and correcting the reference to the CFR's for poultry inspection by USDA.

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

603-025-0010

Definitions

In addition to the definitions set forth in ORS Chapter 616, the following shall apply:

(1) "Bulk Food" means unpackaged or unwrapped, processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn, but does not include fresh fruits, fresh vegetables, nuts in the shell, salad bar ingredients or potentially hazardous foods.

(2) "Corrosion-Resistant Materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of usage.

(3) "Display Area" means a location, including physical facilities and equipment, where bulk food is offered for customer self-service.

(4) "Distressed Merchandise" means any food which has had the label lost or destroyed, or which has been subjected to possible damage due to accident, fire, flood, adverse weather, or to any other similar cause, and which may have been thereby rendered unsafe or unsuitable for human or animal consumption or use.

(5) "Easily Cleanable" means readily accessible and of such material, fabrication and finish that residues may be effectively removed by normal cleaning methods.

(6) "Employee" means any person working in a food establishment.

(7) "Equipment" means all display cases, storage cases, tables, counters, shelving, refrigerators, sinks, food processing preparation and packaging equipment, and any other items used in the operation of a food establishment.

(8) "Food Source" means food shall be in a sound condition and safe for human consumption and shall be produced in compliance with applicable laws relating to food safety.

(9) "Food-Contact Surfaces" means those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

(10) "Food Processing" means the cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, freezing or otherwise manufacturing a food or changing the physical characteristics of a food, and the packaging, canning or otherwise enclosing of such food in a container, but does not mean the sorting, cleaning or water-rinsing of a food.

(11) "Food Retailing" or "Operating a Retail Food Store" means the preparing, packaging, storing, handling or displaying of food for sale at retail to the consumer or user, and may include produce trimming, processed meat slicing, cheese slicing, preparing gutted and filleted fish, and providing retail customer services to change the form of food such as juice squeezing or peanut grinding (if more than one of these customer services is made available, the activities shall then be considered food processing rather than food retailing).

(12) "Food Service Establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided, whether consumption is on or off the premises and whether or not there is a charge for the food, and includes a delicatessen that offer prepared foods in individual service portions, but does not include a private home where food is prepared or served for individual family consumption, a retail food store, a food vending machine location or a supply vehicle.

(13) "Food Storage Warehouse" means any building or place where food is stored as a commercial venture or business, or stored in connection with or as a part of a commercial venture or business, but does not include a home, restaurant, rooming house, hotel or similar place where food is stored to be used or consumed by the owner or served to employees, customers, or guests, nor an establishment licensed by the department under other laws.

(14) "Hazardous Substance" means a substance or mixture of substances which is toxic, corrosive, an irritant, flammable, which generates pressure through heat, decomposition or other means, which has been designated by the U.S. Food and Drug Administration as a strong sensitizer or a radioactive material, or which may cause substantial personal injury or substantial illness during or as a proximate result of any reasonable foreseeable handling or use, including reasonably foreseeable ingestion by children.

(15) "Hermetically Sealed Container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

(16) "Kitchenware" means all multi-use utensils other than tableware.

(17) "Non-Salvageable Merchandise" means distressed merchandise which cannot be safely or practically reconditioned.

(18) "Operator" means any person having the direct and primary responsibility for the construction, maintenance and operation of a food establishment.

(19) "Packaged" means bottled, canned, cartoned, bagged or completely wrapped.

(20) "Physical Facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

(21) "Plant" means the building or buildings or parts thereof, used for or in connection with the manufacturing, packaging, storing, labeling or holding of food for humans, dogs or cats.

ADMINISTRATIVE RULES

(22) "Potentially Hazardous Food" means any food that consists whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms, but does not include food which has a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.

(23) "Product Module" means a food-contact container (multi-use or single-service) designed for customer self-service of bulk food by either direct or indirect means.

(24) "Reconditioning" means any appropriate process or procedure by which distressed merchandise can be brought into compliance with all federal or state requirements so as to make it suitable for consumption or for use as human or animal feed.

(25) "Retail Fruit and Vegetable Stand" means any place where fresh fruits or vegetables are offered for sale at retail to the user or consumer.

(26) "Safe Materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food, if they are food additives or color additives (as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act), are used in conformity with the federal regulations adopted under Section 409 or 706 of the Federal Food, Drug, and Cosmetic Act, and if they are not food additives or color additives, are used in conformity with other applicable regulations of the U.S. Food and Drug Administration.

(27) "Safe Temperatures" as applied to potentially hazardous food, means air temperatures of 41°F or below and 130°F or above.

(28) "Salvage Dealer" or "Salvage Distributor" means any person who is engaged in selling or distributing salvaged merchandise.

(29) "Salvage Processing Facility" means an establishment engaged in the business of reconditioning distressed merchandise.

(30) "Salvage Processor" means any person who operates a salvage processing facility.

(31) "Salvaged Merchandise" means reconditioned distressed merchandise, and "salvageable merchandise" means distressed merchandise capable of being reconditioned.

(32) "Sanitize" or "Sanitization" means effective bactericidal treatment of physically clean surfaces of equipment and utensils by a process which has been approved by the department as being effective in reducing microorganisms, including pathogens, to a safe level.

(33) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

(34) "Servicing Area" means a designated location equipped for cleaning, sanitizing, drying, refilling product modules, or preparing bulk food.

(35) "Single-Service Articles" means items used by the retailer or consumer such as cups, containers, lids, packaging materials, bags and similar articles, intended for contact with food and designed for one-time use, but does not include single use articles, such as No. 10 cans, aluminum pie pans, bread wrappers and similar articles, into which food has been packaged by the manufacturer.

(36) "Supplier" means any person who transfers distressed merchandise to a salvage processor.

(37) "Tableware" means multi-use eating and drinking utensils.

(38) "Transportation" means the movement of food, the delivery of food from one location to another location while under the control of an operator.

(39) "Utensil" means any food-contact implement used in the storage, preparation, transportation, or dispensing of food.

(40) "Vehicle" means any truck, trailer, car, bus, railcar, aircraft, boat, ship or barge by which food is transported from one location to another.

(41) "Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

(42) "Wholesome" means food found in sound condition, clean, free from adulteration and otherwise suitable for human consumption.

Stat. Auth.: ORS 561, 616 & 619

Stats. Implemented: ORS 616.230

Hist.: AD 2-1987, f. & ef. 1-30-87; AD 21-1990, f. & cert. ef. 11-27-90; DOA 13-1999, f. & cert. ef. 6-15-99; DOA 29-2002, f. 12-23-02, cert. ef. 1-1-03; DOA 6-2006, f. & cert. ef. 3-10-06

603-025-0030

Retail Food Code

(1) In addition to the provisions of OAR 603-025-0020 a retail food establishment shall comply with the **Retail Food Code**. [Code not included. See ED NOTE.]

(2) Retail Fruit and Vegetable Stands and Similar Outlets: Retail fruit and vegetable stands, and other similar unusual food sales outlets, are also subject to these retail food establishment provisions, except as follows:

(a) Fruit and vegetable stands located on a farmers own property, wherein only fruits; and

(b) Vegetables grown by the owner are sold, and no food processing is being done, are exempt from licensing;

(c) Other fruit and vegetable stands may be exempted from certain retail food establishment requirements where the department determines that public health principles would be compromised.

(3) New Establishment Construction or Remodeling:

(a) Prior to undertaking construction of a new retail food establishment, and as a condition to obtaining a license to operate the establishment, a copy of the construction plans and specifications, together with a statement of an expected completion date, shall be submitted to the department for review and comment as to sanitation and food maintenance;

(b) Prior to undertaking remodeling of an existing establishment in order to expand or add food processing or food service facilities, a copy of the construction plans and specifications, together with a statement of an expected completion date, shall be submitted to the department for review and comment as to sanitation and food maintenance.

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

Stat. Auth.: ORS 561, 616 & 619

Stats. Implemented: ORS 616.700

Hist.: AD 2-1987, f. & ef. 1-30-87; AD 21-1990, f. & cert. ef. 11-27-90; DOA 29-2002, f. 12-23-02, cert. ef. 1-1-03; DOA 6-2006, f. & cert. ef. 3-10-06

603-025-0190

Standards of Identity, Additives, Pesticide Standards, Food Labeling, Good Manufacturing Practices, Low Acid Canned Foods, and Acidified Foods

(1) As provided in ORS 616.230, 616.780, 621.060, 621.311, 621.405, 625.160, and 635.045, the rules governing food identity, food color additives, food additives, pesticide tolerances, and labeling of or in food adopted by the Food and Drug Administration of the U.S. Department of Health and Human Services, are hereby adopted as the rules governing this subject matter in Oregon. In addition the Good Manufacturing Practices, Fish and Fishery Products, Low Acid Canned Foods, Acidified Foods and other federal programs contained in the Code of Federal Regulations as specified below are adopted. The adopted federal programs and standards are those set forth in the 2005 version, Title 21, Chapter 1, Parts 1, 70, 73, 74, 81, 82 and 100 through 199, of the Code of Federal Regulations.

(2) In addition, the level of microcystins in Blue-Green Algae (Aphanizomenon flos aquae) finished products shall not exceed 1 microgram per gram (1 ppm.). The microcystins level in finished products shall be determined by an approved laboratory analytical procedure that is acceptable to the Department of Agriculture.

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

Stat. Auth.: ORS 561.190, 561.605, 561.620 & 616.230

Stats. Implemented: ORS 561.605 - 561.620 & 616.230

Hist.: AD 2-1987, f. & ef. 1-30-87; AD 17-1993, f. & cert. ef. 11-26-93; AD 17-1997, f. & cert. ef. 10-23-97; DOA 13-1999, f. & cert. ef. 6-15-99; DOA 4-2000, f. & cert. ef. 1-18-00; Administrative correction 4-20-01; DOA 29-2002, f. 12-23-02, cert. ef. 1-1-03; DOA 6-2006, f. & cert. ef. 3-10-06

Rule Caption: Repealing the license fees established in OAR 603-028-0010 because they have been adopted in statute.

Adm. Order No.: DOA 7-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 1-1-06

Rules Amended: 603-028-0500

Rules Repealed: 603-028-0010

Subject: OAR 603-028-0010 establishes license fees for meat sellers, non-slaughtering processors, slaughterhouses, custom slaughterers, custom processors, animal food slaughterers or processors and poultry and rabbit slaughter/processors. This removes the fees from regulation because they have been established in statute. It also corrects language in OAR 603-028-0500 where one line of text was repeated.

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

603-028-0500

Prohibited Acts

No operator or employee of an establishment shall:

ADMINISTRATIVE RULES

(1) Fail to keep and maintain an establishment and equipment therein or thereon in a clean, healthful, and sanitary condition as required by subsection (1) of ORS Chapter 619 (Section 5, Chapter 174, Oregon Laws 1973) and OAR 603-028-0100.

(2) Prepare, sell, offer, or hold for sale any meat or meat product that is:

(a) Misbranded as defined in subsection (1) of ORS 619.010 and subsections (1), (7), (8), and (10) of ORS 616.250, and as prescribed in OAR 603-028-0300;

(b) Adulterated as defined in subsections (1) and (2) of ORS 616.235, and as prescribed in OAR 603-028-0300 and 603-028-0405.

(3) Prepare, sell, offer, or hold for sale domesticated elk meat or meat by-products where the slaughtering and processing has not been conducted in establishment inspected and certified for wholesomeness by the U.S. Department of Agriculture or a successor agency.

Stat. Auth.: ORS 561, 603 & 619
Stats. Implemented: ORS 603.085, 619.031 & 619.046
Hist.: AD 1005(19-73), f. 12-5-73, ef. 12-25-73; AD 13-1978, f. & ef. 9-5-78; AD 21-1990, f. & cert. ef. 11-27-90; DOA 13-2002, f. & cert. ef. 4-11-02; DOA 7-2006, f. & cert. ef. 3-10-06

Rule Caption: Repealing the license fees established in Division 24 and adopting the newest version of the CFR's and PMO.

Adm. Order No.: DOA 8-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 1-1-06

Rules Amended: 603-024-0017, 603-024-0211, 603-024-0234, 603-024-0547

Subject: OAR 603-024-0234(2), OAR 603-024-0547(2) & OAR 603-024-0547(3) establish license fees for dairy products plants, producer-distributors, distributors and non-processing distributors and producers. This is to remove the fees from regulation because they have been established in statute. It also adopts the newest version of the Code of Federal Regulations and the Pasteurized Milk Ordinance. It removes margarine and oleomargarine from the dairy regulations because they are covered in the food regulations and it deletes the Wisconsin Mastitis Test as an approved test for somatic cells.

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

603-024-0017

Standards of Identity, Quantity and Labeling Requirements

(1) The weights and measures packaging and labeling requirements for butter, fluid milk and milk products shall be those specified in OAR 603-027-0105, and the weights and measures requirements as to the methods of sale of butter, milk and milk products shall be those specified in OAR 603-027-0206.

(2) Labeling, standards of identity and marking requirements for butter, fluid milk and milk products not provided for under section (1) of this rule, shall be those specified in the regulations on this subject adopted by the Food and Drug Administration of the United States Department of Health and Human Services set forth in the 2005 version, Title 21, Chapter 1, Part 101, 131, 133, 135 and 166 of the Code of Federal Regulations.

(3) Measuring devices used for determining weight by measuring quantity of milk in farm tanks shall be done in accordance with the requirements of OAR chapter 603, division 027, to effectuate the administration of ORS Chapter 618.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 651 & 621
Stats. Implemented:
Hist.: DOA 6-2002, f. & cert. ef. 1-28-02; DOA 8-2006, f. & cert. ef. 3-10-06

603-024-0211

Adoption of the Grade A Pasteurized Milk Ordinance (PMO) and Related Documents

On all dairy farms, plants and transport tankers, the standards for building construction, equipment construction, sanitation, sampling, pasteurization, transportation and handling of milk and dairy products shall be those given in the 2003 version of the PMO. This adoption shall also include the following related documents:

(1) 2003 version of the Methods of Making Sanitation Ratings (MMSR);

(2) 2003 version of the Single Service Containers and Closures (SSCC); and

(3) The 2003 version of the Evaluation of Milk Laboratories (EML).

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

Stat. Auth.: ORS 651 & 621
Stats. Implemented:
Hist.: DOA 6-2002, f. & cert. ef. 1-28-02; DOA 8-2006, f. & cert. ef. 3-10-06

603-024-0234

License Fees

As provided in ORS 621.166, the license fees for mobile tankers are as follows:

(1) Bulk tank truck or other mobile equipment: \$25 for one mobile milk tanker and \$25 for each additional mobile milk tanker, not to exceed \$750 for total fleet owned by one entity.

(2) Dairy Products Plant, except those consisting of only bulk tank trucks or other mobile equipment, shall pay the license fee established in ORS 621 plus \$25 for each mobile milk tanker.

Stat. Auth.: ORS 183.335(5), 190, 561.190, 603, 616, 621 & 625
Stats. Implemented: ORS 621.176 & 621.181
Hist.: AD 6-1982, f. & ef. 5-20-82; AD 6-1989, f. & cert. ef. 5-11-89; AD 9-1990, f. & cert. ef. 5-7-90; AD 8-1991(Temp), f. & cert. ef. 7-29-91; AD 18-1991, f. & cert. ef. 12-5-91; DOA 6-2002, f. & cert. ef. 1-28-02; DOA 8-2006, f. & cert. ef. 3-10-06

603-024-0547

License Fees Relating to Fluid Milk

As provided in ORS 621.072, the license fees for the various categories of activities relating to fluid milk are as follows: Sampler and grader — \$25.

Stat. Auth.: ORS 183.335(5), 190, 561.190, 603, 616, 621 & 625
Stats. Implemented: ORS 621.072
Hist.: AD 6-1982, f. & ef. 5-20-82; AD 6-1989, f. & cert. ef. 5-11-89; AD 9-1990, f. & cert. ef. 5-7-90; AD 8-1991(Temp), f. & cert. ef. 7-29-91; AD 18-1991, f. & cert. ef. 12-5-91; DOA 8-2006, f. & cert. ef. 3-10-06

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

Rule Caption: Oregon's specialty code adoption and amendment process.

Adm. Order No.: BCD 3-2006(Temp)

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06 thru 8-27-06

Notice Publication Date:

Rules Amended: 918-008-0000, 918-008-0010, 918-008-0020, 918-008-0030, 918-008-0060

Subject: These temporary procedural rules implement the division's process for adopting and amending the Oregon state building code.

Rules Coordinator: Nicole M. Jantz—(503) 373-0226

918-008-0000

Purpose and Scope

(1) OAR 918-008-0000 to 918-008-0070 provides the process for adopting and amending the state building code that is consistent across all program areas.

(2) The state building code is derived from the most appropriate version of base model codes, which are adopted approximately every three years from the last Oregon specialty code effective date.

(3) The Oregon specialty code amendment process begins approximately midway into a code cycle.

(4) An appropriate advisory board approves the adoption of the Oregon specialty code and amendments.

(5) Notwithstanding sections (1) through (4) of this rule, the division may adopt special interim code amendments as authorized by OAR 918-008-0029.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 447.020, 455.030 & 479.730
Stats. Implemented: ORS 447.020, 455.030 & 479.730
Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 8-27-06

918-008-0010

Definitions

The following definitions apply to OAR 918-008-0000 to 918-008-0070:

(1) "Base model code" means a published collection of standards governing a particular field of construction, which is generally accepted and used in the United States.

(2) "Code cycle" means an approximate three-year period starting from the Oregon specialty code effective date.

(3) "Oregon specialty code" means a base model code, together with Oregon-specific amendments, which is adopted by the State of Oregon.

ADMINISTRATIVE RULES

(4) "Proposed code amendment" means an application from a person to add an amendment to a proposed base model code or amend an Oregon specialty code.

(5) "Special interim code amendment" means a division-initiated amendment to an Oregon specialty code.

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.730

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 8-27-06

918-008-0020

General Code Adoption Process

(1) The division, in consultation with the appropriate advisory board, establishes a timetable to collect proposed code amendments. The timetable depends on the publication date and general availability of the proposed base model code.

(2) The division will notify interested persons of the timetable at least 45 days before the ending period for collecting proposed code amendments.

(3) During the timeframe for proposing code amendments, an interested person may also recommend that the division incorporate, statewide code interpretations and alternate method rulings into the Oregon specialty code.

(4) The division, in consultation with an appropriate advisory board, reviews prior code amendments, statewide code interpretations, and alternate method rulings during the code adoption and amendment process. The division recommends whether to carry prior code amendments, statewide code interpretations, and alternate method rulings forward to a newly adopted Oregon specialty code or to archive prior code amendments, statewide code interpretations, and alternate method rulings for informational purposes.

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.730

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 8-27-06

918-008-0030

Proposed Code Amendment Requirements

(1) All proposed code amendments are submitted to the division in writing or on a division-approved form.

(2) Under ORS 455.030(4), all proposed code amendments must provide justification and the particular circumstances requiring the amendments. Additionally, proposed code amendments must conform to the policies contained in ORS 455.020.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.730

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 1-2004(Temp), f. & cert. ef. 1-29-04 thru 7-26-04; Administrative correction 8-19-04; Suspended by BCD 17-2004(Temp), f. & cert. ef. 9-30-04 thru 3-28-05; BCD 7-2005, f. & cert. ef. 4-1-05; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 8-27-06

918-008-0060

Proposed Code Amendments Criteria

(1) As required by OAR 918-008-0030, a proposed code amendment must address, where applicable, whether or not the proposed code amendment:

(a) Is necessary to correct any unforeseen or probable outcomes resulting from the application of a code section, and if so why;

(b) Is needed to protect the health, safety, welfare, comfort and security of occupants and the public, and if so, why;

(c) Corrects inadequate application by a code section to a method, material or design, and if so, how;

(d) Is necessary to address unique geographic or climatic conditions within Oregon, and if so, why;

(e) Is needed to eliminate conflicting, obsolete, or duplicative code provisions or standards between Oregon-adopted codes, statutes or regulations, and if so, why;

(f) Conserves scarce resources, and if so, how;

(g) Provides for the use of unique or emerging technologies, or promote advances in construction methods, devices, materials and techniques, and if so, how;

(h) Meets any energy conservation or indoor air quality requirements, and if so how;

(i) Involves the adoption of an electrical or plumbing building product. If an electrical or plumbing building product is involved, note if the appropriate advisory board approved the product; and

(j) Any adverse fiscal impact or cost savings passed on to the general public, the construction industry, local and state governments, and small businesses. If applicable, an interested person must describe the added or

reduced cost of a proposed code amendment, describe the adverse fiscal impact or cost savings in relation to the current Oregon specialty code and include any standards of measure used to arrive at the result given.

(2) ORS 183.534 and OAR 813-025-0015 requires the Building Codes Division to prepare a Housing Cost Impact Statement based on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square feet detached single family dwelling on that parcel. If a proposed code amendment relates to this type of parcel, provide information to assist the division in preparing a housing cost impact statement.

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.030

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 8-27-06

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

Rule Caption: Update of rules concerning prearrangement funeral plans and the associated funds held in trust.

Adm. Order No.: FCS 2-2006

Filed with Sec. of State: 2-22-2006

Certified to be Effective: 2-22-06

Notice Publication Date: 1-1-06

Rules Adopted: 441-930-0080

Rules Amended: 441-930-0010, 441-930-0030, 441-930-0070, 441-930-0210, 441-930-0220, 441-930-0230, 441-930-0240, 441-930-0250, 441-930-0260, 441-930-0270, 441-930-0280, 441-930-0290, 441-930-0300, 441-930-0310, 441-930-0320, 441-930-0330, 441-930-0340, 441-930-0350, 441-930-0360

Rules Repealed: 441-930-0020, 441-930-0040, 441-930-0050, 441-930-0060, 441-930-0200

Subject: These amendments clarify and update rules concerning certified providers and master trustees involved with prearrangement funeral plans and the associated funds held in trust. The new rule adopted clarifies the authority and responsibilities of master trustees. The five rules repealed are either incorporated into other rules, or are deemed no longer necessary.

Rules Coordinator: Berri Leslie—(503) 947-7478

441-930-0010

Definitions

In addition to the definitions in ORS 97.923, the following definitions apply to OAR 441-930-0010 to 441-930-0360:

(1) "Applicant" means a person applying to the Director for an Order of Certification concerning prearrangement plans or for an Order of Registration to serve as a master trustee.

(2) "Associated person" means an individual, including a salesperson defined in ORS 97.923, working on behalf of a certified provider or master trustee.

(3) "Civil action" means an action filed in a court of law or an action in a formal process of alternative dispute resolution.

(4) "Funeral Plan Trust Account" means an account in a depository, as defined in ORS 97.923, established and administered by a certified provider, into which is deposited funds received from the sale of prearrangement plans.

(5) "Market" means to offer, to contract for sale, to sell or advertise, in the state of Oregon, or to an Oregon resident, merchandise or services under a prearrangement plan.

(6) "Prearrangement Plan" means "Preconstruction Sales" or "Preconstruction Sales Contract" or "Prearrangement Sales" or "Prearrangement Sales Contract" as those terms are defined in ORS 97.923.

(7) "Registrant" means a master trustee holding an Order of Registration, issued by the Director.

(8) "Trust Agreement" means any agreement governing a funeral trust fund established to receive the proceeds of a prearrangement plan and administered by a registered master trustee.

(9) "Unconscionable tactics" include, but are not limited to, actions by which a person:

(a) Knowingly takes advantage of a customer's physical infirmity, ignorance, illiteracy or inability to understand the language of the agreement; or

(b) Knowingly permits a customer to enter into a transaction from which the customer will derive no material benefit.

Stat. Auth.: ORS 97.933, 97.935 & 97.945

ADMINISTRATIVE RULES

Stats. Implemented: ORS 97.933, 97.935 & 97.945
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0010; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0030

Applications for Registration of Master Trustees

(1) Each person desiring to register as master trustee shall apply by submitting a written application with the Director.

(2) The application must contain the following on or with a form prescribed by the Director:

(a) Information concerning the applicant's identity and business address(es);

(b) A list of all officers, directors, and owners of 10% or more of the business;

(c) Personal background and business, professional or work history of all persons identified in subsection (2)(b) of this rule;

(d) Proof of registration or good standing of the applicant's business name in the state or country under which it is organized;

(e) The depositories the applicant intends to use for funds received under the appointment from the certified provider;

(f) Financial statements including:

(A) A copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position. All financial statements must be prepared by an independent certified public accountant in accordance with generally accepted accounting principles;

(B) If the audited financial statement is more than six months old, an internally prepared statement for the most recent month end; and

(g) A registration fee as set in OAR 441-930-0270.

(3) The Director may conduct a background check of any person applying for registration. The background check may include information solicited from the Oregon State Police.

(4) Unless there are grounds for denying the application pursuant to OAR 441-930-0310, the Director shall issue an Order of Registration.

(5) The Order of Registration is a continuing registration and remains in effect until the registration is surrendered by the registrant or revoked or suspended by the Director as provided in OAR 441-930-0310.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0030; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 7-2004, f. 12-14-04, cert. ef. 1-1-05; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0070

Annual Examination of Master Trustee

(1) Each master trustee that is or should be registered may be subject to an annual examination by the Director. The Director may, at the Director's discretion, conduct an examination at the office of the master trustee or at the office of the Director. The examination will be of the condition and resources of the master trustee, including:

(a) A review of the minutes of the annual meeting of owners and any special meeting;

(b) A review of all board or management meetings;

(c) Operating policies and procedures;

(d) Security of funds;

(e) Investment vehicle;

(f) Receipt and dispersal of funds;

(g) Investment and banking accounts;

(h) Audit reports;

(i) Regulatory audit reports.

(2) A master trustee shall pay to the Director the fees and costs of examination described in OAR 441-930-0270.

(3) At the discretion of the Director, a master trustee located outside Oregon may make the books and records available for examination in Oregon.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0070; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0080

Master Trustee Rules of Conduct

(1) A master trustee is a fiduciary and has a duty to act solely for the benefit of purchasers of prearrangement sales contracts.

(2) The fees to be charged shall be described in a written agreement between the master trustee and each certified provider that has appointed the master trustee.

(3) A master trustee may delegate administration, record keeping, custody, investment or management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The master trustee may not delegate, and shall exercise reasonable care, skill and caution in:

(a) Selecting an agent;

(b) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

(c) Periodically reviewing the agent's actions in order to monitor and ensure the agent's performance and compliance with the terms of the delegation.

(4) A master trustee shall invest and manage trust assets as a prudent investor would. A master trustee that complies with §78, Chapter 348, 2005 Oregon Laws is deemed to comply with this requirement.

(5) In investing and managing trust assets, regardless of whether those functions have been delegated, a master trustee may only incur fees and expenses that are appropriate and reasonable in relation to the assets, the purposes of the trust and the skills of the master trustee, not to exceed the maximum specified in ORS 97.943. Fees and expenses that may be incurred include:

(a) Accounting fees;

(b) Fiduciary income taxes;

(c) Depository fees;

(d) Investment manager fees;

(e) Record keeping and administration fees; and

(f) Master trustee fees.

Stat. Auth.: ORS 97.935

Stats. Implemented: ORS 97.935

Hist.: FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0210

Application for Order of Certification

(1) Each entity desiring to obtain an Order of Certification shall apply by submitting a written application with the Director.

(2) An application must contain the following on or with a form prescribed by the Director:

(a) A list of all officers, directors, and owners of 10% or more of the business;

(b) Information concerning the applicant's identity and business address(es);

(c) If the applicant is an individual or sole proprietorship, the applicant's social security number. Provision of this number is mandatory and failure to provide the applicant's social security number shall be considered grounds for denying certification to the applicant.

(d) The business, professional or work history of all persons identified in subsection (2)(a) of this rule;

(e) Proof of registration or good standing of the applicant's business name in the state or country under which it is organized;

(f) The depositories the applicant intends to use for funds received from the sale of the prearrangement plans;

(g) For providers who have not appointed a master trustee, financial statements including:

(A) A copy of the applicant's most recent audited financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position. All financial statements must be prepared by an independent certified public accountant in accordance with generally accepted accounting principles;

(B) If the audited financial statement is more than six months old, an internally prepared statement for the most recent month end;

(h) A list of prearrangement plans to which the applicant was a party at the date of application; and

(i) A certification fee as set in OAR 441-930-0270.

(3) The Director may conduct a background check of any person applying for certification. The background check may include information solicited from Oregon State Police.

(4) Unless there are grounds for denying the application pursuant to OAR 441-930-0310, the Director shall issue an Order of Certification.

(5) The certificate issued to a provider is continuing and remains in effect until surrendered by the provider or revoked or suspended by the Director.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; DOC 2-2002(Temp) f. & cert. ef. 2-12-02 thru 8-1-02; DO 3-2002, f. & cert. ef. 5-23-02; Renumbered from 440-300-0210; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 7-2004, f. 12-14-04, cert. ef. 1-1-05; FCS 2-2006, f. & cert. ef. 2-22-06

ADMINISTRATIVE RULES

441-930-0220

Renewal Procedure

Submission of the annual report pursuant to OAR 441-930-0250 and annual report fees pursuant to OAR 441-930-0270 shall constitute renewal of the application for registration or certification.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.933 & 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0220; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0230

Material Changes, Amendments, and Notice of Civil and Criminal Actions

(1) A master trustee or certified provider must file an amendment to its application with the Director if there is a material change to any information on the original application including:

- (a) Bankruptcy;
- (b) Civil or criminal actions described on the application;
- (c) Disciplinary disclosure answers on the application;
- (d) Change in additional affiliated business entity name;
- (e) Change in control or ownership;
- (f) Change in form of organization;
- (g) Change of address;
- (h) Change in scope of business; or
- (i) Change in any depository used by the master trustee or certified provider.

(2) The master trustee or certified provider must file amendments with the Director within 30 days of the occurrence of the material change. If a completed amendment cannot be filed within 30 days, the master trustee or certified provider shall file with the Director within the 30 day limit a written notice containing available information, the reasons a complete amendment cannot be timely filed and a specific date on which the completed amendment will be filed.

(3) Amendments to the application shall be made on a form acceptable to the Director.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.933 & 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0230; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0240

When Certification Application Deemed Abandoned

(1) For purposes of this rule, the term "application" includes all documents, information and fees prescribed for the registration of master trustees or certification of providers as set forth in ORS 97.923 to 97.949, OAR 441-930-0030 and 441-930-0210.

(2) An application shall be deemed deficient when:

- (a) Insufficient fees have been paid and the Director has notified the applicant that fees are insufficient;
- (b) Documents required to be submitted to the Director by OAR 441-930-0210 have not been submitted by the applicant; or
- (c) Information requested by the Director has not been submitted by the applicant.

(3) An application shall be deemed abandoned if:

- (a) The application has been on file for a minimum of 180 days;
- (b) The application is deficient; and
- (c) The applicant has failed to respond to the Director's written notice of warning of abandonment within 30 calendar days of the date of warning.

(4) The Director shall refund registration or certification fees received for abandoned applications.

(5) An applicant whose application has been abandoned may reapply by submitting a new application, including fees.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0240; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0250

Annual Report Required

(1) Each master trustee and certified provider is responsible for and shall file annually with the Director by April 1 of each year a report on or with forms provided by the Director. The report shall cover the preceding calendar year and shall include:

- (a) Beginning balance in the trust account;
- (b) The amount of deposits to the trust account;
- (c) The amount of income on the trust account;
- (d) The amounts of withdrawals from principal of the trust account;

(e) The amount of expenses withdrawn from income for master trustee, accounting, record keeping and administration, depository and investment fees, not to exceed the maximum specified in ORS 97.943;

(f) The amount of any taxes paid for the benefit of beneficiaries;

(g) The amount of recognized and unrecognized gains and losses;

(h) The balance of the trust account as of December 31; and

(i) For master trustees, and certified providers who have not appointed a master trustee, a copy of the registrant's or provider's most recent audited annual financial statement, including a balance sheet, statement of income or loss, statement of changes in shareholder equity and statement of changes in financial position. All financial statements must be prepared by an independent certified public accountant in accordance with generally accepted accounting principles.

(2) Persons who meet the following conditions shall have the option of filing a short form annual report:

(a) The person has ceased marketing prearrangement plans and is no longer certified to market prearrangement plans; and

(b) The prearrangement contracts for which the person is obligated number less than 20 or have a cumulative value of less than \$25,000.

(3) A certified provider that discontinues the sale of prearrangement plans, but has outstanding contracts, must continue to submit a short form annual report until all of the contracts are fully discharged.

(4) The short form annual report shall contain the following information:

(a) An attestation by the person reporting that the person no longer holds an Order of Certification to market prearrangement plans and that prearrangement plans for which that person is obligated at the annual report date number less than 20 or have accumulative value of less than \$25,000; and

(b) A list of the prearrangement contracts remaining on deposit in trust funds, their balance as of December 31, and the financial institution or master trustee at which they are deposited.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; DOC 2-2002(Temp) f. & cert. ef. 2-12-02 thru 8-1-02; DO 3-2002, f. & cert. ef. 5-23-02; Renumbered from 440-300-0250; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0260

Examination of Certified Providers

(1) Each provider that is or should be certified is subject to an examination by the Director. The Director may conduct an examination of the condition and resources, including a review of the sales contracts used by the certified provider, to determine whether the provider is complying with requirements of ORS 97.923 to 97.949, the laws of this state and the rules of the Director.

(2) A provider shall pay to the Director all fees and costs of an examination pursuant to the provisions of OAR 441-930-0270.

(3) Upon the motion of the Director or upon receipt of a complaint by a customer of the provider, the Director may examine the provider with respect to any violation. In lieu of an annual on-site examination, the Director may accept a report prepared by an independent accounting firm. Reports so accepted are considered for all purposes as an official report of the Director.

(4) The Director may examine a record relating to a prearrangement plan at any place and in any manner the Director considers necessary to protect the interests of the purchasers or beneficiaries.

(5) Certified providers who maintain books and records outside the state of Oregon may, at the discretion of the Director, produce the records in Oregon for examination.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.947

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0260; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0270

Fees Assessed to Certified Providers and Registered Master Trustees

The Director assesses the following fees against each registered master trustee, certified provider, or applicant:

(1) A registration or certification fee — \$335.

(2) Annual Report Fee — \$335 per master trustee, provider, cemetery or crematorium location. For purposes of the annual report fee, each branch location of a provider's funeral establishment is a separate establishment and each location of a cemetery or crematorium is a separate location.

(3) Short form Annual Report Fee — \$10.

(4) Exam Fees — \$60 per hour for each examiner, plus costs of an examination.

ADMINISTRATIVE RULES

(5) If the books and records are located outside Oregon, the certified provider or master trustee must pay travel and per diem expenses.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.933 & 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0270; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 7-2004, f. 12-14-04, cert. ef. 1-1-05; FCS 3-2005, f. & cert. ef. 9-6-05; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0280

Supervision of Associated Persons by Certified Providers

(1) Every associated person of the certified provider shall be subject to the supervision of a supervisor designated by the certified provider. The supervisor may be a partner, officer or office manager or person occupying a similar position of management and control.

(2) Every certified provider shall establish, maintain and enforce written procedures, a copy of which shall be kept in the business office, setting forth the procedures adopted by the certified provider to comply with the requirements of ORS 97.923 to 97.949 and these rules.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.933

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0280; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0290

Unprofessional Conduct

A person who engages in the following conduct is subject to probation, suspension, revocation or denial of a certification or registration and assessment of a civil penalty pursuant to ORS 97.948 and OAR 441-930-0310:

(1) Furnishing false or misleading information to the Director in connection with:

(a) Obtaining, renewing, reinstating, or maintaining certification or registration;

(b) The filing of an annual report; or

(c) An investigation;

(2) Failing to furnish accurate and understandable price information to consumers;

(3) Employing any unconscionable tactic in connection with the offer or sale of a prearrangement plan;

(4) Failing to make and verify trust deposits in the amounts and within the time periods specified in ORS 97.941;

(5) Withdrawing principal or income of a trust account in excess of what is permitted pursuant to ORS 97.943;

(6) Failing to comply with the annual reporting requirements as required by ORS 97.933 or these rules;

(7) Failing to provide the goods and services agreed to in a sales contract;

(8) Using trust funds for non-trust purposes;

(9) Failing to release trust funds to the rightful payee within 30 days of the date of request for release; or

(10) Failing to comply with any other provision of ORS 97.923 to 97.949, or these rules.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.933 & 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0290; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0300

Notice of Complaint

(1) Each certified provider and each master trustee who has filed a complaint against any of its partners, officers, or directors, or associated persons located in Oregon, with any law enforcement agency, any other regulatory agency with jurisdiction over prearrangement plans, or any bonding company regarding any loss arising from alleged acts of such person, shall send a copy of the complaint to the Director within ten calendar days following its filing with the other agency or bonding company.

(2) The certified provider or master trustee shall notify the Director within ten calendar days of learning of any action initiated by a law enforcement agency or regulatory agency against any of its partners, officers, or directors, or associated persons located in Oregon on the basis of something other than a complaint from the certified provider or master trustee.

(3) The certified provider or master trustee shall file with the Director a copy of any finding, censure, fine, suspension, or expulsion made as a result of an action by any law enforcement agency or other regulatory agency within ten calendar days following receipt of the document.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.933 & 97.935

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0300; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0310

Revocation, Suspension and Denial of Certificate or Registration

The Director may impose a civil penalty or probation, or revoke, suspend or deny an Order of Certification of a certified provider or an Order of Registration of a master trustee when one or more of the following conditions exist:

(1) The certified provider's license under ORS 692.160 expires or is suspended or revoked by the State Mortuary and Cemetery Board;

(2) The certified provider or master trustee fails to submit an annual report required by ORS 97.933;

(3) The certified provider or master trustee fails to submit the annual report fee required by OAR 441-930-0270;

(4) The certified provider or master trustee fails to maintain or denies the Director access to the financial records and supporting documents necessary to examine the provider's or registrant's annual report;

(5) The certified provider or master trustee has filed a materially false or misleading report with the Director;

(6) The certified provider fails to deposit prearrangement plan receipts within five business days as required by ORS 97.941;

(7) The certified provider or master trustee fails to account to interested persons for monies received;

(8) The certified provider or master trustee has willfully or repeatedly violated or failed to comply with any provision of ORS 97.923 to 97.949, or OAR 441-930-0010 through 441-930-0360;

(9) The certified provider or master trustee is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business of a certified provider or master trustee, respectively; or

(10) The certified provider or master trustee is the subject of disciplinary action by another state or government agency provided the activity subject to discipline would constitute a violation of Oregon law or administrative rules.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.948

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0310; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0320

Notice Requirements

(1) The Director shall provide written notice to the provider, master trustee, or applicant and to the State Mortuary and Cemetery Board of the Director's intent to impose discipline pursuant to ORS 97.948 or deny an application.

(2) The Director shall provide written notice of the Director's Final Order to impose discipline pursuant to ORS 97.948 or deny an application:

(a) Concerning a certified provider or certified provider applicant, to each depository or master trustee known by the Director to hold prearrangement plan trust accounts for which the certified provider or applicant is named; or

(b) Concerning a master trustee or master trustee applicant, to each certified provider known by the Director to have deposited trust funds with the master trustee or master trustee applicant.

(3) The notice required in sections 1 and 2 of this rule shall state:

(a) The reasons for the action;

(b) The effective date of the action; and

(c) For notice described in section (1) a statement of the right to request a hearing under ORS Chapter 183.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.948

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0320; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0330

Records to be Retained; Retention

(1) Each certified provider and master trustee shall maintain records to document the balances and transactions included in its annual report filed pursuant to OAR 441-930-0250 and shall retain these records for examination by the Director. Each certified provider and master trustee shall make, keep and preserve the following books, accounts and other records for a period of three years. The records required to be maintained include, but are not limited to:

(a) Workpapers documenting preparation of the annual report;

(b) General ledger or subsidiary ledger account records relating to prearrangement plans;

(c) Receipts register;

(d) Sales registers evidencing delivery of merchandise and/or services;

ADMINISTRATIVE RULES

(e) Workpapers documenting distribution of interest income to individual trusts in a common trust account;

(f) Prearrangement contract files, trust agreement files, and other supporting documentation related to prearrangement transactions;

(g) Bank statements; and

(h) Statements from other financial institutions.

(2) Books, accounts, and other records required to be maintained under section (1) of this rule may be maintained:

(a) In a photographic, electronic and other similar form; or

(b) At a location outside Oregon, so long as the books, accounts and other records are made accessible to the Director.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.947

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0330; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0340

Examination Report

Upon completion of an examination conducted pursuant to OAR 441-930-0070 or 441-930-0260 the Director shall issue a written report to the master trustee or certified provider indicating the examination procedures applied and the examination findings.

Stat. Auth.: ORS 97.933 & 97.935

Stats. Implemented: ORS 97.947

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0340; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0350

Funeral and Cemetery Consumer Protection Trust Fund

(1) The Director shall order restitution from the Funeral and Cemetery Consumer Protection Trust Fund when the following conditions are met:

(a) A claim for restitution is submitted to the Director on forms supplied by the Director accompanied by:

(A) A copy of the prearrangement contract;

(B) Copies of canceled checks or payment receipts demonstrating payment;

(C) Correspondence with the provider concerning attempts to obtain repayment; and

(D) Any other information the claimant believes may be helpful to document the claim.

(b) The loss claimed was incurred on a pre-arrangement plan entered into after September 27, 1987;

(c) The Director has reviewed the claim form and accompanying documentation and determined that a loss was incurred by the claimant on a prearrangement plan and that this loss is uncollectible from the seller of the plan;

(d) The claim for restitution does not exceed the sales price of the pre-arrangement plan, which is the subject of the claim plus interest at the statutory rate; and

(e) Sufficient funds are available in the Funeral and Cemetery Consumer Protection Trust Fund to pay the claim.

(2) The Director shall provide written notice of its intent to order restitution or not to order restitution on a claim to the maker of the claim and to the individual or firm that is the subject of the claim.

(3) The notice shall state the reasons for the action, the effective date of the action, and if restitution is denied a statement of the claimant's right to request a hearing under ORS Chapter 183.

Stat. Auth.: ORS 97.945

Stats. Implemented: ORS 97.945

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0350; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

441-930-0360

Additional Surety Bond Requirements for Endowment Care Cemeteries

(1) An individual or firm electing to file a surety bond or letter of credit to meet one of the requirements of ORS 97.929(1)(c)(C) regarding deposits of funds received from agreements to sell or sales of burial vaults or markers for installation in an endowment care cemetery and for sale of crypts or niches not in existence at the time of the sale, shall submit a bond or letter of credit in the amount of \$10,000.

(2) Upon notification from the surety of notice of intent to cancel the surety bond or from a financial institution of notice of intent to withdraw a letter of credit, the Director shall send written notice to the endowment care cemetery. This notice shall be sent by certified mail within three business days of receipt of notification by the Director from the surety. Failure to send the notice within three business days will not preclude the endowment

care cemetery from being subject to the provisions of ORS 97.923 to 97.949 and 692.180.

(3) A bond or letter of credit that commences no later than the cancellation date of the previous bond or letter of credit must be received by the Director no later than 5:00 pm Pacific Time on the day the bond is canceled or the letter of credit withdrawn.

Stat. Auth.: ORS 97.933

Stats. Implemented: ORS 97.929

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0360; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 2-2006, f. & cert. ef. 2-22-06

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Technical correction of rules relating to credit scoring.

Adm. Order No.: ID 4-2006

Filed with Sec. of State: 3-9-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 2-1-06

Rules Amended: 836-080-0430, 836-080-0438

Subject: This rulemaking permanently adopts temporary amendments that corrected an error in a 2005 amendment to OAR 836-080-0430, and also corrects and updates an obsolete statutory reference in a related rule.

Rules Coordinator: Sue Munson—(503) 947-7272

836-080-0430

Disclosure of Use of Credit History or Insurance Scores

(1) Before an insurer or its insurance producer may obtain the credit history or insurance score of a consumer in response to a request by the consumer relating to insurance coverage, the insurer or insurance producer shall notify the consumer that the insurer or insurance producer will check the credit history or insurance score of the consumer. The notice may be oral, in writing or in the same medium as the medium in which communication between the consumer and the insurer or insurance producer is conducted.

(2) An insurance producer need provide only one notice under section (1) of this rule to a consumer for the inquiry or inquiries that the insurance producer makes to one or more insurers in response to the request by the consumer.

(3) An insurer who uses credit histories or insurance scores for underwriting or rating coverage shall instruct each of its insurance producer that before an insurance producer may obtain a consumer's credit history or insurance score, the insurance producer must notify the consumer that the consumer's credit history or insurance score of the consumer will be checked.

(4) An insurer that uses the credit history or insurance score of a consumer when considering the consumer's application for insurance must notify the consumer during the application process that the consumer may request a written statement describing its use of credit histories or insurance scores. The notice to the consumer may be either in writing or in the same medium as the medium in which the application is made. The statement must address the following items:

(a) Why the insurer uses credit history or insurance scores.

(b) How the insurer uses credit histories or insurance scores.

(c) What kinds of credit information are used by the insurer.

(d) Whether a consumer's lack of credit history will affect the insurer's consideration of an application.

(e) Where the consumer may go with questions.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.015, 746.240, 746.661 & 746.663

Hist.: ID 25-2002, f. 12-17-02, cert. ef. 6-1-03; ID 7-2004, f. & cert. ef. 10-5-04; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 11-2005(Temp), f. & cert. ef. 9-15-05 thru 3-6-06; ID 4-2006, f. 3-9-06, cert. ef. 3-10-06

836-080-0438

Definition of Adverse Underwriting Decision; Notice

(1) For the purpose of the notice required by ORS 746.650(5), an adverse underwriting decision as defined in ORS 746.600(1)(a)(G)(iii) occurs when an insurer accepting an application for insurance would have given the consumer a lower rate if the consumer's credit history or the credit factors in the consumer's insurance score were more favorable.

(2) An insurer shall include in a notice of adverse underwriting decision required by ORS 746.650(5) an explanation of the consumer's right to

ADMINISTRATIVE RULES

request, no more than once annually, that the insurer rerate the consumer, and of potential negative consequences of rerating, if any.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.600 & 746.650

Hist.: ID 7-2004, f. & cert. ef. 10-5-04; ID 11-2005(Temp), f. & cert. ef. 9-15-05 thru 3-6-06; ID 4-2006, f. 3-9-06, cert. ef. 3-10-06

.....

Rule Caption: Permanently amends two long term care rules, extending effective date and governing submission of advertising.

Adm. Order No.: ID 5-2006

Filed with Sec. of State: 3-15-2006

Certified to be Effective: 3-20-06

Notice Publication Date: 2-1-06

Rules Amended: 836-052-0676, 836-052-0696

Subject: This rulemaking permanently adopts temporary rules that correct problems with two rules governing long term care insurance that were amended in 2005. The effective date of the rule relating to premium rate schedule increases is delayed and the rule governing review of advertising for long term care insurance is amended to provide for review only upon request of the Insurance Division.

Rules Coordinator: Sue Munson—(503) 947-7272

836-052-0676

Premium Rate Schedule Increases

(1) This rule applies as follows:

(a) Except as provided in subsection (b) of this section, this rule applies to any long-term care insurance policy or certificate issued in this state on or after March 1, 2006.

(b) For certificates issued on or after March 1, 2005 under a group long-term care insurance policy as defined in ORS 743.652(6)(a) that was in force on March 1, 2005, this rule applies on the policy anniversary following March 1, 2006.

(2) An insurer shall obtain approval of a premium rate schedule increase from the Director, including an exceptional increase as defined in section (3) of this rule prior to the notice to the policyholders and shall include the following in the submission to the Director:

(a) Information required by OAR 836-052-0556;

(b) Certification by a qualified actuary that:

(A) If the requested premium rate schedule increase is implemented and the underlying assumptions that reflect moderately adverse conditions are realized, no further premium rate schedule increases are anticipated; and

(B) The premium rate filing is in compliance with this rule.

(c) An actuarial memorandum justifying the rate schedule change request that includes:

(A) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale, as follows:

(i) Annual values for the five years preceding and the three years following the valuation date shall be provided separately;

(ii) The projections shall include the development of the lifetime loss ratio according to OAR 836-052-0666, unless the rate increase is an exceptional increase;

(iii) The projections shall demonstrate compliance with section (3) of this rule; and

(iv) For exceptional increases:

(I) The projected experience must be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(II) In the event the Director determines as provided in OAR 836-052-0505(1)(a) that offsets may exist, the insurer shall use appropriate net projected experience.

(B) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

(C) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the insurer have been relied on by the actuary;

(D) A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

(E) Composite rates reflecting projections of new certificates, in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase.

(d) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the Director; and

(e) Sufficient information for review and approval of the premium rate schedule increase by the Director.

(3) As used in this rule, "exceptional increase" means only those increases filed by an insurer as exceptional for which the Director determines the need for the premium rate increase is justified, owing to changes in statutes or rules applicable to long-term care insurance in this state or owing to increased and unexpected utilization that affects the majority of insurers of similar products. An exceptional increase is subject to the following provisions:

(a) Except as provided in this rule, an exceptional increase is subject to the same requirements as other premium rate schedule increases.

(b) The Director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

(c) The Director, in determining that the necessary basis for an exceptional increase exists, shall also determine any potential offsets to higher claims costs.

(4) All premium rate schedule increases shall be determined in accordance with the following requirements:

(a) Each exceptional increase shall provide that 70 percent of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

(b) Each premium rate schedule increase shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(A) The accumulated value of the initial earned premium times 58 percent;

(B) 85 percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(C) The present value of future projected initial earned premiums times 58 percent; and

(D) 85 percent of the present value of future projected premiums not in paragraph (C) of this subsection on an earned basis.

(c) In the event that a policy form has both exceptional and other increases, the values in subsection (b)(B) and (D) of this section will also include 70 percent for exceptional rate increase amounts; and

(d) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate specified in ORS 733.310 for the valuation of life insurance issued on the same date as the long-term care insurance. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(5) For each rate increase that is implemented, the insurer shall file for review and approval by the Director updated projections, as defined in section (2)(c)(A) of this rule, annually for the next three years and include a comparison of actual results to projected values. The Director may extend the period to greater than three years if actual results are not consistent with projections values from prior projections. For group insurance policies that meet the conditions in section (12) of this rule, the projections required by this section shall be provided to the policyholder in lieu of filing with the Director.

(6) If any premium rate in the revised premium rate schedule is greater than 200 percent of the comparable rate in the initial premium schedule, lifetime projections, as defined in section (2)(c)(A) of this rule, shall be filed for review and approval by the Director every five years following the end of the required period in section (5) of this rule. For group insurance policies that meet the conditions in section (12) of this rule, the projections required by this section shall be provided to the policyholder in lieu of filing with the Director.

(7)(a) If the Director has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projection under moderately adverse conditions demonstrates that incurred claims will not exceed proportions of premiums specified in section (4) of this rule, the Director may require the insurer to implement any of the following:

(A) Premium rate schedule adjustments; or

ADMINISTRATIVE RULES

(B) Other methods to reduce the difference between the projected and actual experience.

(b) In determining whether the actual experience adequately matches the projected experience, consideration shall be given to section (2)(c)(E) of this rule, if applicable.

(8) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:

(a) A plan, subject to Director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increase, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect, otherwise the Director may impose the condition in section (9) of this rule; and

(b) The original anticipated lifetime loss ratio and the premium rate schedule increase that would have been calculated according to section (4) of this rule had the greater of the original anticipated lifetime loss ratio or 58 percent been used in the calculations described in section (4)(a)(A) and (C) of this rule.

(9)(a) For a rate increase filing that meets the following criteria, the Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

(A) The rate increase is not the first rate increase requested for the specific policy form or forms;

(B) The rate increase is not an exceptional increase; and

(C) The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(b) In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the Director may determine that a rate spiral exists. Following the determination that a rate spiral exists:

(A) The Director may require the insurer to offer, without underwriting, to all in force insureds subjected to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

(B) An offer under paragraph (A) of this subsection shall:

(i) Be subject to the approval of the Director;

(ii) Be based on actuarially sound principles, but not be based on attained age;

(iii) Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and

(iv) Shall credit any unearned premium to the new coverage.

(C) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

(i) The maximum rate increase determined based on the combined experience; and

(ii) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent.

(10) If the Director determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the Director may, in addition to the provisions of section (9) of this rule, prohibit the insurer from doing either of the following:

(a) Filing and marketing comparable coverage for a period of up to five years; or

(b) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(11) Sections (1) to (10) of this rule do not apply to policies for which long-term care benefits provided by the policy are incidental if the policy complies with all of the provisions of this section. For the purpose of this section, "Incidental" means that the value of the long-term care benefits provided is less than ten percent of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue. The provisions are as follows:

(a) The interest credited internally to determine cash value accumulations, including long-term care, if any, must be guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy.

(b) The portion of the policy that provides insurance benefits other than long-term care coverage must meet the nonforfeiture requirements for those benefits.

(c) The policy must meet the disclosure requirements under OAR 836-052-0706 for long-term care insurance policies.

(d) The portion of the policy that provides insurance benefits other than long term care coverage must meet the requirements as applicable for life and annuity policies.

(e) An actuarial memorandum that includes the following items must be filed with the Director:

(A) A description of the basis on which the long term care rates were determined.

(B) A description of the basis for the reserves.

(C) A summary of the type of policy, benefits, renewability, general marketing method and limits on ages of issuance.

(D) A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any.

(E) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives.

(F) The estimated average annual premium per policy and the average issue age.

(G) A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs.

(H) A description of the effect of the long term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long term care claim status.

(12) Sections (6) and (8) of this rule do not apply to group insurance policies as defined in ORS 743.652(6)(a) when:

(a) The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or

(b) The policyholder and not the certificate holders pays a material portion of the premium, which shall not be less than 20 percent of the total premium for the group in the calendar year prior to the year a rate increase is filed.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 742.005, 743.018, 743.650 & 743.652

Hist.: ID 3-2005, f. & cert. ef. 3-1-05; ID 12-2005(Temp), f. & cert. ef. 10-3-05 thru 3-20-06; ID 5-2006, f. 3-15-06, cert. ef. 3-20-06

836-052-0696

Filing Requirements for Advertising

At the request of the Director, every insurer providing long-term care insurance or benefits in this state shall provide to the Director a copy of any long-term care insurance advertisement intended for use in this state, whether through the written, radio or television medium, for review or approval by the Director as authorized under ORS 742.009 and other state law. Each advertisement shall comply with all applicable laws and rules of this state.

Stat. Auth.: ORS 731.244 & 742.009

Stats. Implemented: ORS 742.009 & 743.655(1)(a)

Hist.: ID 20-1990, f. 12-13-90, cert. ef. 1-1-91; Renumbered from 836-052-0620, ID 3-2005, f. & cert. ef. 3-1-05; ID 12-2005(Temp), f. & cert. ef. 10-3-05 thru 3-20-06; ID 5-2006, f. 3-15-06, cert. ef. 3-20-06

.....

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

Rule Caption: Amendment of rules affecting medical fees and payment for the treatment of injured workers.

Adm. Order No.: WCD 3-2006

Filed with Sec. of State: 3-14-2006

Certified to be Effective: 4-1-06

Notice Publication Date: 2-1-06

Rules Amended: 436-009-0004, 436-009-0005, 436-009-0006, 436-009-0008, 436-009-0010, 436-009-0015, 436-009-0020, 436-009-0022, 436-009-0025, 436-009-0030, 436-009-0035, 436-009-0040, 436-009-0050, 436-009-0060, 436-009-0070, 436-009-0080, 436-009-0090

ADMINISTRATIVE RULES

Subject: These rules: • Replace all references to “usual and customary fees” with “usual fees” (because the prior term is sometimes inappropriately used to describe what is usual and customary in the marketplace, not just for the specific provider);

• Adopt by reference updated medical resources (436-009-0004):

-Centers for Medicare & Medicaid Services 2006 Medicare Resource-Based Relative Value Scale Addendum B “Relative Value Units (RVUs) and Related Information” except the “status indicators,” and Addendum C “Codes with Interim RVUs,” 70 Federal Register No. 223, November 21, 2005 as the fee schedule for payment of medical service providers except as otherwise provided in the rules;

-*American Society of Anesthesiologists (ASA), Relative Value Guide 2006* as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in the rules for anesthesia codes not found in the Federal Register; and

-*The Physicians’ Current Procedural Terminology (CPT® 2006)*, Fourth Edition Revised, 2005 for billing by medical providers;

• Allow, but do not require, use of the Healthcare Common Procedure Coding System (HCPCS) (436-009-0010(4));

• Clarify discounting for late billings (436-009-0010(5));

• Clarify procedures for separating hospital outpatient charges subject to the hospitals cost/charge ratio from all other charges (436-009-0020(2));

• Add to medical data reporting criteria provider-type codes for ambulatory surgical center, home health care, nursing home care, psychologist, and radiologist (no new data fields) (436-009-0030);

• Clarify that a pre-operative visit related to elective surgery need not be “immediate” to be included in the global value of the surgical procedure (436-009-0050(3));

• Increase physician assistants’ and nurse practitioners’ fees from 10% to 15% of the surgeon’s allowable fee for a surgical procedure; (436-009-0050(3));

• Modify the Oregon-specific codes for medical arborer examinations from “A” to “AR” codes (e.g. OSC-AR001), because some current codes match the national HCPCS codes for ambulance services (436-009-0070);

• Define (for purpose of clarification) “prosthetic,” “orthosis,” and “medical supplies” (436-009-0080);

• Require insurers to pay for durable medical equipment at 85% of the manufacturer’s suggested retail (MSRP) price; if MSRP is not available, the insurer must pay the provider 140% of the actual cost to the provider as documented by a sales receipt (436-009-0022 & 0080).

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

Rules are available on the internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-009-0004

Adoption of Standards

(1) The director adopts, by reference, the Centers for Medicare & Medicaid Services (CMS) 2006 Medicare Resource-Based Relative Value Scale (RBRVS) Addendum B “Relative Value Units (RVUs) and Related Information” except the “status indicators,” and Addendum C “Codes with Interim RVUs,” 70 Federal Register No. 223, November 21, 2005, as the basis for the fee schedule for payment of medical service providers except as otherwise provided in these rules.

(2) The director adopts, by reference, the *American Society of Anesthesiologists ASA, Relative Value Guide 2006* as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in these rules for those anesthesia codes not found in the Federal Register.

(3) The director adopts *The Physicians’ Current Procedural Terminology (CPT® 2006)*, Fourth Edition Revised, 2005, for billing by medical providers except as otherwise provided in these rules. The guidelines are adopted as the basis for determining level of service.

(4) Specific provisions contained in OAR chapter 436, divisions 009, 010, and 015 control over any conflicting provision in Addenda B and C, 70 Federal Register No., 223, November 21, 2005, ASA Relative Value Guide 2006, or CPT® 2006.

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

Stat. Auth.: ORS 656.248 & 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0005

Definitions

(1) Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of ORS Chapter 656 and OAR 436-010-0005 are hereby incorporated by reference and made part of these rules.

(2) Abbreviations used in these rules are either defined in the rules in which they are used or defined as follows:

(a) CMS means Centers for Medicare & Medicaid Services;

(b) CPT® means Current Procedural Terminology;

(c) EDI means Electronic Data Interchange;

(d) HCPCS means Healthcare Common Procedure Coding System;

(e) ICD-9-CM means International Classification of Diseases, Ninth Revision, Clinical Modification, Vol. 1, 2 & 3;

(f) MCO means Managed Care Organization;

(g) OSC means Oregon specific code;

(h) PCE means physical capacity evaluation;

(i) RBRVS means Medicare Resource-Based Relative Value Scale;

(j) RVU means relative value unit;

(k) WCE means work capacity evaluation.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.726(4)

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0006

Administration of Rules

Any orders issued by the division in carrying out the director’s authority to enforce ORS chapter 656 and OAR chapter 436, are considered orders of the director.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.726(4)

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0008

Administrative Review Before the Director

(1)(a) The director has exclusive jurisdiction to resolve all disputes concerning medical services including treatment, medical fees and non-payment of compensable medical bills. The director may, on the director’s own motion, initiate a medical service review at any time. A party need not be represented to participate in the administrative review before the director.

(b) Any party may request the director provide voluntary alternative dispute resolution after a request for administrative review or hearing is filed. When a dispute is resolved by agreement of the parties to the satisfaction of the director, the director will put the agreement in writing; or the parties shall put any agreement in writing for approval by the director. If the dispute is not resolved through alternative dispute resolution, the director will issue an order.

(2) The medical provider, injured worker, or insurer may request review by the director in the event of a dispute about either the amount of a fee or non-payment of bills for medical services on a compensable injury. The following time frames and conditions apply to requests for administrative review before the director under this rule:

(a) For all MCO enrolled claims where a party disagrees with an action or decision of the MCO, the aggrieved party shall first apply to the MCO for dispute resolution within 30 days pursuant to OAR 436-015-0110. When the aggrieved party is a represented worker, and the worker’s attorney has given written notice of representation, the 30 day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. Administrative review by the director must be requested within 60 days of receipt of the MCO’s final decision under the MCO’s dispute resolution process. If a party has been denied access to the MCO dispute process or the process has not been completed for reasons beyond a party’s control, the party may request director review within 60 days of the failure of the MCO process. If the MCO does not have a process for resolv-

ADMINISTRATIVE RULES

ing fee and billing disputes, the insurer shall advise the medical provider or worker that they may request review by the director.

(b) For all claims not enrolled in an MCO, or for disputes which do not involve an action or decision of the MCO, the aggrieved party must request administrative review by the director within 90 days of the date the party knew, or should have known, there was a dispute over the provision of medical services. This time frame only applies if the aggrieved party other than the insurer is given written notice that they have 90 days in which to request administrative review by the director. When the aggrieved party is a represented worker, and the worker's attorney has given written notice of representation, the 90 day time frame begins when the attorney receives written notice or has actual knowledge of the dispute. For purposes of this rule, the date the insurer should have known of the dispute is the date action on the bill was due pursuant to OAR 436-009-0030. Filing a request for administrative review under this rule may also be accomplished in the manner prescribed in OAR chapter 438, division 005.

(c) Under ORS 656.704(3)(c), when there is a formal denial of the underlying condition or a denial of the causal relationship between the medical service and the accepted condition, the issue may first be decided by the Hearings Division of the Workers' Compensation Board.

(3) Parties must submit requests for administrative review to the director in the form and format prescribed by the director. When an insurer or the worker's representative submits a request without the required information, at the director's discretion the administrative review may not be initiated until the information is submitted. Unrepresented workers may contact the director for help in meeting the filing requirements. The requesting party must simultaneously notify all other interested parties of the dispute, and their representatives, if known, as follows:

(a) Identify the worker's name, date of injury, insurer, and claim number.

(b) Specify the issues in dispute and the relief sought.

(c) Provide the specific dates of the unpaid disputed treatment or services.

(d) If the request for review is submitted by either the insurer or medical provider, it shall state specific code(s) of service(s) in dispute and include sufficient documentation to support the review request, including but not limited to copies of original CMS bills, chart notes, bill analyses, operative reports, any correspondence between the parties regarding the dispute, and any other documentation necessary to evaluate the dispute. The insurer or medical provider requesting review shall certify that they have provided all involved parties a copy of:

(A) The request for review; and

(B) Any attached supporting documentation; and

(C) If known, an indication of whether or not there is an issue of causation or compensability of the underlying claim or condition.

(4) The division will investigate the matter upon which review was requested.

(a) The investigation may include, but not be limited to, request for and review of pertinent medical treatment and payment records, interviews with the parties to the dispute, or consultation with an appropriate committee of the medical provider's peers.

(b) Upon receipt of a written request for additional information, the party must respond within 14 days.

(c) A dispute may be resolved by agreement between the parties to the dispute. When the parties agree, the director may issue a letter of agreement in lieu of an administrative order, which will become final on the 10th day after the letter of agreement is issued unless the agreement specifies otherwise. Once the agreement becomes final, the director may revise the agreement or reinstate the review only under one or more of the following conditions:

(A) A party fails to honor the agreement;

(B) The agreement was based on misrepresentation;

(C) Implementation of the agreement is not feasible because of unforeseen circumstances; or

(D) All parties request revision or reinstatement.

(5) The director may on the director's own motion reconsider or withdraw any order that has not become final by operation of law. A party may also request reconsideration of an administrative order upon an allegation of error, omission, misapplication of law, incomplete record, or the discovery of new information which could not reasonably have been discovered and produced during the review. The director may grant or deny a request for reconsideration at the director's sole discretion. A request must be mailed to the director before the administrative order becomes final.

(6) Hearings before an administrative law judge: Under ORS 656.704(2), any party that disagrees with an action or order of the director

under these rules may request a hearing by filing a request for hearing as provided in OAR 436-001-0019 within 30 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

(7) Contested case hearings of sanction and civil penalties: Under ORS 656.740, any party that disagrees with a proposed order or proposed assessment of a civil penalty issued by the director under ORS 656.254, or 656.745 may request a hearing by the Hearings Division of the Workers' Compensation Board as described in OAR 436-010-0008(14).

(8) Director's administrative review of other actions: Any party seeking an action or decision by the director or aggrieved by an action taken by any other party, not covered under sections (1) through (7) of this rule, according to these rules, may request administrative review by the director as follows:

(a) A written request for review must be sent to the administrator of the Workers' Compensation Division within 90 days of the disputed action and must specify the grounds upon which the action is contested.

(b) The division may require and allow such input and information as it deems appropriate to complete the review.

(c) The director may issue an order and will specify if the order is final or if it may be appealed under section (6) of this rule.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.248, 656.704 & OL 2005, Ch. 26

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; Renumbered from 436-069-0901, 5-1-85 WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-89, (Former sections (3), (4), & (7) Renumbered to 436-010-0130); WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0110; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 13-1999(Temp), f. & cert. ef. 10-25-99 thru 4-21-00; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 7-2005, f. 10-20-05, cert. ef. 1-2-06; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0010

General Requirements for Medical Billings

(1) Only treatment that falls within the scope and field of the practitioner's license to practice will be paid under a worker's compensation claim.

(2) All medical providers shall submit bills to the insurer or managed care organization, as provided by their contract for medical services, on a current UB92 or CMS 1500 form, except for:

(a) Dental billings which shall be submitted on American Dental Association dental claim forms;

(b) Pharmacy billings, which shall be submitted on the most current National Council for Prescription Drug Programs (NCPDP) form;

(c) EDI transmissions of medical bills under OAR 436-009-0030(3)(c). Computer-generated reproductions of these forms may also be used. Billings shall include the worker's full name, date of injury, the employer's name and, if available, the insurer's claim number.

(3)(a) All original medical provider billings shall be accompanied by legible chart notes documenting services which have been billed, and identifying the person performing the service and license number of person providing the service. Medical doctors are not required to provide their medical license number if they are already providing other identification such as a federal tax reporting identification number or Unique Provider Identification Number (UPIN).

(b) When processing billings via EDI, the insurer may waive the requirement that billings be accompanied by chart notes. The insurer remains responsible for payment of only compensable medical services. The medical provider may submit their chart notes separately or at regular intervals as agreed with the insurer.

(4) Codes listed in CPT[®] 2006 or Oregon Specific Codes (OSC) shall be used when billing medical services. All billings shall be fully itemized and include ICD-9-CM codes. Services shall be identified by the code numbers and descriptions provided in these rules. A "zz" qualifier shall be used when billing electronically for services that use Oregon Specific Codes.

(a) If there is no specific code for the medical service, the medical provider shall use the appropriate unlisted code at the end of each medical service section of CPT[®] 2006 and provide a description of the service provided. Providers may use the appropriate HCPCS code in the description.

(b) Any service not identifiable with a code number shall be adequately described by report.

(5) Medical providers must send billings for medical services within 60 days of the date of service. Late billings may be discounted by the insurer up to 10 percent of the remaining balance if the medical provider has received notice or knowledge of the responsible workers' compensation

ADMINISTRATIVE RULES

insurer or processing agent. The discount may be taken every 30 days for late billings.

(6) When rebilling, medical providers shall indicate that the charges have been previously billed.

(7) The medical provider shall bill their usual fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(8) Medical providers shall not submit false or fraudulent billings, including billing for services not provided. As used in this section, "false or fraudulent" shall mean an intentional deception or misrepresentation issued with the knowledge that the deception could result in unauthorized benefit to the provider or some other person.

(9) When a worker with two or more separate compensable claims receives treatment for more than one injury or illness, costs shall be divided among the injuries or illnesses, irrespective of whether there is more than one insurer.

(10) Workers may make a written request to a medical provider to receive copies of medical billings. Upon receipt of a request, the provider may furnish the worker a copy during the next billing cycle, but no later than 30 days following receipt of the request. Thereafter, worker copies shall be furnished during the regular billing cycle.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 656.245, 656.252 & ORS 656.254
Stats. Implemented: ORS 656.245, 656.252 & ORS 656.254
Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0015

Limitations on Medical Billings

(1) An injured worker is not liable to pay for any medical service related to an accepted compensable injury or illness or any amount reduced by the insurer according to OAR chapter 436. A medical provider shall not attempt to collect payment for any medical service from an injured worker, except as follows:

(a) When the injured worker seeks treatment for conditions not related to the accepted compensable injury or illness;

(b) When the injured worker seeks treatment that has not been prescribed by the attending physician or authorized nurse practitioner, or a specialist physician upon referral of the attending physician or authorized nurse practitioner. This would include, but not be limited to, ongoing treatment by non-attending physicians in excess of the 30 day/12 visit period or by nurse practitioners in excess of the 90 day period, as set forth in ORS 656.245 and OAR 436-010-0210;

(c) When the injured worker seeks palliative care that is either not compensable or not authorized by the insurer or the director under OAR 436-010-0290, after the worker has been provided notice that the worker is medically stationary;

(d) When the injured worker seeks treatment outside the provisions of a governing MCO contract after insurer notification in accordance with OAR 436-010-0275; or

(e) When the injured worker seeks treatment after being notified that such treatment has been determined to be unscientific, unproven, outmoded, or experimental.

(2) A medical provider may not charge any fee for completing a medical report form required by the director under this chapter or for providing chart notes required by OAR 436-009-0010(3) of this rule.

(3) The medical provider may not charge a fee for the preparation of a written treatment plan and the supplying of progress notes that document the services billed as they are integral parts of the fee for the medical service.

(4) No fee is payable for the completion of a work release form or completion of a PCE form where no tests are performed.

(5) No fee is payable for a missed appointment except a closing examination or an appointment arranged by the insurer or for a Worker Requested Medical Examination. Except as provided in OAR 436-009-0070(9)(d) and (10)(d), when the worker fails to appear without providing the medical provider at least 24 hours notice, the medical provider shall be paid at 50 percent of the examination or testing fee.

(6) Under ORS 656.245(3), the director has excluded from compensability the following medical treatment. While these services may be provided, medical providers shall not be paid for the services or for treatment of side effects.

(a) Dimethyl sulfoxide (DMSO), except for treatment of compensable interstitial cystitis;

(b) Intradiscal electrothermal therapy (IDET);

(c) Surface EMG (electromyography) tests;

(d) Rolofing;

(e) Prolotherapy; and

(f) Thermography.

(7) Only one office visit code may be used for each visit except for those code numbers relating specifically to additional time.

(8) Mechanical muscle testing may be paid a maximum of three times during a treatment program when prescribed and approved by the attending physician or authorized nurse practitioner: once near the beginning, once near the middle, and once near the end of the treatment program. Additional mechanical muscle testing shall be paid for only when authorized in writing by the insurer prior to the testing. The fee for mechanical muscle testing includes a copy of the computer printout from the machine, written interpretation of the results, and documentation of time spent with the patient.

(9)(a) When a physician or authorized nurse practitioner provides services in hospital emergency or outpatient departments which are similar to services that could have been provided in the physician's or authorized nurse practitioner's office, such services shall be identified by CPT® codes and paid according to the fee schedule.

(b) When a worker is seen initially in an emergency department and is then admitted to the hospital for inpatient treatment, the services provided immediately prior to admission shall be considered part of the inpatient treatment. Diagnostic testing done prior to inpatient treatment shall be considered part of the hospital services subject to the hospital fee schedule.

(10) Physician assistant, authorized nurse practitioner, or out-of-state nurse practitioner fees shall be paid at the rate of 85 percent of a physician's allowable fee for a comparable service. The bills for services by these providers must be marked with modifier "-81". Chart notes shall document when medical services have been provided by a physician assistant or nurse practitioner.

(11) Except as otherwise provided in OAR 436-009-0070, when a medical provider is asked to prepare a report, or review records or reports prepared by another medical provider, insurance carrier or their representative, the medical provider should bill for their report or review of the records utilizing CPT® Codes such as 99080. Refer to specific code definitions in the CPT® for other applicable codes. The billing should include the actual time spent reviewing the records or reports.

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

Stat. Auth.: ORS 656.245, 656.252 & 656.254

Stats. Implemented: ORS 656.245, 656.252 & 656.254

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0020

Hospital Fees

(1) Hospital inpatient charges billed to insurers shall include ICD-9-CM diagnostic and procedural codes. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for inpatient services using the current adjusted cost/charge ratio (see Bulletin 290). For purposes of this rule, hospital inpatient services include, but are not limited to, those bills coded "111" through "118" in space #4 on the UB92 billing form. The audited bill shall be multiplied by the hospital's adjusted cost/charge ratio to determine the allowable payment.

(2) Hospital outpatient charges billed to insurers shall include ICD-9-CM diagnostic and procedural codes, CPT® codes, HCPCS codes, and National Drug Codes (NDC), where applicable. Unless otherwise provided for by a governing MCO contract, insurers shall pay hospitals for outpatient services according to the following: the insurer shall first separate out and pay charges for services by physicians and other licensed medical service providers assigned a code under the CPT® and assigned a value in RBRVS for physician fees. These charges must be subtracted from the total bill and the adjusted cost/charge ratio applied only to the balance. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the non-facility total column. All other charges billed using both the hospital name and tax identification number will be paid as if provided by the hospital.

ADMINISTRATIVE RULES

(3) Each hospital's CMS 2552 form and financial statement shall be the basis for determining its adjusted cost/charge ratio. If a current form 2552 is not available, then financial statements may be used to develop estimated data. If the adjusted cost/charge ratio is determined from estimated data, the hospital will receive the lower ratio of either the hospital's last published cost/charge ratio or the hospital's cost/charge ratio based on estimated data.

(a) The basic cost/charge ratio shall be developed by dividing the total net expenses for allocation shown on Worksheet A, and as modified in subsection (b), by the total patient revenues from Worksheet G-2.

(b) The net expenses for allocation derived from Worksheet A shall be modified by adding, from Worksheet A-8, the expenses for:

(A) Provider-Based physician adjustment;

(B) Patient expenses such as telephone, television, radio service, and other expenses determined by the department to be patient-related expenses; and

(C) Expenses identified as for physician recruitment.

(c) The basic cost/charge ratio shall be further modified to allow a factor for bad debt and the charity care provided by each hospital. The adjustment for bad debt and charity care is calculated in two steps. Step one: Add the dollar amount for net bad debt to the dollar amount for charity care. Divide this sum by the dollar amount of the total patient revenues, from Worksheet G-2, to compute the bad debt and charity ratio. Step two: Multiply the bad debt and charity ratio by the basic cost/charge ratio calculated in subsection (3)(a) to obtain the factor for bad debt and charity care.

(d) The basic cost/charge ratio shall be further modified to allow an adequate return on assets. The director will determine a historic real growth rate in the gross fixed assets of Oregon hospitals from the audited financial statements. This real growth rate and the projected growth in a national fixed weight price deflator will be added together to form a growth factor. This growth factor will be multiplied by the total fund balance, from Worksheet G of each hospital's CMS 2552 to produce a fund balance amount. The fund balance amount is then divided by the total patient revenues from Worksheet G-2, to compute the fund balance factor.

(e) The factors resulting from subsections (3)(c) and (3)(d) of this rule will be added to the ratio calculated in subsection (3)(a) of this rule to obtain the adjusted cost/charge ratio. In no event will the adjusted cost/charge ratio exceed 1.00.

(f) The adjusted cost/charge ratio for each hospital will be revised annually, at a time based on their fiscal year, as described by bulletin. Each hospital shall submit a copy of their CMS 2552 and financial statements each year within 150 days of the end of their fiscal year to the Information Management Division, Department of Consumer and Business Services. The adjusted cost/charge ratio schedule will be published by bulletin twice yearly, effective for the six-month period beginning April 1 and the six-month period beginning October 1.

(g) For newly formed or established hospitals for which no CMS 2552 has been filed or for which there is insufficient data, or for those hospitals that do not file Worksheet G-2 with the submission of their CMS 2552, the division shall determine an adjusted cost/charge ratio for the hospital based upon the adjusted cost/charge ratios of a group of hospitals of similar size or geographic location.

(h) If the financial circumstances of a hospital unexpectedly or dramatically change, the division may revise the hospital's adjusted cost/charge ratio to allow equitable payment.

(i) If audit of a hospital's CMS 2552 by the CMS produces significantly different data from that obtained from the initial filing, the division may revise the hospital's adjusted cost/charge ratio to reflect the data developed subsequent to the initial calculation.

(j) Notwithstanding subsections (c) through (i) of this section, the cost/charge ratio shall be 1.000 for out-of-state hospitals, unless a lower rate is negotiated between the insurer and the hospital.

(k) Notwithstanding sections (1) and (2) of this rule, the director may exclude rural hospitals from imposition of the adjusted cost/charge ratio based upon a determination of economic necessity. The rural hospital exclusion will be based on the financial health of the hospital reflected by its financial flexibility index, as originally developed by Dr. William Cleverley. All rural hospitals having a financial flexibility index at or below the median for hospitals nationwide with a bond rating of BBB+, BBB, or BBB- will qualify for the rural exemption. Rural hospitals that are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost/charge ratio.

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

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

Stat. Auth.: ORS 656.726(4), 656.012, 656.236(5) & 656.327(2)

Stats. Implemented: ORS 656.248, 656.252, 656.256 & OL 1991, Ch. 771, Sec. 2
Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0701, 5-1-85; WCD 3-1985(Admin)(Temp), f. & ef. 9-4-85; WCD 4-1985(Admin)(Temp), f. & ef. 9-11-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1986(Admin)(Temp), f. 2-5-86, ef. 2-6-86; WCD 2-1986(Admin), f. 3-10-86, ef. 3-17-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 2-1989, f. 8-21-89, cert. ef. 9-1-89; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 15-1990, f. & cert. ef. 8-7-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 18-1995(Temp), f. & cert. ef. 12-4-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0090; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; Administrative correction 6-18-97; WCD 8-1997(Temp), f. & cert. ef. 7-9-97; WCD 16-1997, f. & cert. ef. 12-15-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0022

Ambulatory Surgical Center Fees

(1) An ambulatory surgical center (ASC) is any distinct entity licensed by the state of Oregon, and operated exclusively for the purpose of providing surgical services to patients not requiring hospitalization.

(a) Any ambulatory surgical center outside of Oregon must meet similar licensing requirements, or be certified by Medicare or a nationally recognized agency.

(b) Bills from an ASC shall be submitted on CMS 1500 form. The modifier "SG" shall be used to identify facility charges.

(2) Fees shall be paid at the provider's usual fee, or in accordance with the fee schedule, whichever is less. For all MCO enrolled claims, payment of fees shall be as provided by the MCO contract, at the provider's usual fee, or according to the fee schedule, whichever is less.

(3) Payment shall be made using the Medicare ASC groups, except:

(a) Arthroscopies (CPT® codes 29819 through 29898 except 29888 and 29889) are paid as Group 6.

(b) Arthroscopies (CPT® codes 29888 and 29889) are paid as Group

7.

(c) Procedures not listed in the Medicare ASC groups shall be paid at the provider's usual rate.

(4) The ASC fee schedule is:

Group 1 — \$ 853.28

Group 2 — \$ 1,143.88

Group 3 — \$ 1,307.68

Group 4 — \$ 1,616.75

Group 5 — \$ 1,838.68

Group 6 — \$ 2,108.00

Group 7 — \$ 2,551.95

Group 8 — \$ 2,485.78

Group 9 — \$ 3,444.43

(5) The ASC fee includes services, such as:

(a) Nursing, technical, and related services;

(b) Use of the facility where the surgical procedure is performed;

(c) Drugs, biologicals, surgical dressings, supplies, splints, casts, and appliances and equipment directly related to the provision of the surgical procedure;

(d) Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure;

(e) Administrative, record-keeping, and housekeeping items and services;

(f) Materials for anesthesia;

(g) Supervision of the services of an anesthetist by the operating surgeon.

(6) The ASC fee does not include services, such as physicians' services, laboratory, x-ray or diagnostic procedures not directly related to the surgical procedure, prosthetic devices, orthotic devices, durable medical equipment (DME), and anesthetists' services. The insurer shall pay for prosthetic devices, orthotic devices, and DME as provided in OAR 436-009-0080.

(7) When multiple procedures are performed, the highest payment group shall be paid at 100% of the maximum allowed fee. Each additional procedure shall be paid at 50% of the maximum allowed fee.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248 & 656.252

Hist.: WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03;

WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0025

Reimbursement of Related Services Costs

(1) The insurer shall notify the worker at the time of claim acceptance that actual and reasonable costs for travel, prescriptions and other claim-related services paid by the worker will be reimbursed by the insurer upon request. The insurer may require reasonable documentation to support the

ADMINISTRATIVE RULES

request. Insurers shall date stamp requests for reimbursement upon receipt and shall reimburse the costs within 30 days of receiving the worker's written request and supporting documentation, if the request clearly shows the costs are related to the accepted compensable injury or disease. If the insurer cannot determine if the costs are related to the accepted compensable injury or disease, the insurer shall inform the worker what information is needed before the request for reimbursement can be processed. On deferred claims, requests which are at least 30 days old at the time of claim acceptance become due immediately upon claim acceptance and shall be paid within 14 days. If there is a claim for aggravation or a new medical condition on an accepted claim, reimbursement of related services is not due and payable until the aggravation or new medical condition is accepted. If the claim is denied, requests for reimbursement shall be returned to the worker within 14 days.

(2) Reimbursement of the costs of meals, lodging, public transportation and use of a private vehicle reimbursed at the rate of reimbursement for State of Oregon classified employees, as published in Bulletin 112, complies with this section. Except, reimbursement may exceed these rates where special transportation or lodging is needed.

(3) Requests for reimbursement of related services costs must be received by the insurer within two years of the date the costs were incurred or within two years of the date the claim or medical condition is finally determined compensable, whichever date is later. The insurer may disapprove requests for reimbursement received beyond the two year period as being untimely requested.

(4) Requests for reimbursement denied as unreasonable or not related to the accepted compensable injury or disease shall be returned to the worker within 30 days of the date of receipt by the insurer. The insurer shall provide the worker an explanation of the reason for nonpayment and advise the worker of the right to appeal the insurer's decision by requesting administrative review before the director, under OAR 436-009-0008.

(5) Pursuant to ORS 656.325(1)(c) and OAR 436-060-0095(5)(f), the insurer shall reimburse the worker for costs related to the worker's attendance at an independent medical examination regardless of the acceptance, deferral, or denial of the claim.

Stat. Auth.: ORS 656.245, 656.704 & 656.726(4)

Stats. Implemented: ORS 656.245, 656.704 & 656.726(4)

Hist.: WCB 6-1969, f. 10-23-69, ef. 10-29-69; WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0270, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02, Renumbered from 436-060-0070; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0030

Insurer's Duties and Responsibilities

(1) The insurer shall pay for medical services related to a compensable injury claim, except as provided by OAR 436-060-0055.

(2) The insurer, or its designated agent, may request from the medical provider, any and all necessary records needed to review accuracy of billings. The medical provider may charge an appropriate fee for copying documents in accordance with OAR 436-009-0070(1). If the evaluation of the records must be conducted on-site, the provider shall furnish a reasonable work-site for the records to be reviewed at no cost. These records shall be provided or made available for review within 14 days of a request.

(3) Insurers shall date stamp medical bills and reports upon receipt and pay bills for medical services on accepted claims within 45 days of receipt of the bill, if the billing is submitted in proper form in accordance with OAR 436-009-0010(2) through (4) and clearly shows that the treatment is related to the accepted compensable injury or disease. Billings not submitted in the proper form must be returned to the medical provider within 20 days of receipt of the bill. A request for chart notes on EDI billings must be made to the medical provider within 20 days of receipt of the bill. The number of days between the date the insurer returns the billing or requests for chart notes from the provider and the date the insurer receives the corrected billing or chart notes, shall not apply toward the 45 days within which the insurer is required to make payment.

(a) The insurer shall retain a copy of each medical provider's bill received by the insurer or shall be able to reproduce upon request data relevant to the bill, including but not limited to, provider name, date of service, date the insurer received the bill, type of service, billed amount, coding submitted by the medical provider as described in OAR 436-009-0010(2), and insurer action, for any fee reduction other than a fee schedule reduction. This includes all bills submitted to the insurer even when the insurer determines no payment is due.

(b) Any service billed with a code number commanding a higher fee than the services provided shall be returned to the medical provider for correction or paid at the value of the service provided.

(c) When a medical provider renders a bill via EDI, it shall be considered "mailed" in accordance with OAR 436-010-0005.

(4) Payment of medical bills is required within 14 days of any action causing the service to be payable, or within 45 days of the insurer's receipt of the bill, whichever is later.

(5) Failure to pay for medical services timely may render insurer liable to pay a reasonable monthly service charge for the period payment was delayed, if the provider customarily levies such a service charge to the general public.

(6) When there is a dispute over the amount of a bill or the appropriateness of services rendered, the insurer shall, within 45 days, pay the undisputed portion of the bill and at the same time provide specific reasons for non-payment or reduction of each medical service code. Resolution of billing disputes shall be made in accordance with OAR 436-009-0008, 436-010-0008 and 436-015.

(7) Bills for medical services rendered at the request of the insurer and bills for information submitted at the request of the insurer, which are in addition to those required in OAR 436-010-0240 shall be paid for within 45 days of receipt by the insurer even if the claim is denied.

(8) The insurer shall establish an audit program for bills for all medical services to determine that the bill reflects the services provided, that appropriate prescriptions and treatment plans are completed in a timely manner, that payments do not exceed the maximum fees adopted by the director, and that bills are submitted in a timely manner. The audit shall be continuous and shall include no fewer than 10 percent of medical bills. The insurer shall provide upon request documentation establishing that the insurer is conducting a continuous audit of medical bills. This documentation shall include, but not be limited to, medical bills, internal audit forms, and any medical charge summaries prepared by private medical audit companies.

(9) The insurer must pay a medical provider for any bill related to the claimed condition received by the insurer on or before the date the terms of a disputed claim settlement (DCS) were agreed on, but was either not listed in the approved DCS or was not paid to the medical provider as set forth in the approved DCS. Payment must be made by the insurer as prescribed by ORS 656.313(4)(d) and OAR 438-009-0010(2)(g) as if the bill had been listed in the approved settlement or as set forth in the approved DCS, except if the DCS payments have already been made, the payment must not be deducted from the settlement proceeds. Payment must be made within 45 days of the insurer's knowledge of the outstanding bill.

(10) Insurers that had at least 100 accepted disabling claims in the previous calendar year, as determined by the director, are required to submit detailed medical service billing data to the Information Management Division of the Department of Consumer and Business Services at 350 Winter St NE, Room 300, PO Box 14480, Salem OR 97309-0405. Once an insurer has reached the minimum number of accepted disabling claims, they must continue to report in subsequent years unless there is a significant decrease below the 100 claim minimum which is expected to continue. If the insurer drops below the 100 disabling claim level or encounters other significant hardships, the insurer may apply to the director for exemption from the reporting requirement. The reporting requirements are as follows:

(a) The director will notify the affected insurers when they reach the minimum. The transmission data and format requirements are included in Appendix A;

(b) The data shall include all payments made during each calendar quarter for medical services that are covered by the department's fee schedules. The following apply:

(A) Hospital Inpatient: Each hospital inpatient stay should be reported as one record summarizing all services related to the inpatient stay using provider type "HI." Report ICD-9-CM procedure code in the service code field.

(B) Hospital Outpatient: Report at the individual service-code level using provider type "HO." A service code, whether CPT®, HCPCS or other, is required on all "HO" records in addition to the ICD-9-CM diagnostic code.

(C) Adjustments to payments must be associated with specific services.

(c) The affected insurers shall submit the medical data within 45 days of the end of each calendar quarter. A grace period of two calendar quarters may be granted for revised requirements and also for insurers which are newly affected by these requirements. The calendar quarter due dates are as outlined in the table below:

ADMINISTRATIVE RULES

QUARTERLY DUE DATES Table
QUARTER — MONTH OF PAYMENT — DUE NEXT
First — January, February & March — May 15th
Second — April, May & June — August 14th
Third — July, August & September — November 14th
Fourth — October, November & December — February 14th

(d) Technical Requirements: Data for each quarter calendar year must be transmitted as an individual file. Insurers transmitting data for more than one insurer may batch multiple insurer data files in one transmission. Data must be transmitted in electronic text files either on a 3.5 inch diskette, CD, or by file transfer protocol (FTP). Contact the Information Management Division (IMD) to arrange submission by FTP files or other electronic transmission methods. The record length must be fixed, 129 bytes, no packed fields, and in conformance with the records layout in Appendix A. Diskettes must be ASCII format, high density. Diskettes and CDs must have a physical label that indicates "Medical Data," the name of the group submitting, the quarter reported, and the date the file was created. Include a cover letter in the same package with each diskette or CD. Contact IMD for e-mail cover letter instructions. The cover letter must include the label information and the following: a list of all insurance companies' name included in the transmission; number of records; a contact person's name, address, and telephone number; and any known problems with the data.

(e) Data Quality: The director will conduct electronic edits for blank or invalid data. Affected insurers are responsible for pre-screening the data they submit to check that all the required information is reported. Files which have more than five percent missing or invalid data in any field, based on initial computerized edits, will be returned to the insurer for correction and must be resubmitted within three weeks (21 days) from the date it was returned by the department.

(f) Audit Quality: The director may also conduct field audits of actual payments reported for individual claims. When an audit occurs, in order to be in compliance with this rule audited data must have no more than 15 percent inaccurate data in any field.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.252, 656.325, 656.245, 656.248, 656.260 & 656.264
Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0035

Interim Medical Benefits

(1) Interim medical benefits are not due on claims:

(a) When the worker is enrolled in an MCO prior to claim acceptance pursuant to ORS 656.245(4)(b)(B).

(b) When the insurer denies the claim within 14 days of the employer's notice.

(c) With dates of injury prior to January 1, 2002.

(2) Interim medical benefits include:

(a) Diagnostic services required to identify appropriate treatment or prevent disability.

(b) Medication required to alleviate pain.

(c) Services required to stabilize the worker's claimed condition and to prevent further disability. Examples of such services may include, but are not limited to: antibiotic or anti-inflammatory medication; physical therapy and other conservative therapies; and necessary surgical procedures.

(3) If the medical service provider has knowledge that the worker filed a work related claim, the medical service provider shall not collect health benefit plan co-payment from the worker.

(4) The medical service provider shall submit a copy of the bill to the workers' compensation insurer in accordance with OAR 436-009-0010, and the health benefit plan(s) in accordance with the plan's requirements.

(5) The insurer shall notify the medical service provider when an initial claim is denied.

(6) When the claim is denied, the medical service provider shall first bill the health benefit plan(s) with a copy of the workers' compensation denial letter.

(7) After payment is received from the health benefit plan(s), the medical service provider may bill the workers' compensation insurer, according to OAR 436-009-0010, for any remaining balance. The provider shall include a copy of the health benefit plan(s)' explanation of benefits with the bill. If the worker has no health benefit plan, the workers' compensation insurer is not required to pay for interim medical benefits.

(8) The workers' compensation insurer shall pay in accordance with the Oregon fee rules, any amount not reimbursed by the health benefit plan within 45 days of receipt of the bill with the health plan's explanation of benefits, in accordance with OAR 436-009-0030(6).

Stat. Auth.: ORS 656.245, 656.704, 656.726(4)
Stats. Implemented: ORS 656.247
Hist.: WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0040

Calculating Medical Provider Fees

(1) The insurer shall pay for medical services at the provider's usual fee or in accordance with the fee schedule whichever is less. Insurers shall pay for medical services that have no fee schedule at the provider's usual fee. For all MCO enrolled claims, the insurer shall pay for medical services at the provider's usual fee or according to the fee schedule, whichever is less, unless otherwise provided by MCO contract. Where there is no maximum payment established by the fee schedule, an insurer may challenge the reasonableness of a provider's billing on a case by case basis by asking the director to review the billing under OAR 436-009-0008. If the director determines the amount billed is unreasonable, the director may establish a different fee to be paid to the provider based on at least one of, but not limited to, the following: reasonableness, the usual fees of similar providers, the services provided in the specific case, fees for similar services in similar geographic regions, and any extenuating circumstances.

(2)(a) When using RBRVS, the RVU is determined by reference to the appropriate CPT® code. Where the procedure is performed inside the medical service provider's office, use Year 2006 non-facility total column. Where the procedure is performed outside the medical service provider's office, use Year 2006 facility total column. Use the global column to identify the follow up days when applicable. For all outpatient therapy services (physical therapy, occupational therapy, and speech language pathology), use the Year 2006 non-facility total column. No other column applies.

(b) When an Oregon Specific Code is assigned, the RVU for multi-disciplinary program services is found in OAR 436-009-0060(5), or for other services in OAR 436-009-0070(12).

(c) When using the *American Society of Anesthesiologists Relative Value Guide*, a basic unit value is determined by reference to the appropriate Anesthesia code. The anesthesia value includes the basic unit value, time units, and modifying units.

(3) Payment according to the fee schedule shall be determined by multiplying the assigned RVU or basic unit value by the applicable conversion factor. Where the code is designated by an RVU of "0.00" or IC (individual consideration) for Anesthesia codes, the insurer shall pay at the provider's usual rate.

(4) The table below lists the conversion factors to be applied to services, assigned an RVU, rendered by all medical professionals.

Service Categories — Conversion Factors
Evaluation/Management — \$68.40
Anesthesiology — \$53.45
Surgery — \$93.66
Radiology — \$68.00
Lab & Pathology — \$60.00
Medicine — \$75.04
Physical Medicine and Rehabilitation — \$65.79
Multidisciplinary and Other Oregon-Specific Codes — \$60.00
Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.248
Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0050

CPT® Sections

Each CPT® section has its own schedule of relative values, completely independent of and unrelated to any of the other sections. The definitions, descriptions, and guidelines found in CPT® shall be used as guides governing the descriptions of services, except as otherwise provided in these rules. The following provisions are in addition to those provided in each section of CPT®.

(1) Evaluation and Management services.

(2) Anesthesia services.

(a) In calculating the units of time, use 15 minutes per unit. If a medical provider bills for a portion of 15 minutes, round the time up to the next 15 minutes and pay one unit for the portion of time.

(b) Anesthesia basic unit values are to be used only when the anesthesia is personally administered by either a licensed physician or nurse anesthetist who remains in constant attendance during the procedure for the sole purpose of rendering such anesthesia service.

(c) When a regional anesthesia is administered by the attending surgeon, the value shall be the "basic" anesthesia value only without added value for time.

ADMINISTRATIVE RULES

(d) When the surgeon or attending physician administers a local or regional block for anesthesia during a procedure, the modifier "NT" (no time) shall be noted on the bill.

(e) Local infiltration, digital block, or topical anesthesia administered by the operating surgeon is included in the relative value unit for the surgical procedure.

(3) Surgery services.

(a) When a worker is scheduled for elective surgery, the pre-operative visit, in the hospital or elsewhere, necessary to examine the patient, complete the hospital records, and initiate the treatment program is included in the listed global value of the surgical procedure. If the procedure is not elective, the physician is entitled to payment for the initial evaluation of the worker in addition to the global fee for the surgical procedure(s) performed.

(b) When an additional surgical procedure(s) is carried out within the listed period of follow-up care for a previous surgery, the follow-up periods will continue concurrently to their normal terminations.

(c) Multiple surgical procedures performed at the same session shall be paid as follows:

(A) When multiple surgical procedures are performed by one surgeon, the principal procedure is paid at 100 percent of the maximum allowable fee, the secondary and all subsequent procedures are paid at 50 percent of the maximum allowable fee. A diagnostic arthroscopic procedure performed preliminary to an open operation, is considered a secondary procedure and paid accordingly.

(B) When multiple arthroscopic procedures are performed, the major procedure shall be paid at no more than 100 percent of the value listed in these rules and the subsequent procedures paid at 50 percent of the value listed.

(C) When more than one surgeon performs surgery, each procedure shall be billed separately. The maximum allowable fee for each procedure, as listed in these rules, shall be reduced by 25 percent. When the surgeons assist each other throughout the operation, each is entitled to an additional fee of 20 percent of the other surgeon's allowable fee as an assistant's fee. When the surgeons do not assist each other, and a third physician assists the surgeons, the third physician is entitled to the assistant's fee of 20 percent of the surgeons' allowable fees.

(D) When a surgeon performs surgery following severe trauma that requires considerable time, and the surgeon does not think the fees should be reduced under the multiple surgery rule, the surgeon may request special consideration by the insurer. Such a request must be accompanied by written documentation and justification. Based on the documentation, the insurer may pay for each procedure at 100 percent.

(E) When a surgical procedure is performed bilaterally, the modifier "-50" shall be noted on the bill for the second side, and paid at 50% of the fee allowed for the first side.

(d) Physician assistants or nurse practitioners shall be paid at the rate of 15 percent of the surgeon's allowable fee for the surgical procedure(s). The bills for services by these providers shall be marked with a modifier "-81." Chart notes shall document when medical services have been provided by a physician assistant or nurse practitioner.

(e) Other surgical assistants who are self-employed and work under the direct control and supervision of a physician shall be paid at the rate of 10 percent of the surgeon's allowable fee for the surgical procedure(s). The operation report shall document who assisted.

(4) Radiology services.

(a) In order to be paid, x-ray films must be of diagnostic quality and include a report of the findings. Billings for 14" x 36" lateral views shall not be paid.

(b) When multiple areas are examined by computerized axial tomography (CAT) scan, magnetic resonance angiography (MRA) or magnetic resonance imaging (MRI), the first area examined shall be paid at 100 percent, the second area at 50 percent, and the third and all subsequent areas at 25 percent of these rules.

(5) Pathology and Laboratory services.

(a) The laboratory and pathology conversion factor applies only when there is direct physician involvement.

(b) Laboratory fees shall be billed in accordance with ORS 676.310. If any physician submits a bill for laboratory services that were performed in an independent laboratory, the bill shall show the amount charged by the laboratory and any service fee that the physician charges.

(6) Medicine services.

(7) Physical Medicine and Rehabilitation services.

(a) Increments of time for a time-based CPT® code shall not be pro-rated.

(b) Payment for modalities and therapeutic procedures shall be limited to a total of three separate CPT® coded services per day. CPT® codes 97001, 97002, 97003, or 97004 are not subject to this limit. An additional unit of time (15 minute increment) for the same CPT® code is not counted as a separate code.

(c) All modality codes requiring constant attendance (97032, 97033, 97034, 97035, 97036, and 97039) are time-based. Chart notes must clearly indicate the time treatment begins and the time treatment ends for the day.

(d) CPT® codes 97010 through 97028 shall not be paid unless they are performed in conjunction with other procedures or modalities which require constant attendance or knowledge and skill of the licensed medical provider.

(e) When multiple treatments are provided simultaneously by a machine, device or table there shall be a notation on the bill that treatments were provided simultaneously by a machine, device or table and there shall be one charge.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0060

Oregon Specific Code, Multidisciplinary Services

(1) Services provided by multidisciplinary programs not otherwise described by CPT® codes shall be billed under Oregon Specific Codes. Electronic billings shall include a "zz" modifier as provided in OAR 436-009-0010.

(2) Treatment in a chronic pain management program, physical rehabilitation program, work hardening program, or a substance abuse program shall not be paid unless the program is accredited for that purpose by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

(a) Organizations which have applied for CARF accreditation, but have not yet received such accreditation, may receive payment for multidisciplinary programs upon providing evidence to the insurer that an application for accreditation has been filed with and acknowledged by CARF. Such organizations may provide multidisciplinary services under this section for a period of up to 6 months from the date CARF provided notice to the organization that the accreditation process has been initiated, or until such time as CARF accreditation has been received or denied, whichever occurs first.

(b) Notwithstanding OAR 436-009-0010(4), program fees for services within a multidisciplinary program may be used based upon written pre-authorization from the insurer. Programs must identify the extent, frequency, and duration of services to be provided.

(c) All job site visits and ergonomic consultations must be preauthorized by the insurer.

(3) When an attending physician or authorized nurse practitioner approves a multidisciplinary treatment program for an injured worker, he or she must provide the insurer with a copy of the approved treatment program within 14 days of the beginning of the treatment program.

(4) Billings using the multidisciplinary codes must include copies of the treatment record which specifies the type of service rendered, the medical provider who provided the service, whether treatment was individualized or provided in a group session, and the amount of time treatment was rendered for each service billed.

(5) The table below lists the Oregon Specific Codes for Multidisciplinary Services.

Codes — Relative Value — Description

97642 — 0.91 — Physical conditioning — group — 1 hour. Conditioning exercises and activities, graded and progressive.

97643 — 0.46 — Each additional 30 minutes.

97644 — 1.45 — Physical conditioning — individual 1 hour. Conditioning exercises and activities, graded and progressive.

97645 — 0.73 — Each additional 30 minutes.

97646 — 0.91 — Work simulation — group 1 hour. Real or simulated work activities addressing productivity, safety, physical tolerance and work behaviors.

97647 — 0.46 — Each additional 30 minutes.

97648 — 1.50 — Work simulation — individual 1 hour. Real or simulated work activities addressing productivity, safety, physical tolerance and work behaviors.

97649 — 0.75 — Each additional 30 minutes.

97650 — 0.81 — Therapeutic education — individual 30 minutes. Medical, psychosocial, nutritional and vocational education dependent on needs and stated goals.

97651 — 0.41 — Each additional 15 minutes.

97652 — 0.54 — Therapeutic education — group 30 minutes. Medical, psychosocial, nutritional and vocational education dependent on needs and stated goals.

97653 — 0.28 — Each additional 15 minutes.

97654 — 0.41 — Professional Case Management — Individual 15 minutes. Evaluate and communicate progress, determine needs/services, coordinate counseling and crisis intervention dependent on needs and stated goals (other than done by physician).

ADMINISTRATIVE RULES

97655 — 0.39 — Brief Interdisciplinary Rehabilitation Conference — 10 minutes. A decision-making body composed of each discipline essential to establishing and accomplishing goals, processes, time frames and expected benefits.

97656 — 0.78 — Intermediate Interdisciplinary Rehabilitation Conferences — 20 minutes. A decision-making body composed of each discipline essential to establishing and accomplishing goals, processes, and time frames and expected benefits.

97657 — 1.35 — Complex Interdisciplinary Rehabilitation Conferences — 30 minutes. A decision-making body composed of each discipline essential to establishing and accomplishing goals, processes, time frames and expected benefits.

97658 — 0.68 — Each additional 15 minutes Complex conference — up to 1 hour maximum.

97659 — 1.72 — Job site visit — 1 hour (includes travel) — must be preauthorized by insurer. A work site visit to identify characteristics and physical demands of specific jobs.

97660 — 0.86 — Each additional 30 minutes.

97661 — 2.32 — Ergonomic consultation — 1 hour (includes travel) — must be preauthorized by insurer. Work station evaluation to identify the ergonomic characteristics relative to the worker, including recommendations for modifications.

97662 — 0.94 — Vocational evaluation — 30 minutes. Evaluation of work history, education and transferable skills coupled with physical limitations in relationship to return to work options.

97663 — 0.47 — Each additional 15 minutes.

97664 — 1.27 — Nursing evaluation — 30 minutes. Nursing assessment of medical status and needs in relationship to rehabilitation.

97665 — 0.63 — Each additional 15 minutes.

97666 — 1.02 — Nutrition evaluation — 30 minutes. Evaluation of eating habits, weight and required modifications in relationship to rehabilitation.

97667 — 0.52 — Each additional 15 minutes.

97668 — 1.07 — Social worker evaluation — 30 minutes. Psychosocial evaluation to determine psychological strength and support system in relationship to successful outcome.

97669 — 0.54 — Each additional 15 minutes.

97670 — 6.70 — Initial Multidisciplinary conference — up to 30 minutes.

97671 — 7.56 — Initial Complex Multidisciplinary conference — up to 60 minutes.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0070

Oregon Specific Code, Other Services

(1) Except for records required in OAR 436-009-0010(3), copies of requested medical records shall be paid under OSC-R0001.

(2) A brief narrative by the attending physician or authorized nurse practitioner, including a summary of treatment to date and current status, and, if requested, brief answers to one to five specific questions related to the attending physician's or authorized nurse practitioner's current or proposed treatment, shall be paid under OSC-N0001.

(3) A complex narrative by the attending physician or authorized nurse practitioner, may include past history, history of present illness, attending physician's or authorized nurse practitioner's treatment to date, current status, impairment, prognosis, and medically stationary information, shall be paid under OSC-N0002.

(4) Fees for a PCE and a WCE shall be based upon the type of evaluation requested. The description of each level of evaluation and the maximum allowable payment shall be as follows:

(a) **FIRST LEVEL PCE:** This is a limited evaluation primarily to measure musculoskeletal components of a specific body part. These components include such tests as active range of motion, motor power using the 5/5 scale, and sensation. This level requires not less than 45 minutes of actual patient contact. A first level PCE shall be paid under OSC-99196 which includes the evaluation and report. Additional 15-minute increments may be added if multiple body parts are reviewed and time exceeds 45 minutes. Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(b) **SECOND LEVEL PCE:** This is a PCE to measure general residual functional capacity to perform work or provide other general evaluation information, including musculoskeletal evaluation. It may be used to establish Residual Functional Capacities for claim closure. This level requires not less than two hours of actual patient contact. The second level PCE shall be paid under OSC-99197 which includes the evaluation and report. Additional 15 minute increments may be added to measure additional body parts, to establish endurance and to project tolerances. Each additional 15 minutes shall be paid under OSC-99193 which includes the evaluation and report.

(c) **WCE:** This is a residual functional capacity evaluation which requires not less than 4 hours of actual patient contact. The evaluation may include a musculoskeletal evaluation for a single body part. A WCE shall be paid under OSC-99198 which includes the evaluation and report. Additional 15 minute increments (per additional body part) may be added to determine endurance (e.g. cardiovascular) or to project tolerances (e.g., repetitive motion). Each additional 15 minutes shall be paid under OSC-

99193 which includes the evaluation and report. Special emphasis should be given to:

(A) The ability to perform essential physical functions of the job based on a specific job analysis as related to the accepted condition;

(B) The ability to sustain activity over time; and

(C) The reliability of the evaluation findings.

(5) When an attorney requires a consultation with a medical provider, the medical provider shall bill under OSC-D0001.

(6) The fee for a deposition shall be billed under OSC-D0002. This code should include time for preparation, travel and deposition. Payment of the hourly rate may be limited to a customary fee charged by similar providers.

(7) When an insurer obtains an Independent Medical Examination (IME):

(a) The medical service provider doing the IME shall bill under OSC-D0003. This code shall be used for a report, file review or examination;

(b) If the insurer asks the attending physician to review the IME report and respond, the attending physician shall bill for the time spent reviewing and responding using OSC-D0019. Billing should include documentation of time spent.

(8) The fee for interpretive services shall be billed under OSC-D0004.

(9) Fees for all arbiters and panel of arbiters used for director reviews pursuant to OAR 436-030-0165 shall be established by the director. This fee determination will be based on the complexity of the examination, the report requirements and the extent of the record review. The level of each category is determined by the director based on the individual complexities of each case as compared to the universe of claims in the medical arbiter process. When the examination is scheduled, the director shall notify the medical arbiter and the parties of the authorized fee for that medical arbiter review based on a combination of separate components.

(a) Level 1 — OSC-AR001 — Exam

Level 2 — OSC-AR002 — Exam

Level 3 — OSC-AR003 — Exam

Limited — OSC-AR004 — Exam

As determined by the director, a level 1 exam generally involves a basic medical exam with no complicating factors. A level 2 exam generally involves a moderately complex exam and may have complicating factors. A level 3 exam generally involves a very complex exam and may have several complicating factors. A limited exam generally involves a newly accepted condition, or some other partial exam.

(b) Level 1 — OSC-AR011 — Report

Level 2 — OSC-AR012 — Report

Level 3 — OSC-AR013 — Report

As determined by the director, a level 1 report generally includes standard questions. A level 2 report generally includes questions regarding complicating factors. A level 3 report generally includes questions regarding multiple complicating factors.

(c) Level 1 — OSC-AR021 — File Review

Level 2 — OSC-AR022 — File Review

Level 3 — OSC-AR023 — File Review

Level 4 — OSC-AR024 — File Review

Level 5 — OSC-AR025 — File Review

As determined by the director, a level 1 file review generally includes review of a limited record. A level 2 file review generally includes review of an average record. A level 3 file review generally includes review of a large record or disability evaluation without an exam. A level 4 file review generally includes an extensive record. A level 5 file review generally includes an extensive record with unique factors.

(d) The director will notify the medical arbiter and the insurer of the approved code for each component to establish the total fee for the medical arbiter review. If a worker fails to appear for a medical arbiter examination without giving each medical arbiter at least 48 hours notice, each medical arbiter shall be paid at 50 percent of the examination or testing fee. A medical arbiter may also receive payment for a file review as determined by the director.

(e) If the director determines that a supplemental medical arbiter report is necessary to clarify information or address additional issues, an additional report fee may be established. The fee is based on the complexity of the supplemental report as determined by the director. The additional fees are established as follows:

Limited — OSC-AR031

Complex — OSC-AR032

(f) Prior to completion of the reconsideration process, the medical arbiter may request the director to redetermine the authorized fee by providing the director with rationale explaining why the physician believes the fee should be different than authorized.

(g) The director may authorize testing which shall be paid according to OAR 436-009.

(h) Should an advance of costs be necessary for the worker to attend a medical arbiter exam, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director

ADMINISTRATIVE RULES

agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(10) A single physician selected under ORS 656.327 or 656.260, to review treatment, perform reasonable and appropriate tests, or examine the worker, and submit a report to the director shall be paid at an hourly rate up to a maximum of 4 hours for record review and examination.

(a) The physician will be paid for preparation and submission of the report. Billings for services by a single physician shall be billed under OSC-P0001 for the examination and under OSC-P0003 for the report.

(b) Physicians selected under OAR 436-010-0008, to serve on a panel of physicians shall each receive payment based on an hourly rate up to a maximum of 4 hours for record review and panel examination. Each physician shall bill for the record review and panel examination under OSC-P0002. The panel member who prepares and submits the panel report shall receive an additional payment under OSC-P0003.

(c) The director may in a complex case requiring extensive review by a physician pre-authorize an additional fee. Complex case review shall be billed under OSC-P0004.

(d) If a worker fails to appear for a director required examination without providing the physician with at least 48 hours notice, each physician shall bill under OSC-P0005.

(e) Should an advance of costs be necessary for the worker to attend an exam under ORS 656.327 or 656.260, a request for advancement shall be made in sufficient time to ensure a timely appearance. After receiving a request, the insurer must advance the costs in a manner sufficient to enable the worker to appear on time for the exam. If the insurer believes the request is unreasonable, the insurer shall contact the director in writing. If the director agrees the request is unreasonable, the insurer may decline to advance the costs. Otherwise, the advance must be made timely as required in this subsection.

(11) The fee for a Worker Requested Medical Examination shall be billed under OSC-W0001. This code shall be used for a report, file review, or examination.

(12) The table below lists the **Oregon Specific Codes for Other Services**.

Codes — Relative Value — Description

R0001	—	Copies of medical records when requested shall be paid at \$10.00 for the first page and \$5.50 for each page thereafter and identified on billings
N0001	— 1.71	Brief narrative by the attending physician or authorized nurse practitioner
N0002	— 3.41	Complex narrative by the attending physician or authorized nurse practitioner
99196	— 3.00	First Level PCE
99197	— 5.36	Second Level PCE
99198	— 11.31	WCE
99193	— 0.77	Additional 15 minutes
D0001	— 0.00	Attorney consultation time
D0002	— 0.00	Deposition time
D0003	— 0.00	Independent Medical Examination (IME) and report
D0004	— 0.00	Interpretive services
D0019	— 0.00	Attending physician review and response to IME report
AR001	— 5.12	Level 1 arbiter exam
AR002	— 6.82	Level 2 arbiter exam
AR003	— 8.53	Level 3 arbiter exam
AR004	— 2.56	Level 4 arbiter exam
AR011	— 0.88	Level 1 arbiter report
AR012	— 1.32	Level 2 arbiter report
AR013	— 1.77	Level 3 arbiter report
AR021	— 0.88	Level 1 arbiter file review
AR022	— 2.21	Level 2 arbiter file review
AR023	— 5.30	Level 3 arbiter file review
AR024	— 10.23	Level 4 arbiter file review
AR025	— 13.65	Level 5 arbiter file review
AR031	— 0.88	Limited arbiter report
AR032	— 1.77	Complex arbiter report
P0001	— 4.27	Director single medical review/exam
P0002	— 4.27	Director panel medical review/exam
P0003	— 2.17	Director single medical review/report
P0004	— 5.12	Director complex case review/exam
P0005	— 2.17	Failure to appear director required examination
W0001	— 0.00	Worker Requested Medical Examination and report

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.248
Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 13-2001, f. 12-17-01, cert. ef. 1-1-02; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0080

Durable Medical Equipment and Medical Supplies

(1) Durable medical equipment (DME) is equipment that is primarily and customarily used to serve a medical purpose, can withstand repeated use, could normally be rented and used by successive patients, is appropri-

ate for use in the home, and not generally useful to a person in the absence of an illness or injury. For example: Transcutaneous Electrical Nerve Stimulation (TENS), MicroCurrent Electrical Nerve Stimulation (MENS), home traction devices, heating pads, reusable hot/cold packs, etc. Fees for durable medical equipment shall be paid as follows:

(a) The insurer shall pay for the purchase of all compensable DME that are ordered and approved by the physician, at 85% of the manufacturer's suggested retail price (MSRP). If no MSRP is available, the insurer shall pay the provider 140% of the actual cost to the provider for the item as documented on a receipt of sale.

(b) The DME provider is entitled to payment for any labor and reasonable expenses directly related to any subsequent modifications other than those performed at the time of purchase, or repairs. A subsequent modification is one done other than as a part of the initial set-up at the time of purchase. The insurer shall pay for labor at the provider's usual rate.

(c) The provider may offer a service agreement at an additional cost.

(d) Rental of all compensable DME shall be billed at the provider's usual rate. Within 90 days of the beginning of the rental, the insurer may purchase the DME or device at the fee provided in this rule, with a credit for rental paid up to 2 months.

(2) A prosthetic is an artificial substitute for a missing body part or any device aiding performance of a natural function. For example: hearing aids, eye glasses, crutches, wheelchairs, scooters, artificial limbs, etc. The insurer shall pay the fee for a prosthetic at the provider's usual rate.

(a) Testing for hearing aids must be done by a licensed audiologist or an otolaryngologist.

(b) Based on current technology, the preferred types of hearing aids for most workers are programmable BTE, ITE, and CIC multi channel. Any other types of hearing aids needed for medical conditions will be considered based on justification from the attending physician or authorized nurse practitioner.

(c) Without approval from the insurer or director, hearing aids should not exceed \$5000 for a pair of hearing aids, or \$2500 for a single hearing aid.

(3) An orthosis is an orthopedic appliance or apparatus used to support, align, prevent or correct deformities, or to improve the function of a moveable body part. For example: brace, splint, shoe insert or modification, etc. The insurer shall pay the fee for an orthosis at the provider's usual rate.

(4) Medical supplies are materials that may be reused multiple times by the same person, but a single supply is not intended to be used by more than one person, including, but not limited to incontinent pads, catheters, bandages, elastic stockings, irrigating kits, sheets, and bags. The insurer shall pay the fees for medical supplies at the provider's usual rate.

(5) The worker may select the service provider, except for claims enrolled in a managed care organization (MCO) where service providers are specified by the MCO contract.

(6) Except as provided in subsection (2)(c) of this rule, this rule does not apply to a worker's direct purchase of DME and medical supplies, and does not limit a worker's right to reimbursement for actual out-of-pocket expenses under OAR 436-009-0025.

(7) DME, medical supplies and other devices dispensed by a hospital (inpatient or outpatient) shall be billed and paid according to OAR 436-009-0020.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.248

Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02, cert. ef. 4-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04, cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

436-009-0090

Pharmacy Fees

(1) Except for in-patient hospital charges, the insurer shall pay for pharmacy fees at the provider's usual rate or the maximum allowable fee established by this rule, whichever is the lower.

(a) The Average Wholesale Price (AWP) effective on the day the drug was dispensed shall be used to determine the maximum allowable fee.

(b) The maximum allowable fee is determined as follows:

(A) For generic drugs and for brand name drugs without a generic equivalent, 88% of the AWP for the dispensed drug plus \$8.70 dispensing fee.

(B) For brand name drugs with a generic equivalent, if the prescribing medical service provider writes "Do not substitute" or a similar notation on the prescription, 88% of the AWP for the dispensed drug plus \$8.70 dispensing fee.

(C) For brand name drugs with a generic equivalent, if the prescribing medical service provider did not write "Do not substitute" or a similar

ADMINISTRATIVE RULES

notation on the prescription, the lower of 88% of the AWP for the dispensed drug plus \$8.70 dispensing fee, or 88% of the average AWP for the class of generic drugs plus \$8.70 dispensing fee, or, in the event that the pricing guides have not established an average AWP, 88% of the calculated average AWP of the generic drugs listed in the pricing guide plus \$8.70 dispensing fee.

(c) All providers who are licensed to dispense medications in accordance with their practice must be paid similarly regardless of profession.

(2) All prescription medications are required medical services and do not require prior approval under the palliative care provisions of OAR 436-010-0290.

(3) Under ORS 689.515(2) licensed providers may dispense generic drugs to injured workers.

(4) Payment for Oxycontin and COX-2 inhibitors is limited to an initial five-day supply unless the prescribing medical service provider writes a clinical justification for prescribing that drug rather than a less costly drug with a similar therapeutic effect.

(a) The clinical justification may accompany the prescription and be submitted by the pharmacist or may be given directly to the insurer by the medical provider.

(b) Clinical justification means a written document from the medical service provider stating the reason he or she believes the drug ordered is the one the patient should have. The justification may be included on the prescription itself and may simply be a brief statement. Insurers and self-insured employers cannot challenge the adequacy of the clinical justification. However, they can challenge whether or not the medication is excessive, inappropriate, or ineffectual in accordance with ORS 656.327.

(c) An additional clinical justification is not necessary for refills of that medication.

(5) Insurers shall use the prescription pricing guide published by First DataBank Inc, Thomson Healthcare, Inc., or Facts & Comparisons (a Wolters Kluwer Health, Inc., Company) for calculating payments to the licensed provider. Insurers must update their source at least monthly.

(6) The worker may select the pharmacy, except for claims enrolled in a managed care organization (MCO) where pharmacy service providers are specified by the MCO contract.

(7) Except for sections 2, 3, 4 and 6 of this rule, this rule does not apply to a worker's direct purchase of prescription medications, and does not limit a worker's right to reimbursement for actual out-of-pocket expenses under OAR 436-009-0025.

(8) The insurer shall pay the retail-based fee for over-the-counter medications.

(9) Drugs dispensed by a hospital (inpatient or outpatient) shall be billed and paid according to OAR 436-009-0020.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.248
Hist.: WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06

Department of Corrections Chapter 291

Rule Caption: Standards Governing Use of Telephones by Inmates.
Adm. Order No.: DOC 2-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-13-06

Notice Publication Date: 7-1-05

Rules Adopted: 291-130-0011, 291-130-0021, 291-130-0080

Rules Amended: 291-130-0006, 291-130-0020, 291-130-0030, 291-130-0050, 291-130-0060

Rules Repealed: 291-130-0010, 291-130-0070

Rules Ren. & Amend: 291-130-0040 to 291-130-0016

Subject: The department has upgraded its inmate telephone system to provide for advances in technology. The upgrade changes the way in which inmates may access and use the new system. These rule modifications are necessary to establish new standards governing the use of telephones by inmates.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-130-0006

Definitions

(1) Debit Call: A telephone call placed by an inmate using funds from the inmate's telephone account.

(2) Legal Telephone Call: Telephone calls between an inmate and his/her attorney or the attorney's documented representative(s), legal aid bureaus or other organizations as deemed appropriate by the department. The department will maintain a "legal call list" as specified in OAR 291-130-0021. Calls to numbers on the legal call list will not be subject to monitoring or recording by the department.

(3) Officer-in-Charge: That person designated by the functional unit manager to supervise the facility and make operational decisions in accordance with policy, rule or procedure during periods when the functional unit manager or officer-of-the-day are not readily available.

(4) Personal Identification Number (PIN): An assigned number used by an inmate to access the inmate telephone system. The number consists of the inmate's nine-digit telephone account number and a five-digit number issued by the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0011

Operation of Inmate Telephones

(1) Inmates are required to use their personal identification number (PIN) to access the inmate telephone system.

(a) Inmates are responsible to maintain security of their PIN.

(b) An inmate may not use another inmate's PIN.

(c) The department is not responsible for theft, loss or costs related to an inmate lending his/her PIN or failing to provide for its safekeeping.

(d) An inmate's PIN will be terminated if it has been lost, stolen, or if in the sole judgment of the functional unit manager/designee, the PIN has been used by the inmate or another person to engage in activity that violated department rule, state or federal law, or in other activity that poses a threat or is detrimental to the security, safety, health, good order or discipline within a Department of Corrections facility, inmate rehabilitation or that facilitates criminal activity.

(A) If an inmate's PIN is terminated, the department will issue the inmate a new PIN that allows the inmate to access the inmate telephone system to make legal calls only.

(B) A PIN replacement fee must be paid for the inmate to have access to telephone numbers on his/her personal call list. The functional unit manager/designee may in his/her sole discretion waive the PIN replacement fee if the functional unit manager/designee determines that the PIN was compromised through no fault of the inmate.

(2) Personal Call List: Each inmate shall be authorized a maximum of 40 telephone numbers on his/her personal call list. The numbers on an inmate's personal call list do not include phone numbers on the legal call list as specified in OAR 291-130-0021.

(a) An inmate may add or delete numbers on his/her personal call list by completing an Inmate Call List form (CD 1445) and submitting it to Inmate Phones at the department's Central Office. Department staff will verify each new number before adding it to the list.

(b) Changes to the personal call list are limited to once each month (up to five numbers) with a maximum of 40 numbers per calendar year.

(3) Debit Calls: The department will establish a telephone account for each inmate.

(a) An inmate may deposit funds in his/her telephone account by completing an Inmate Withdrawal Request (CD 28) and submitting it to designated staff. Designated staff will verify funds are available in the inmate's trust account, and forward the Inmate Withdrawal Request to the Central Trust Unit for processing. The Central Trust Unit will forward the funds to the phone company.

(b) An inmate shall address any issues regarding funds in his/her telephone account directly to the phone company.

(c) Debit calls will disconnect when funds in an inmate's telephone account have been depleted.

(d) Inmates may utilize their PIN to access their individual telephone account balance through the inmate phone system.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0016

General Provisions

(1) All calls must be placed as collect or debit. Only collect or debit calls can be made from telephones designated for inmate use.

(2) The functional unit manager or designee has the authority to restrict telephone calls by an inmate if the safety of the public would be involved or the security of the facility or safety and welfare of the person to be called would be jeopardized.

ADMINISTRATIVE RULES

(3) Inmates will not participate in three-way or conference calls or any form of call forwarding.

(4) Inmates shall not place charges to third party numbers, motels, hotels, places of business, credit cards or to telephone company calling card numbers.

(5) If the telephone call cannot be completed because no one answers or the line is busy, the inmate shall hang up and attempt another call at another time.

(6) Inmates shall not be permitted to loiter in the surrounding area where telephones are located.

(7) Only one inmate at a time shall be permitted access to a telephone. The inmate who initiates a call is the only person authorized to converse with the contact party during that call.

(8) Inmates may be required to sign up on the telephone log (CD 755) to reserve a time to use a telephone in a housing unit or activity area when there are a large number of inmates who want access to a telephone, but there is a limited number of telephones.

(9) A set of Oregon telephone directories for major cities shall be located in the facility library.

(10) Special Housing:

(a) Inmates in disciplinary segregation are not allowed telephone services except for emergency calls, legal calls as specified in OAR 291-130-0021(3) or other calls as authorized by the functional unit manager.

(b) Inmates in Administrative Segregation are allowed telephone services. The functional unit manager/designee will designate hours for inmate telephone use.

(c) Inmates in an Intensive Management Unit (IMU) are not allowed telephone services except for emergency calls, legal calls as specified in OAR 291-130-0021(3) or other calls as authorized by the functional unit manager. Authorization for telephone access shall be made by the IMU supervisor.

(d) Inmates in a Special Management Unit (SMU) are permitted to place calls from inmate telephone(s) in the unit. SMU management may limit access to telephones if the access interferes with the inmate's treatment.

(e) Inmates on Death Row are allowed telephone services as authorized in the Department of Corrections rule on Death Row Housing Unit (OAR 291-093).

(f) Inmates in Department of Corrections facility infirmaries are allowed telephone services as established by the functional unit manager.

(11) Other inmate telephone services or restrictions, not specifically addressed in this rule, may be implemented for safety and security reasons or as authorized by the functional unit manager.

(12) Inmates shall report all inmate phone repair issues as directed by the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(5); DOC 7-2002, f. & cert. ef. 6-12-02; Renumbered from 291-130-0040, DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0020

Monitoring, Termination and Blocking of Calls

(1) All calls are subject to monitoring and recording except for legal telephone calls.

(2) Directly above each group of monitored telephones, a sign shall be posted stating in English and Spanish "Phone calls are subject to be monitored and recorded."

(3) An inmate's use of the telephone system to engage in activity that is a violation of department rules, state, or federal law may result in disciplinary action and possible restriction of telephone services.

(4) The department may block access to phone numbers used to commit a crime or violate department rules, including any attempt to place a three-way call or use any form of call forwarding.

(5) An inmate's telephone services or individual telephone calls may be suspended by the functional unit manager/designee, in his/her sole discretion, when the functional unit manager/designee has reason to believe the inmate has used or may use inmate telephone services to engage in activity that violates department rule, state or federal law, or to engage in other activity that poses a threat or is detrimental to the security, safety, health, good order or discipline within a Department of Corrections facility, inmate rehabilitation, or that facilitates criminal activity.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(3); DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0021

Legal Calls

(1) The department shall maintain a list of legal telephone numbers entitled the "legal call list." Inmate calls to attorneys whose telephone numbers appear on the legal call list will not be monitored or recorded by the department. The legal call list shall include the official telephone numbers of all attorneys registered with and provided to the Oregon State Bar Association, official telephone numbers of attorneys who have requested and been added to the list as specified in subsection (2) below and business telephone numbers of other organizations as deemed appropriate by department and whose communication with inmates shall be considered confidential. The list of official numbers of attorneys registered with the Oregon State Bar will be updated twice a year.

(2) Upon request of an attorney whose official telephone number is not on the legal call list or upon request of the attorney's inmate client, the department will verify the number with the appropriate state bar and add the attorney's official telephone number to the list. However, the department will not include an attorney's home, cell or other telephone number on the department's legal call list that is not the attorney's contact telephone number provided to the appropriate state bar. Inmate calls to telephone numbers not on the legal call list will be subject to monitoring or recording by the department.

(3) An inmate with an active or pending case with an imminent court deadline of ten business days or less who does not have regular access to the inmate telephone system (e.g., the inmate is in disciplinary segregation or Intensive Management Unit) may be permitted a legal call to his/her attorney as approved by the officer-in-charge or the inmate's counselor.

(a) Use of Inmate Telephone System: Designated staff will make arrangements for the inmate to make the call.

(b) Use of Staff Phones: Designated staff will facilitate the call and verify the identity of the person called. The staff member shall leave the area where the call is taking place; however, the inmate shall be kept under observation. The call should be placed as collect, if possible. Use of staff phones for such calls shall be held to a minimum.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0030

Emergency Access

(1) All requests for emergency telephone calls from inmates, or a member of the public due to a death or serious illness of a person with a substantial relationship to an inmate may be approved by the officer-in-charge, inmate's counselor, or the chaplain upon verification of the emergency. Designated staff will facilitate the call and verify the identity of the person called. Calls shall be monitored by staff.

(2) The functional unit manager or staff specifically designated by the functional unit manager may approve other emergency calls as necessary for issues specific to the inmate. Such calls will be handled in the same manner as in section (1) above.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93, Renumbered from 291-130-0010(4); DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0050

Use of Institution Telephones (Inside Lines)

(1) Inmates inside a facility will not answer outside lines unless specifically authorized in writing by the functional unit manager/designee.

(2) Inmates authorized and assigned by a staff member may answer an institution telephone in an assigned area. Inmates so assigned shall answer by stating their title, last name, location, and saying, "May I help you." Example: "Inmate Jones, unit one, may I help you?"

(3) Inmates may be assigned to make telephone calls as part of their job assignment.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0060

Location of Telephones and Hours of Telephone Use

(1) The functional unit manager/designee shall designate hours for inmate telephone use.

(2) Telephones located in recreational areas; i.e., yard, multi-purpose, shall normally be available during the normal hours inmates are allowed access to the respective area.

ADMINISTRATIVE RULES

(3) Locations of telephones and hours for use of telephones shall be posted on unit bulletin boards and included in inmate admission and orientation material or in inmate handbooks at all Department of Corrections facilities.

(4) The functional unit manager may restrict the times telephones are available to inmates to conform to line movements, scheduled inmate activities, meals, and staff availability.

(5) Call durations may vary based on the physical locations of phones as established by the functional unit manager/designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 5-1988, f. & cert. ef. 3-21-88; CD 8-1993, f. 3-10-93, cert. ef. 4-1-93; DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

291-130-0080

Remaining Telephone Fund Balances Upon Release

Remaining funds balances received from the phone company will be deposited to individual inmate trust accounts as per the department's rule on Trust Accounts (OAR 291-158-0045) less a processing fee imposed by the department. Funds deposited on behalf of inmates who are indebted to the department are subject to collection as per OAR 291-158-0065. Any remaining funds are disbursed to the inmate through the Oregon Trail card or by check.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2006, f. 3-10-06, cert. ef. 3-13-06

Department of Environmental Quality Chapter 340

Rule Caption: Division 110 PCB Rule Amendments.

Adm. Order No.: DEQ 1-2006

Filed with Sec. of State: 3-15-2006

Certified to be Effective: 3-15-06

Notice Publication Date: 9-1-05

Rules Amended: 340-110-0001, 340-110-0020, 340-110-0061

Subject: These rule amendments incorporate by reference changes to Federal PCB regulations from January 1989 through July 1, 2004.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-110-0001

Purpose, Scope and Applicability

(1) The purpose of this division is to establish requirements for the storage, treatment, disposal and marking prior to disposal of PCB and PCB items.

(2) These regulations are in addition to and do not preempt any local, state or federal statutes or regulations.

(3) This division incorporates, by reference, PCB management regulations of the federal program, included in 40 CFR Part 761 as of July 1, 2004, into Oregon Administrative Rules. Persons must consult 40 CFR Part 761 in addition to this division to determine all applicable PCB management requirements. Persons must also consult division 120 of this chapter for additional siting and permitting requirements for PCB disposal.

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

Stat. Auth.: ORS 183, 459, 466.020, 466.075, 466.105, 466.195 & 468

Stats. Implemented: ORS 466.020, 466.025, 466.030 & 466.505

Hist.: DEQ 7-1984, f. & ef. 4-26-84; DEQ 12-1986, f. & ef. 5-20-86; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 1-2006, f. & cert. ef. 3-15-06

340-110-0020

Manufacturing, Processing, Distribution in Commerce and Use of PCB and PCB Items

The provisions of 40 CFR 761.20 through 761.35 are deleted.

NOTE: 40 CFR 761.20(e) is adopted by reference with the adoption of 40 CFR, Part 279 (Used Oil Management Regulations) in OAR 340-100-0002. 40 CFR 279.10(i) requires used oil marketers and burners of used oil containing quantifiable levels of PCBs to meet the standards in 40 CFR 761.20(e).

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

Stat. Auth.: ORS 192, 465.009, 466.015, 466.020, 466.075, 466.090, 468.020 & 646

Stats. Implemented: ORS 466.510 & 466.515

Hist.: DEQ 12-1986, f. & ef. 5-20-86; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 1-2006, f. & cert. ef. 3-15-06

340-110-0061

Additional Disposal Requirements

(1) Section (2) of this rule is added to the provisions of 40 CFR 761(a).

(2) Spills, leaks and other uncontrolled discharges of PCB constitute disposal of PCB and shall be reported and managed in accordance with division 142.

(3) Section (4) of this rule is added to the provisions of 40 CFR 761.60(e).

(4) The permit shall be issued in accordance with divisions 106 and 120 and may contain conditions and provisions as the Department deems appropriate.

(5) Section (6) of this rule is added to 40 CFR 761.60.

(6) Waste Oil. The use of waste oil that contains any detectable concentration of PCB as a sealant coating or dust control agent is prohibited. Prohibited uses include, but are not limited to, road oiling, general dust control, use as a pesticide carrier and use as a rust preventative on pipes.

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

Stat. Auth.: ORS 466 & 468

Stats. Implemented: ORS 459A.595 & 466.635

Hist.: DEQ 6-1987, f. & ef. 3-5-87; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 1-2006, f. & cert. ef. 3-15-06

Rule Caption: Adoption of Federal Air Quality Regulations.

Adm. Order No.: DEQ 2-2006

Filed with Sec. of State: 3-14-2006

Certified to be Effective: 3-14-06

Notice Publication Date: 9-1-05

Rules Amended: 340-200-0020, 340-200-0040, 340-216-0060, 340-238-0040, 340-238-0050, 340-238-0060, 340-244-0030, 340-244-0040, 340-244-0220

Subject: Oregon's Environmental Quality Commission (EQC) adopted by reference recent revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS). The EQC also adopted amendments made to the definition of volatile organic compounds (VOC), and the list of hazardous air pollutants (HAP). Adoption by the EQC ensures that Oregon air quality rules remain consistent with the federal air quality requirements.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-200-0020

General Air Quality Definitions

As used in divisions 200 through 268, unless specifically defined otherwise:

(1) "Act" or "FCAA" means the Federal Clean Air Act, 42 U.S.C.A. §§ 7401 to 7671q.

(2) "Activity" means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.

(3) "Actual emissions" means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) For determining actual emissions as of the baseline period:

(A) Except as provided in paragraph (B), actual emissions equal the average rate at which the source actually emitted the pollutant during a baseline period and that represents normal source operation;

(B) The Department presumes that the source-specific mass emissions limit included in a source's permit that was effective on September 8, 1981 is equivalent to the source's actual emissions during the baseline period if it is within 10% of the actual emissions calculated under paragraph (A).

(C) For any source that had not begun normal operation, actual emissions equal the potential to emit of the source.

(b) For determining actual emissions for Emission Statements under OAR 340-214-0200 through 340-214-0220 and Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities, except categorically insignificant activities and secondary emissions.

(c) For Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions must be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(4) "Adjacent" means interdependent facilities that are nearby to each other.

ADMINISTRATIVE RULES

(5) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(6) "Affected states" means all states:

(a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or

(b) That are within 50 miles of the permitted source.

(7) "Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified.

(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, and each criteria pollutant, except lead;

(b) 120 pounds for lead;

(c) 600 pounds for fluoride;

(d) 500 pounds for PM10 in a PM10 nonattainment area;

(e) The lesser of the amount established in OAR 340-244-0040, **Table 1** or 340-244-0230, **Table 3**, or 1,000 pounds;

(f) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.

(8) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(9) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340 division 216.

(10) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(11) "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rule-making under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in **40 CFR Part 52**;

(b) Any standard or other requirement adopted under OAR 340-200-0040 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;

(c) Any term or condition in an ACDP, OAR 340 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340 division 224, New Source Review, until or unless the Department revokes or modifies the term or condition by a permit modification;

(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0200 through 340-210-0240, until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;

(e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless the Department revokes or modifies the term or condition by a Notice of Approval or a permit modification;

(f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;

(g) Any standard or other requirement under section 111 of the Act, including section 111(d);

(h) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;

(i) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(j) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(k) Any standard or other requirement under section 126(a)(1) and (c) of the Act;

(l) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(n) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(p) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and

(q) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

(12) "Assessable Emission" means a unit of emissions for which the major source owner or operator will be assessed a fee. It includes an emission of a pollutant as specified in OAR 340-220-0060 from one or more emissions devices or activities within a major source.

(13) "Baseline Emission Rate" means the actual emission rate during the baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after the baseline period.

(14) "Baseline Period" means any consecutive 12 calendar month period during calendar years 1977 or 1978. The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(15) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.

(16) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(17) "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

(18) "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

(b) Evaporative and tail pipe emissions from on-site motor vehicle operation;

(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;

(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

(i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;

(j) On-site laundry activities;

(k) On-site recreation facilities;

ADMINISTRATIVE RULES

- (l) Instrument calibration;
 - (m) Maintenance and repair shop;
 - (n) Automotive repair shops or storage garages;
 - (o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
 - (p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;
 - (q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;
 - (r) Temporary construction activities;
 - (s) Warehouse activities;
 - (t) Accidental fires;
 - (u) Air vents from air compressors;
 - (v) Air purification systems;
 - (w) Continuous emissions monitoring vent lines;
 - (x) Demineralized water tanks;
 - (y) Pre-treatment of municipal water, including use of deionized water purification systems;
 - (z) Electrical charging stations;
 - (aa) Fire brigade training;
 - (bb) Instrument air dryers and distribution;
 - (cc) Process raw water filtration systems;
 - (dd) Pharmaceutical packaging;
 - (ee) Fire suppression;
 - (ff) Blueprint making;
 - (gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;
 - (hh) Electric motors;
 - (ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;
 - (jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;
 - (kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;
 - (ll) Pressurized tanks containing gaseous compounds;
 - (mm) Vacuum sheet stacker vents;
 - (nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;
 - (oo) Log ponds;
 - (pp) Storm water settling basins;
 - (qq) Fire suppression and training;
 - (rr) Paved roads and paved parking lots within an urban growth boundary;
 - (ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;
 - (tt) Health, safety, and emergency response activities;
 - (uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency as determined by the Department;
 - (vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;
 - (ww) Non-contact steam condensate flash tanks;
 - (xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;
 - (yy) Boiler blowdown tanks;
 - (zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;
 - (aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;
 - (bbb) Oil/water separators in effluent treatment systems;
 - (ccc) Combustion source flame safety purging on startup;
 - (ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;
 - (eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and
 - (fff) White water storage tanks.
- (19) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.
- (20) "CFR" means Code of Federal Regulations.
- (21) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-204-0250.
- (22) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:
- (a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or
 - (b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.
- (23) "Commission" or "EQC" means Environmental Quality Commission.
- (24) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.
- (25) "Construction":
- (a) Except as provided in subsection (b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;
 - (b) As used in OAR 340 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.
- (26) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:
- (a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and
 - (b) Provides data either in units of the standard or correlated directly with the compliance limit.
- (27) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.
- (28) "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices (such as carbon beds), condensers, scrubbers (such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems (such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.
- (29) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, sulfur dioxide, carbon monoxide, or lead.

ADMINISTRATIVE RULES

(30) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(31) "De minimis emission level" means: [Table not included. See ED. NOTE.]

NOTE: De minimis is compared to all increases that are not included in the PSEL.

(32) "Department":

(a) Means Department of Environmental Quality; except

(b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Pollution Authority.

(33) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(34) "Director" means the Director of the Department or the Director's designee.

(35) "Draft permit" means the version of an Oregon Title V Operating Permit for which the Department or Lane Regional Air Pollution Authority offers public participation under OAR 340-218-0210 or the EPA and affected State review under OAR 340-218-0230.

(36) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.

(37) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(38) "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.

(39) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(40) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate). Where an emission factor is required sources must use an emission factor approved by EPA or the Department.

(41)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(b) As used in OAR 340-212-0200 through 340-212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO₂ per hour, pounds of SO₂ per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO₂) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO₂). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of OAR 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(42) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(43) "Emission Reporting Form" means a paper or electronic form developed by the Department that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(44) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits regulated air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit if the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a pollutant by pollutant basis where applicable.

(c) The term emissions unit is not meant to alter or affect the definition of the term "unit" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340-224-0050 through 340-224-0070, or 340 division 210, or for determining the applicability of any New Source Performance Standard (NSPS).

(45) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(46) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(47) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.

(48) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard (or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

(49) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.

(50) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

(51) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(52) Federal Major Source means a source with potential to emit any individual regulated pollutant, excluding hazardous air pollutants listed in OAR 340 division 244, greater than or equal to 100 tons per year if in a source category listed below, or 250 tons per year if not in a source category listed. Potential to emit calculations must include emission increases due to a new or modified source.

(a) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(b) Coal cleaning plants with thermal dryers;

(c) Kraft pulp mills;

(d) Portland cement plants;

(e) Primary Zinc Smelters;

(f) Iron and Steel Mill Plants;

(g) Primary aluminum ore reduction plants;

(h) Primary copper smelters;

(i) Municipal Incinerators capable of charging more than 50 tons of refuse per day;

(j) Hydrofluoric acid plants;

(k) Sulfuric acid plants;

(l) Nitric acid plants;

(m) Petroleum Refineries;

(n) Lime plants;

(o) Phosphate rock processing plants;

(p) Coke oven batteries;

ADMINISTRATIVE RULES

- (q) Sulfur recovery plants;
 - (r) Carbon black plants, furnace process;
 - (s) Primary lead smelters;
 - (t) Fuel conversion plants;
 - (u) Sintering plants;
 - (v) Secondary metal production plants;
 - (w) Chemical process plants;
 - (x) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
 - (y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (z) Taconite ore processing plants;
 - (aa) Glass fiber processing plants;
 - (bb) Charcoal production plants.
- (53) "Final permit" means the version of an Oregon Title V Operating Permit issued by the Department or Lane Regional Air Pollution Authority that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.

(54) "Fugitive Emissions":

- (a) Except as used in subsection (b) of this section, means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.
- (b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(55) "General permit":

- (a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;
- (b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(56) "Generic PSEL" means: [Table not included. See ED. NOTE.]

NOTE: Sources are eligible for a generic PSEL if expected emissions are less than or equal to the levels listed in the table above. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELS.

- (57) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

- (58) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.

- (59) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

- (60) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

- (61) "Insignificant Change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:

- (a) Does not result in a redesignation from an insignificant to a significant activity;
- (b) Does not invoke an applicable requirement not included in the permit; and
- (c) Does not result in emission of regulated air pollutants not regulated by the source's permit.

- (62) "Late Payment" means a fee payment which is postmarked after the due date.

- (63) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

- (64) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area

by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR chapter 340, division 204.

(65) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.

(66) "Major Modification" means any physical change or change of operation of a source that results in the following for any regulated air pollutant:

- (a) An increase in the PSEL by an amount equal to or more than the significant emission rate over the netting basis; and

- (b) The accumulation of physical changes and changes of operation since baseline would result in a significant emission rate increase.

(A) Calculations of emission increases in (b) must account for all accumulated increases in actual emissions due to physical changes and changes of operation occurring at the source since the baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340 division 224 for that pollutant, whichever time is more recent. These include emissions from insignificant activities.

(B) Emission increases due solely to increased use of equipment or facilities that existed during the baseline period are not included, if that increased use was possible during the baseline period under the baseline configuration of the source, and the increased use of baseline equipment capacity is not to support a physical change or change in operation.

(c) For new or modified major sources that were permitted to construct and operate after the baseline period and were not subject to New Source Review, a major modification means:

(A) Any change at a source, including production increases, that would result in a Plant Site Emission Limit increase of 1 ton or more for any regulated pollutant for which the source is a major source; or

(B) The addition or modification of any stationary source or sources after the initial construction that have cumulative potential emissions greater than or equal to the significant emission rate, excluding any emission decreases.

(C) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.

(d) The following are not considered major modifications:

(A) Except as provided in (c), proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit and would not involve a physical change or change in method of operation in the source;

(B) Pollution control projects that are determined by the Department to be environmentally beneficial;

(C) Routine maintenance, repair, and replacement of components;

(D) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL;

(E) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.

(67) "Major Source":

(a) Except as provided in subsection (b), means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. This includes emissions from insignificant activities.

(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, Rules Applicable to Sources Required to Have Oregon Title V Operating Permits OAR 340 division 220, Oregon Title V Operating Permit Fees, and OAR 340-216-0066 Standard ACDPs, means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (A), (B), or (C) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which means:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants that has been listed pursuant to OAR 340-244-0040; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the

ADMINISTRATIVE RULES

Administrator may establish by rule. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 50 tons of

refuse per day;

- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(xxvii) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

(C) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;

(iii) For carbon monoxide nonattainment areas:

(I) That are classified as "serious"; and

(II) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide.

(iv) For particulate matter (PM₁₀) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM₁₀.

(68) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.

(69) "Modification," except as used in the term "major modification," means any physical change to, or change in the method of operation of, a stationary source that results in an increase in the stationary source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:

(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

(b) Changes in the method of operation due to using an alternative fuel or raw material that the stationary source was physically capable of accommodating during the baseline period; and

(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the stationary source by using component upgrades that would not otherwise be necessary for the stationary source to function.

(70) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:

(a) Continuous emission or opacity monitoring systems.

(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.

(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).

(d) Maintaining and analyzing records of fuel or raw materials usage.

(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.

(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.

(g) Visible emission observations and recording.

(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

(71) "Netting Basis" means the baseline emission rate MINUS any emission reductions required by rule, orders, or permit conditions required by the SIP or used to avoid SIP requirements, MINUS any unassigned emissions that are reduced from allowable under OAR 340-222-0045, MINUS any emission reduction credits transferred off site, PLUS any emission increases approved through the New Source Review regulations.

(a) With the first permitting action for a source after July 1, 2002, the baseline emissions rate will be frozen and recalculated only if:

(A) A better emission factor is established for the baseline period and approved by the Department;

(B) A currently operating emissions unit that the Department formerly thought had negligible emissions, is determined to have non-de minimis emissions and needs to be added to the baseline emission rate; or

(C) A new pollutant is added to the regulated pollutant list (e.g., PM_{2.5}). For a pollutant that is newly regulated after 11/15/90, the initial netting basis is the actual emissions during any 12 consecutive month period within the 24 months immediately preceding its designation as a regulated pollutant. The Department may allow a prior 12 consecutive month time period to be used if it is shown to be more representative of normal source operation.

(b) Netting basis is zero for:

(A) Any source constructed after the baseline period and has not undergone New Source Review;

(B) Any pollutant that has a generic PSEL in a permit;

(C) Any source permitted as portable; and

(D) Any source with a netting basis calculation resulting in a negative number.

(c) If a source relocates to an adjacent site, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(d) Emission reductions required by rule, order, or permit condition affect the netting basis if the source currently has devices or emissions units that are subject to the rules, order, or permit condition. The baseline emission rate is not affected.

ADMINISTRATIVE RULES

(e) Netting basis for a pollutant with a revised definition will be adjusted if the source is emitting the pollutant at the time of redefining and the pollutant is included in the permit's netting basis.

(f) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis will be established at no more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

(72) "Nitrogen Oxides" or "NOx" means all oxides of nitrogen except nitrous oxide.

(73) "Nonattainment Area" means a geographical area of the State, as designated by the Environmental Quality Commission or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard.

(74) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.

(75) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(76) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a proposed major source or major modification of an existing source.

(77) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to division 218.

(78) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.

(79) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.

(80) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).

(81) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual, (January, 1992).

(82) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

(83) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, 340 division 224, or 340-218-0160 through 340-218-0180.

(84) "Permit revision" means any permit modification or administrative permit amendment.

(85) "Permitted Emissions" as used in OAR division 220 means each assessable emission portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by the Department pursuant to OAR 340-220-0190.

(86) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(87) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(88) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one assessable emission.

(89) "PM10":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensible particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's **Source Sampling Manual** (January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with **40 CFR Part 50, Appendix J**.

(90) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(91) "Potential to emit" or "PTE" means the lesser of:

(a) The capacity of a stationary source; or

(b) The maximum allowable emissions taking into consideration any physical or operational limitation, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material

combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) This definition does not alter or affect the use of this term for any other purposes under the Act or the term "capacity factor" as used in Title IV of the Act and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(92) "Predictive emission monitoring system (PEMS)" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

(93) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(94) "Proposed permit" means the version of an Oregon Title V Operating Permit that the Department or a Regional Authority proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(95) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in **40 CFR Part 60, 61 or 63**.

(96) "Regional Authority" means Lane Regional Air Pollution Authority.

(97) "Regulated air pollutant" or "Regulated Pollutant":

(a) Except as provided in subsections (b) and (c) of this rule, means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(E) Any pollutant listed under OAR 340-244-0040 or 340-244-0230.

(b) As used in OAR 340 division 220, means any air pollutant as included in subsection (a) of this rule, except the following:

(A) Carbon monoxide;

(B) Any pollutant that is a regulated pollutant solely because it is a Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Federal Clean Air Act; or

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Federal Clean Air Act.

(c) As used in OAR 340 division 224 any pollutant listed under OAR 340-244-0040 or 340-244-0230 is not a regulated pollutant.

(98) "Renewal" means the process by which a permit is reissued at the end of its term.

(99) "Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Pollution Authority.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or

(d) For affected sources:

(A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(100) "Secondary Emissions" means emissions that are a result of the construction and/or operation of a source or modification, but that do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source

ADMINISTRATIVE RULES

associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from off-site support facilities that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(101) "Section 111" means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).

(102) "Section 111(d)" means subsection 111(d) of the FCAA which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(103) "Section 112" means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).

(104) "Section 112(b)" means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.

(105) "Section 112(d)" means subsection 112(d) of the FCAA which directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(106) "Section 112(e)" means subsection 112(e) of the FCAA which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(107) "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(108) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.

(109) "Section 129" means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(110) "Section 129(e)" means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(111) "Section 182(f)" means subsection 182(f) of the FCAA which requires states to include plan provisions in the State Implementation Plan for NO_x in ozone nonattainment areas.

(112) "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA which requires states to apply those plan provisions developed for major VOC sources and major NO_x sources in ozone nonattainment areas.

(113) "Section 183(e)" means subsection 183(e) of the FCAA which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(114) "Section 183(f)" means subsection 182(f) of the FCAA which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(115) "Section 184" means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.

(116) "Section 302" means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.

(117) "Section 302(j)" means subsection 302(j) of the FCAA which contains definitions of "major stationary source" and "major emitting facility."

(118) "Section 328" means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.

(119) "Section 408(a)" means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.

(120) "Section 502(b)(10) change" means a change which contravenes an express permit term but is not a change that:

(a) Would violate applicable requirements;

(b) Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or

(c) Is a Title I modification.

(121) "Section 504(b)" means subsection 504(b) of the FCAA which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(122) "Section 504(e)" means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.

(123) "Significant Air Quality Impact" means an additional ambient air quality concentration equal to or greater than in the concentrations listed in **Table 1**. The threshold concentrations listed in **Table 1** are used for comparison against the ambient air quality standard and do not apply for

protecting PSD Class I increments or air quality related values (including visibility). For sources of VOC or NO_x, a major source or major modification has a significant impact if it is located within the Ozone Precursor Significant Impact Distance defined in OAR 340-225-0020.

(124) "Significant Emission Rate" or "SER," except as provided in subsections (a) through (c) of this section, means an emission rate equal to or greater than the rates specified in **Table 2**.

(a) For the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rate for PM₁₀ is defined in **Table 3**.

(b) For regulated air pollutants not listed in **Table 2** or **3**, the significant emission rate is zero unless the Department determines the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in **Table 2** or **3** associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m³ (24 hour average) is emitting at a significant emission rate.

(125) "Significant Impairment" occurs when the Department determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. The Department will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(126) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(127) "Source category":

(a) Except as provided in subsection (b) of this section, means all the pollutant emitting activities that belong to the same industrial grouping (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987).

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that the Department determines are using similar raw materials and have equivalent process controls and pollution control equipment.

(128) "Source Test" means the average of at least three test runs conducted during operating conditions representative of the period for which emissions are to be determined and in accordance with the Department's Source Sampling Manual or other Department approved methods.

(129) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(130) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under OAR 340-200-0040 and approved by EPA.

(131) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(132) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(133) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit air pollutants contained in a permit issued by the Department under OAR 340 division 216 or 218.

(134) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or

(e) A modification under Section 112 of the FCAA.

ADMINISTRATIVE RULES

(135) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).

(136) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-226-0130. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to the Department while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(137) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(138) "Unavoidable" or "could not be avoided" means events that are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(139) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

(140) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(141) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) This includes any such organic compound except the following, which have been determined to have negligible photochemical reactivity in the formation of tropospheric ozone: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mf); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C4F9OCH₃ or HFE-7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂CF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9OC₂H₅ or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂CF₂OCH₂H₅); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃, HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea); and methyl formate (HCOOCH₃); and perfluorocarbon compounds that fall into these classes:

(A) Cyclic, branched, or linear, completely fluorinated alkanes;

(B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and the Department approves the exclusion.

(c) The Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the Department's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compound(s) are VOC for purposes of all record-keeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(142) "Year" means any consecutive 12 month period of time.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on March 3, 2006.

(3) Notwithstanding any other requirement contained in the SIP, the Department may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-

ADMINISTRATIVE RULES

91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. & cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. & cert. ef. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. & cert. ef. 2-17-00, cert. ef. 6-f1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. & cert. ef. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. & cert. ef. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06

340-216-0060

General Air Contaminant Discharge Permits

(1) Applicability.

(a) The Commission may issue a General ACDP under the following circumstances:

(A) There are several sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the sources can be contained in a General ACDP;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all sources covered by the General ACDP; and

(D) The pollutants emitted are of the same type for all covered sources.

(b) Permit content. Each General ACDP must include the following:

(A) All relevant requirements;

(B) Generic PSELS for all pollutants emitted at more than the de minimis level in accordance with OAR 340, division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and

(D) A permit duration not to exceed 10 years.

(c) Permit issuance procedures: A General ACDP requires public notice and opportunity for comment in accordance with ORS 183.325 to 183.410. All General ACDPs are on file and available for review at the Department's headquarters.

(2) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application in accordance with OAR 340-216-0040 that includes the information in OAR 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees set forth in Table 2 of OAR 340-216-0020.

(c) Source assignment procedures:

(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements in accordance with OAR 340, division 209.

(B) A person is not a permittee under the General ACDP until the Department assigns the General ACDP to the person.

(C) Assignments to General ACDPs terminate when the General ACDP expires or is modified, terminated or revoked.

(3) Commission Initiated Modification. If the Commission determines that the conditions have changed such that a General ACDP for a category needs to be modified, the Commission may issue a new General ACDP for that category and the Department may assign all existing General ACDP permit holders to the new General ACDP.

(4) Rescission. In addition to OAR 340-216-0082 (Termination or Revocation of an ACDP), the Department may rescind an individual source's assignment to a General ACDP if the source no longer meets the

requirements of this rule or the conditions of the permit, including, but not limited to the source having an ongoing, reoccurring or serious compliance problem. Upon rescinding a source's assignment to a General ACDP the Department will place the source on a Simple or Standard ACDP. The Commission may also revoke a General ACDP if conditions, standards or rules have changed so the permit no longer meets the requirements of this rule.

(5) General ACDPs adopted by reference. The following General ACDPs are adopted by this reference and incorporated herein:

(a) AQGP-001, Hard chrome platers (February 3, 2006)³;

(b) AQGP-002, Decorative chrome platers (February 3, 2006)²;

(c) AQGP-003, Halogenated solvent degreasers — batch cold (August 10, 2001)²;

(d) AQGP-004, Halogenated solvent degreasers — batch vapor and in-line (August 10, 2001)²;

(e) AQGP-005, Halogenated solvent degreasers — batch cold, batch vapor, and in-line (August 10, 2001)²;

(f) AQGP-006, Dry cleaners (August 10, 2001)¹;

(g) AQGP-007, Asphalt plants (August 10, 2001)³;

(h) AQGP-008, Rock crushers (August 10, 2001)²;

(i) AQGP-009, Ready-mix concrete (August 10, 2001)¹;

(j) AQGP-010, Sawmills, planing mills, millwork, plywood manufacturing and veneer drying (August 10, 2001)³;

(k) AQGP-011, Boilers (August 10, 2001)²;

(l) AQGP-012, Crematories (August 10, 2001)¹;

(m) AQGP-013, Grain elevators (August 10, 2001)¹;

(n) AQGP-014, Prepared feeds, flour, and cereal (August 10, 2001)¹;

(o) AQGP-015, Seed cleaning (August 10, 2001)¹;

(p) AQGP-016, Coffee roasters (August 10, 2001)¹;

(q) AQGP-017, Bulk gasoline plants (August 10, 2001)¹;

(r) AQGP-018, Electric power generators (August 10, 2001)².

NOTES: ¹ The referenced General ACDPs specify that they are Fee Class One under OAR 340-216-0020, Table 2. ² The referenced General ACDPs specify that they are Fee Class Two under OAR 340-216-0020, Table 2. ³ The referenced General ACDPs specify that they are Fee Class Three under OAR 340-216-0020, Table 2.

NOTE: Except for OAR 340-216-0060(5), this rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725; DEQ 6-2001, f. & cert. ef. 7-1-01; DEQ 10-2001, f. & cert. ef. 8-30-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 2-2006, f. & cert. ef. 3-14-06

340-238-0040

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Administrator" means the Administrator of the EPA or authorized representative.

(2) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but that has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance.

(3) "Capital expenditures" means an expenditure for a physical or operational change to an existing facility that exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in Internal Revenue Service (IRS) Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code. However, the total expenditure for a physical or operational change to an existing facility must not be reduced by any "excluded additions" as defined in IRS Publication 534, as would be done for tax purposes.

(4) "CFR" means **Code of Federal Regulations** and, unless otherwise expressly identified, refers to the July 1, 2005 edition.

(5) "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60.

(6) "Commenced," with respect to the definition of "new source" in section 111(a)(2) of the federal Clean Air Act, means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to

ADMINISTRATIVE RULES

undertake and complete, within a reasonable time, a continuous program of construction or modification.

(7) "Construction" means fabrication, erection, or installation of a facility.

(8) "Department" means the Department of Environmental Quality or, in the case of Lane County, the Lane Regional Air Pollution Authority.

(9) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

(10) "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before 5/30/91 and has accepted waste at any time since 11/08/87 or has additional design capacity available for future waste deposition.

(11) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(12) "Existing facility," with reference to a stationary source, means any apparatus of the type for which a standard is promulgated in 40 CFR Part 60, and the construction or modification of which commenced before the date of proposal by EPA of that standard; or any apparatus that could be altered in such a way as to be of that type.

(13) "Facility" means all or part of any public or private building, structure, installation, equipment, vehicle or vessel, including, but not limited to, ships.

(14) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(15) "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters.

(16) "Modification":

(a) Except as provided in subsection (b) of this section, means any physical change in, or change in the method of operation of, an existing facility that increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or that results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted;

(b) As used in OAR 340-238-0100 means an action that results in an increase in the design capacity of a landfill.

(17) "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification).

(18) "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after 5/30/91.

(19) "Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by an applicable reference method, or an equivalent or alternative method.

(20) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and

(b) It is technologically and economically feasible to meet the applicable standards set forth in 40 CFR Part 60.

(21) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 60.

(22) "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters.

(23) "Standard" means a standard of performance proposed or promulgated under 40 CFR Part 60.

(24) "State Plan" means a plan developed for the control of a designated pollutant provided under 40 CFR Part 60.

(25) "Stationary source" means any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the federal Clean Air Act.

(26) "Volatile organic compounds" or "VOC" means any organic compounds that participate in atmospheric photochemical reactions; or that are measured by a reference method, an equivalent method, an alternative method, or that are determined by procedures specified under any applicable rule.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0510; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06

340-238-0050

General Provisions

(1) Except as provided in section (2) of this rule, **40 CFR Part 60, Subpart A** is by this reference adopted and incorporated herein.

(2) Where "Administrator" or "EPA" appears in **40 CFR Part 60, Subpart A**, "Department" is substituted, except in any section of **40 CFR Part 60** for which a federal rule or delegation specifically indicates that authority must not be delegated to the state.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0530; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2006, f. & cert. ef. 3-14-06

340-238-0060

Federal Regulations Adopted by Reference

(1) Except as provided in section (2) of this rule, **40 CFR Part 60 Subparts D** through **XX**, **BBB** through **NNN**, **PPP** through **WWW**, and **AAAA** and **CCCC** are by this reference adopted and incorporated herein, and **40 CFR Part 60 Subpart OOO** is by this reference adopted and incorporated herein for major sources only.

(2) Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" is substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority must not be delegated to the state.

(3) 40 CFR Part 60 Subparts adopted by this rule are titled as follows:

(a) Subpart D — Fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971;

(b) Subpart Da — Electric utility steam generating units for which construction is commenced after September 18, 1978;

(c) Subpart Db — Industrial-commercial-institutional steam generating units;

(d) Subpart Dc — Small industrial-commercial-institutional steam generating units;

(e) Subpart E — Incinerators;

(f) Subpart Ea — Municipal waste combustors for which construction is commenced after December 20, 1989 and on or before September 20, 1994;

(g) Subpart Eb — Municipal waste combustors for which construction is commenced after September 20, 1994;

(h) Subpart Ec — Hospital/Medical/Infectious waste incinerators that commenced construction after June 20, 1996, or for which modification is commenced after March 16, 1998;

(i) Subpart F — Portland cement plants;

(j) Subpart G — Nitric acid plants;

(k) Subpart H — Sulfuric acid plants;

(l) Subpart I — Hot mix asphalt facilities;

(m) Subpart J — Petroleum refineries;

(n) Subpart K — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and before May 19, 1978;

(o) Subpart Ka — Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and before July 23, 1984;

(p) Subpart Kb — Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984;

(q) Subpart L — Secondary lead smelters;

ADMINISTRATIVE RULES

(r) Subpart M — Secondary brass and bronze production plants;
(s) Subpart N — Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973;
(t) Subpart Na — Secondary emissions from basic oxygen process steelmaking facilities for which construction is commenced after January 20, 1983;
(u) Subpart O — Sewage treatment plants;
(v) Subpart P — Primary copper smelters;
(w) Subpart Q — Primary Zinc smelters;
(x) Subpart R — Primary lead smelters;
(y) Subpart S — Primary aluminum reduction plants;
(z) Subpart T — Phosphate fertilizer industry: wet-process phosphoric acid plants;
(aa) Subpart U — Phosphate fertilizer industry: superphosphoric acid plants;
(bb) Subpart V — Phosphate fertilizer industry: diammonium phosphate plants;
(cc) Subpart W — Phosphate fertilizer industry: triple superphosphate plants;
(dd) Subpart X — Phosphate fertilizer industry: granular triple superphosphate storage facilities;
(ee) Subpart Y — Coal preparation plants;
(ff) Subpart Z — Ferroalloy production facilities;
(gg) Subpart AA — Steel plants: electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983;
(hh) Subpart AAa — Steel plants: electric arc furnaces and argon-oxygen decarburization vessels constructed after August 7, 1983;
(ii) Subpart BB — Kraft pulp mills;
(jj) Subpart CC — Glass manufacturing plants;
(kk) Subpart DD — Grain elevators;
(ll) Subpart EE — Surface coating of metal furniture;
(mm) Subpart GG — Stationary gas turbines;
(nn) Subpart HH — Lime manufacturing plants;
(oo) Subpart KK — Lead-acid battery manufacturing plants;
(pp) Subpart LL — Metallic mineral processing plants;
(qq) Subpart MM — Automobile and light-duty truck surface coating operations;
(rr) Subpart NN — Phosphate rock plants;
(ss) Subpart PP — Ammonium sulfate manufacture;
(tt) Subpart QQ — Graphic arts industry: publication rotogravure printing;
(uu) Subpart RR — pressure sensitive tape and label surface coating operations;
(vv) Subpart SS — Industrial surface coating: large appliances;
(ww) Subpart TT — Metal coil surface coating;
(xx) Subpart UU — Asphalt processing and asphalt roofing manufacture;
(yy) Subpart VV — Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry;
(zz) Subpart WW — Beverage can surface coating industry;
(aaa) Subpart XX — Bulk gasoline terminals;
(bbb) Subpart BBB — Rubber tire manufacturing industry;
(ccc) Subpart DDD — Volatile organic compound (VOC) emissions for the polymer manufacture industry;
(ddd) Subpart FFF — Flexible vinyl and urethane coating and printing;
(eee) Subpart GGG — equipment leaks of VOC in petroleum refineries;
(fff) Subpart HHH — Synthetic fiber production facilities;
(ggg) Subpart III — Volatile organic compound (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit processes;
(hhh) Subpart JJJ — Petroleum dry cleaners;
(iii) Subpart KKK — Equipment leaks of VOC from onshore natural gas processing plants;
(jjj) Subpart LLL — Onshore natural gas processing; SO₂ emissions;
(kkk) Subpart NNN — Volatile organic compound (VOC) emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations;
(lll) Subpart OOO — Nonmetallic mineral processing plants (adopted by reference for major sources only);
(mmm) Subpart PPP — Wool fiberglass insulation manufacturing plants;
(nnn) Subpart QQQ — VOC emissions from petroleum refinery wastewater systems;

(ooo) Subpart RRR — Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes;
(ppp) Subpart SSS — Magnetic tape coating facilities;
(qqq) Subpart TTT — Industrial surface coating: surface coating of plastic parts for business machines;
(rrr) Subpart UUU — Calciners and dryers in mineral industries;
(sss) Subpart VVV — Polymeric coating of supporting substrates facilities;
(ttt) Subpart WWW — Municipal solid waste landfills, as clarified by OAR 340-238-0100;
(uuu) Subpart AAAA — Small municipal waste combustion units;
(vvv) Subpart CCCC — Commercial and industrial solid waste incineration units.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 97, f. 9-2-75, ef. 9-25-75; DEQ 16-1981, f. & ef. 5-6-81; sections (1) thru (12) of this rule renumbered to 340-025-0550 thru 340-025-0605; DEQ 22-1982, f. & ef. 10-21-82; DEQ 17-1983, f. & ef. 10-19-83; DEQ 16-1984, f. & ef. 8-21-84; DEQ 15-1985, f. & ef. 10-21-85; DEQ 19-1986, f. & ef. 11-7-86; DEQ 17-1987, f. & ef. 8-24-87; DEQ 24-1989, f. & cert. ef. 10-26-89; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 27-1996, f. & cert. ef. 12-11-96; DEQ 8-1997, f. & cert. ef. 5-6-97; DEQ 22-1998, f. & cert. ef. 10-21-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-025-0535; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06

340-244-0030

Definitions

The definitions in OAR 340-200-0020, 340-218-0030 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-218-0030, the definition in this rule applies to this division.

(1) "Accidental Release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(2) "Act" and "FCAA" mean the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549.

(3) "Actual Emissions" means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) Actual emissions shall equal the average rate at which the source actually emitted the pollutant and which is representative of normal source operation. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor in combination with the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the specified time period;

(b) For any source which had not yet begun normal operation in the specified time period, actual emissions shall equal the potential to emit of the source;

(c) For purposes of OAR 340-244-0100 through 340-244-0180 actual emissions shall equal the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a malfunction.

(4) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.

(5) "Artificially or Substantially Greater Emissions" means abnormally high emissions such as could be caused by equipment malfunctions, accidents, unusually high production or operating rates compared to historical rates, or other unusual circumstances.

(6) "Base Year Emissions" for purposes of Early Reductions only (OAR 340-244-0100), means actual emissions in the calendar year 1987 or later.

(7) "CFR" means **Code of Federal Regulations** and, unless otherwise expressly identified, refers to the July 1, 2005 edition.

(8) "Commission" means the Oregon Environmental Quality Commission.

(9) "Construct a major Source" means to fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAPs or 25 tons per year of any combination of HAP, or to fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria a through f of this paragraph:

ADMINISTRATIVE RULES

(a) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this subpart will be controlled by emission control equipment which was previously installed at the same site as the process or production unit;

(b)(A) The permitting authority has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxics-best available control technology (T-BACT) or MACT abased on State air toxic rules for the category of pollutants which includes those HAP to be emitted by the process or production unit; or

(B) The permitting authority determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or State air toxic rule MACT determination).

(c) The permitting authority determines that the percent control efficiency for emission of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(d) The permitting authority has provided notice and an opportunity for public comment concerning its determination hat criteria in paragraphs (a), (b), and (c) of this definition apply and concerning the continued adequacy of any prior LAER, BACT, T-BACT, or State air toxic rule MACT determination;

(e) If any commenter has asserted that a prior LAER, BACT, T-BACT, or State air toxic rule MACT determination is no longer adequate, the permitting authority has determined that the level of control required by that prior determination remains adequate; and

(f) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the permitting authority are predicated will be construed by the permitting authority as applicable requirements under section 504(a) and either have been incorporated into any existing title V permit for the affected facility or will be incorporated into such permit upon issuance.

(10) "Department" means the Department of Environmental Quality.

(11) "Director" means the Director of the Department or Regional authority, and authorized deputies or officers.

(12) "Early Reductions Unit" means a single emission point or group of emissions points defined as a unit for purposes of an alternative emissions limit issued under OAR 340-244-0100 through 340-244-0180.

(13) "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.

(14) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by the Department or regional authority, or proposed or promulgated by the Administrator of the EPA, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(15) "Emissions Unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a stationary source is any machine, equipment, raw material, product, or by-product that produces or emits air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a pollutant by pollutant basis where applicable;

(c) The term "emissions unit" is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA;

(d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR 340-244-0050, 340-244-0070, or 340-218-0190, or for purposes of determining the applicability of a New Source Performance Standard (NSPS).

(16) "EPA" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(17) "EPA Conditional Method" means any method of sampling and analyzing for air pollutants which has been validated by the EPA but which has not been published as an EPA reference method.

(18) "EPA Reference Method" means any method of sampling and analyzing for an air pollutant as described in 40 CFR Part 60, 61, or 63.

(19) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.

(20) "Existing Source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.

(21) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(22) "Fugitive Emissions" means emissions of any air contaminant that escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct or equivalent opening.

(23) "Generally Available Control Technology (GACT)" means an alternative emission standard promulgated by EPA for non-major sources of hazardous air pollutants which provides for the use of control technology or management practices which are generally available.

(24) "Hazardous Air Pollutant" (HAP) means an air pollutant listed by the EPA pursuant to section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.

(25) "High-Risk Pollutant" means any air pollutant listed in Table 2 of OAR 340-244-0140 for which exposure to small quantities may cause a high risk of adverse public health effects.

(26) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

(27) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.

(28) "New Source" means a stationary source, the construction of which is commenced after proposal of a federal MACT or January 3, 1993 of this Division, whichever is earlier.

(29) "Not Feasible to Prescribe or Enforce a Numerical Emission Limit" means a situation in which the Department determines that a pollutant or stream of pollutants listed in OAR 340-244-0040 cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any state or federal law or regulation; or the application of measurement technology to a particular source is not practicable due to technological or economic limitations.

(30) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.

(31) "Potential to Emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.

(32) "Reconstruct a Major Source" means the replacement of components at an existing process or production unit that in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever: the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and; it is technically and economically feasible for the reconstructed major source to meet the

ADMINISTRATIVE RULES

applicable maximum achievable control technology emission limitation for new sources established under 40 CFR Part 63 Subpart B.

(33) "Regional Authority" means Lane Regional Air Pollution Authority.

(34) "Regulated Air Pollutant" as used in this division means:

(a) Any pollutant listed under OAR 340-200-0400 or 340-244-0230; or

(b) Any pollutant that is subject to a standard promulgated pursuant to Section 129 of the Act.

(35) "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions shall be specific, well defined, and quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from offsite support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

(36) "Section 111" means that section of the FCAA that includes standards of performance for new stationary sources.

(37) "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.

(38) "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by EPA when establishing the emission standards.

(39) "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(40) "Section 112(n)" means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.

(41) "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.

(42) "Section 129" means that section of the FCAA that requires EPA to promulgate regulations for solid waste combustion.

(43) "Solid Waste Incineration Unit" as used in this division shall have the same meaning as given in Section 129(g) of the FCAA.

(44) "Stationary Source":

(a) As used in OAR 340 division 244 means any building, structure, facility, or installation which emits or may emit any regulated air pollutant;

(b) As used in OAR 340-244-0230 means any buildings, structures, equipment, installations, or substance emitting stationary activities:

(A) That belong to the same industrial group;

(B) That are located on one or more contiguous properties;

(C) That are under the control of the same person (or persons under common control); and

(D) From which an accidental release may occur.

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

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

Stats. Implemented: ORS 468A.040

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 20-1997, f. & cert. ef. 9-25-97; DEQ 18-1998, f. & cert. ef. 10-5-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0120; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06

340-244-0040

List of Hazardous Air Pollutants

For purposes of this division the Commission adopts by reference the pollutants, including groups of substances and mixtures, listed in section 112(b), as Hazardous Air Pollutants (**Table 1**).

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

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

Stats. Implemented: ORS 468A.040

Hist.: DEQ 13-1993, f. & cert. ef. 9-24-93; DEQ 2-1996, f. & cert. ef. 1-2-96; DEQ 20-1997, f. & cert. ef. 9-25-97; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0130; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06

340-244-0220

Federal Regulations Adopted by Reference

(1) Except as provided in sections (2) and (3) of this rule, 40 CFR Part 61, Subparts A through F, I, J, L, N through P, V, Y, BB and FF and 40 CFR Part 63, Subparts A, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III,

JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, and TTTTT are adopted by reference and incorporated herein.

(2) Where "Administrator" or "EPA" appears in 40 CFR Part 61 or 63, "Department" is substituted, except in any section of 40 CFR Part 61 or 63, for which a federal rule or delegation specifically indicates that authority will not be delegated to the state.

(3) 40 CFR Part 63 Subpart M — Dry Cleaning Facilities using Perchloroethylene: The exemptions in 40 CFR 63.320(d) and (e) do not apply.

(4) 40 CFR Part 61 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart B — Radon Emissions from Underground Uranium Mines;

(c) Subpart C — Beryllium;

(d) Subpart D — Beryllium Rocket Motor Firing;

(e) Subpart E — Mercury;

(f) Subpart F — Vinyl Chloride;

(g) Subpart I — Radionuclide Emissions from Federal Facilities Other than Nuclear Regulatory Commission Licensee and Not Covered by Subpart H;

(h) Subpart J — Equipment Leaks (Fugitive Emission Sources) of Benzene;

(i) Subpart L — Benzene Emissions from Coke By-Product Recovery Plants;

(j) Subpart N — Inorganic Arsenic Emissions from Glass Manufacturing Plants;

(k) Subpart O — Inorganic Arsenic Emissions from Primary Copper Smelters;

(l) Subpart P — Inorganic Arsenic Emissions from Arsenic Trioxide and Metal Arsenic Facilities;

(m) Subpart V — Equipment Leaks (Fugitive Emission Sources);

(n) Subpart Y — Benzene Emissions from Benzene Storage Vessels;

(o) Subpart BB — Benzene Emissions from Benzene Transfer Operations; and

(p) Subpart FF — Benzene Waste Operations.

(5) 40 CFR Part 63 Subparts adopted by this rule are titled as follows:

(a) Subpart A — General Provisions;

(b) Subpart F — SOCFMI;

(c) Subpart G — SOCFMI — Process Vents, Storage Vessels, Transfer Operations, and Wastewater;

(d) Subpart H — SOCFMI — Equipment Leaks;

(e) Subpart I — Certain Processes Subject to the Negotiated Regulation for Equipment Leaks;

(f) Subpart J — Polyvinyl Chloride and Copolymers Production;

(g) Subpart L — Coke Oven Batteries;

(h) Subpart M — Perchloroethylene Air Emission Standards for Dry Cleaning Facilities;

(i) Subpart N — Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks;

(j) Subpart O — Ethylene Oxide Emissions Standards for Sterilization Facilities;

(k) Subpart Q — Industrial Process Cooling Towers;

(l) Subpart R — Gasoline Distribution (Bulk Gasoline Terminals and Pipeline Breakout Stations);

(m) Subpart S — Pulp and Paper Industry;

(n) Subpart T — Halogenated Solvent Cleaning;

(o) Subpart U — Group I Polymers and Resins;

(p) Subpart W — Epoxy Resins and Non-Nylon Polyamides Production;

(q) Subpart X — Secondary Lead Smelting;

(r) Subpart Y — Marine Tank Vessel Loading Operations;

(s) Subpart AA — Phosphoric Acid Manufacturing Plants;

(t) Subpart BB — Phosphate Fertilizer Production Plants;

(u) Subpart CC — Petroleum Refineries;

(v) Subpart DD — Off-Site Waste and Recovery Operations;

(w) Subpart EE — Magnetic Tape Manufacturing Operations;

(x) Subpart GG — Aerospace Manufacturing and Rework Facilities;

(y) Subpart HH — Oil and Natural Gas Production Facilities;

(z) Subpart II — Shipbuilding and Ship Repair (Surface Coating);

(aa) Subpart JJ — Wood Furniture Manufacturing Operations;

ADMINISTRATIVE RULES

(bb) Subpart KK — Printing and Publishing Industry;
(cc) Subpart LL — Primary Aluminum Reduction Plants;
(dd) Subpart MM — Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semi-Chemical Pulp Mills;
(ee) Subpart OO — Tanks — Level 1;
(ff) Subpart PP — Containers;
(gg) Subpart QQ — Surface Impoundments;
(hh) Subpart RR — Individual Drain Systems;
(ii) Subpart SS — Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process;
(jj) Subpart TT — Equipment Leaks — Control Level 1;
(kk) Subpart UU — Equipment Leaks — Control Level 2;
(ll) Subpart VV — Oil-Water Separators and Organic-Water Separators;
(mm) Subpart WW — Storage Vessels (Tanks) — Control Level 2;
(nn) Subpart XX — Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations;
(oo) Subpart YY — Generic Maximum Achievable Control Technology Standards;
(pp) Subpart CCC — Steel Pickling — HCl Process Facilities and Hydrochloric Acid Regeneration Plants;
(qq) Subpart DDD — Mineral Wool Production;
(rr) Subpart EEE — Hazardous Waste Combustors;
(ss) Subpart GGG — Pharmaceuticals Production;
(tt) Subpart HHH — Natural Gas Transmission and Storage Facilities;
(uu) Subpart III — Flexible Polyurethane Foam Production;
(vv) Subpart JJJ — Group IV Polymers and Resins;
(ww) Subpart LLL — Portland Cement Manufacturing Industry;
(xx) Subpart MMM — Pesticide Active Ingredient Production;
(yy) Subpart NNN — Wool Fiberglass Manufacturing;
(zz) Subpart OOO — Manufacture of Amino/Phenolic Resins;
(aaa) Subpart PPP — Polyether Polyols Production;
(bbb) Subpart QQQ — Primary Copper Smelting;
(ccc) Subpart RRR — Secondary Aluminum Production;
(ddd) Subpart TTT — Primary Lead Smelting;
(eee) Subpart UUU — Petroleum Refineries — Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units;
(fff) Subpart VVV — Publicly Owned Treatment Works;
(ggg) Subpart XXX — Ferroalloys Production: Ferromanganese and Silicomanganese;
(hhh) Subpart AAAA — Municipal Solid Waste Landfills;
(iii) Subpart CCCC — Manufacturing of Nutritional Yeast;
(jjj) Subpart DDDD — Plywood and Composite Wood Products;
(kkk) Subpart EEEE — Organic Liquids Distribution (non-gasoline);
(lll) Subpart FFFF — Miscellaneous Organic Chemical Manufacturing;
(mmm) Subpart GGGG — Solvent Extraction for Vegetable Oil Production;
(nnn) Subpart HHHH — Wet Formed Fiberglass Mat Production;
(ooo) Subpart IIII — Surface Coating of Automobiles and Light-Duty Trucks;
(ppp) Subpart JJJJ — Paper and Other Web Coating;
(qqq) Subpart KKKK — Surface Coating of Metal Cans;
(rrr) Subpart MMMM — Surface Coating of Miscellaneous Metal Parts and Products;
(sss) Subpart NNNN — Surface Coating of Large Appliances;
(ttt) Subpart OOOO — Printing, Coating, and Dyeing of Fabrics and Other Textiles;
(uuu) Subpart PPPP — Surface Coating of Plastic Parts and Products;
(vvv) Subpart QQQQ — Surface Coating of Wood Building Products;
(www) Subpart RRRR — Surface Coating of Metal Furniture;
(xxx) Subpart SSSS — Surface Coating of Metal Coil;
(yyy) Subpart TTTT — Leather Finishing Operations;
(zzz) Subpart UUUU — Cellulose Production Manufacturing;
(aaaa) Subpart VVVV — Boat Manufacturing;
(bbbb) Subpart WWWW — Reinforced Plastics Composites Production;
(cccc) Subpart XXXX — Rubber Tire Manufacturing;
(dddd) Subpart YYYY — Stationary Combustion Turbines;
(eeee) Subpart ZZZZ — Reciprocating Internal Combustion Engines;
(ffff) Subpart AAAAA — Lime Manufacturing;
(gggg) Subpart BBBB — Semiconductor Manufacturing;
(hhhh) Subpart CCCCC — Coke Ovens: Pushing, Quenching & Battery Stacks;

(iiii) Subpart DDDDD — Industrial, Commercial, and Institutional Boilers and Process Heaters;
(jjjj) Subpart EEEEE — Iron and Steel Foundries;
(kkkk) Subpart FFFFF — Integrated Iron and Steel Manufacturing Facilities;
(llll) Subpart GGGGG — Site Remediation;
(mmmm) Subpart HHHHH — Misc. Coating Manufacturing;
(nnnn) Subpart IIIII — Mercury Cell Chlor-Alkali Plants;
(oooo) Subpart JJJJJ — Brick and Structural Clay Products Manufacturing;
(pppp) Subpart KKKKK — Clay Ceramics Manufacturing;
(qqqq) Subpart LLLLL — Asphalt Processing & Asphalt Roofing Manufacturing;
(rrrr) Subpart MMMMM — Flexible Polyurethane Foam Fabrication Operations;
(ssss) Subpart NNNNN — Hydrochloric Acid Production;
(tttt) Subpart PPPPP — Engine Tests Cells/Stands;
(uuuu) Subpart QQQQQ — Friction Materials Manufacturing Facilities;
(vvvv) Subpart RRRRR — Taconite Iron Ore Processing;
(wwww) Subpart SSSSS — Refractory Products Manufacturing;
(xxxx) Subpart TTTTT — Primary Magnesium Refining.
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: [DEQ 16-1995, f. & cert. ef. 6-21-95; DEQ 28-1996, f. & cert. ef. 12-19-96; DEQ 18-1998, f. & cert. ef. 10-5-98]; [DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 32-1994, f. & cert. ef. 12-22-94]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-0510, 340-032-5520; DEQ 11-2000, f. & cert. ef. 7-27-00; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 4-2003, f. & cert. ef. 2-06-03; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06

.....
Department of Fish and Wildlife
Chapter 635

Rule Caption: Open and establish the spring chinook gill net commercial fishery in the Columbia River mainstem.

Adm. Order No.: DFW 7-2006(Temp)

Filed with Sec. of State: 2-23-2006

Certified to be Effective: 2-23-06 thru 7-31-06

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: This rule will open and establish the spring chinook gill net commercial fishery in the Columbia River mainstem. Revision is consistent with action taken February 22, 2006 by the Columbia River Compact.

Rules Coordinator: Tina Edwards—(503) 947-6033

635-042-0022

Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped chinook salmon, sturgeon and shad may be taken by gill net or tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1–3 and part of Zone 4).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring chinook gill net fishery:

(a) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches. Use of monofilament nets is allowed.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(c) From the area as described in section (1) of this rule, adipose fin-clipped chinook salmon, sturgeon and shad may be taken for commercial purposes by gill net during the following open period: 12:00 noon, February 23 to 6:00 a.m., February 24, 2006.

(4) During the spring chinook tangle net fishery:

ADMINISTRATIVE RULES

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is unlawful for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon

request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have in possession a certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the selective fishery. No individual may obtain more than one certificate. The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

(15) Nothing in this section sets any precedent for any fishery after the 2006 spring chinook fishery. The fact that an individual may hold a selective fishery certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a selective fishery in spring 2007 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2006. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(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; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06

.....

Rule Caption: Adopt inseason actions implemented by the federal government for commercial fisheries.

Adm. Order No.: DFW 8-2006(Temp)

Filed with Sec. of State: 2-28-2006

Certified to be Effective: 3-1-06 thru 8-25-06

Notice Publication Date:

Rules Amended: 635-004-0019

Subject: Amend rule to adopt inseason actions implemented by the federal government for commercial fisheries including adjustment to Rockfish Conservation Area (RCA) boundaries, commercial trip limit tables, and darkblotched rockfish optimal yield (OY).

Rules Coordinator: Tina Edwards—(503) 947-6033

635-004-0019

Inclusions and Modifications

(1) OAR chapter 635, division 004, modifies or is in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart G, West Coast Groundfish Fisheries.**

(2) **The Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G,** provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **Code of Federal Regulations.**

ADMINISTRATIVE RULES

(3) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-06-01, announced inseason management measures, effective March 1, 2006, including but not limited to adjusted Rockfish Conservation Area (RCA) boundaries, commercial trip limit tables and darkblotched rockfish optimal yield (OY).

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), f. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06

.....

Rule Caption: To extend the spring chinook gill net commercial fishery in the Columbia River mainstem.

Adm. Order No.: DFW 9-2006(Temp)

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-2-06 thru 7-31-06

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: This rule will extend the spring chinook gill net commercial fishery in the Columbia River mainstem. Revision is consistent with action taken March 1, 2006 by the Columbia River Compact.

Rules Coordinator: Tina Edwards—(503) 947-6033

635-042-0022

Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped chinook salmon, sturgeon and shad may be taken by gill net or tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1–3 and part of Zone 4).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring chinook gill net fishery:

(a) It is unlawful to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches. Use of monofilament nets is allowed.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(c) From the area as described in section (1) of this rule, adipose fin-clipped chinook salmon, sturgeon and shad may be taken for commercial purposes by gill net during the following open period:

(A) 12:00 noon, February 23 to 6:00 a.m., February 24, 2006.

(B) 12:00 noon., March 2, 2006 to 12:00 noon, March 3, 2006.

(4) During the spring chinook tangle net fishery:

(a) It is unlawful to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associat-

ed hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is unlawful for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have in possession a certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the selective fishery. No individual may obtain more than one certificate. The certificate must be displayed to

ADMINISTRATIVE RULES

ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

(15) Nothing in this section sets any precedent for any fishery after the 2006 spring chinook fishery. The fact that an individual may hold a selective fishery certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a selective fishery in spring 2007 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2006. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-3-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 7-31-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 7-31-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-2-06 thru 7-31-06

.....

Rule Caption: To extend the spring chinook gill net commercial fishery in the Columbia River mainstem.

Adm. Order No.: DFW 10-2006(Temp)

Filed with Sec. of State: 3-6-2006

Certified to be Effective: 3-7-06 thru 7-31-06

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: This rule will extend the spring chinook gill net commercial fishery in the Columbia River mainstem. Revision is consistent with action taken March 6, 2006 by the Columbia River Compact.

Rules Coordinator: Tina Edwards—(503) 947-6033

635-042-0022

Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped chinook salmon, sturgeon and shad may be taken by gill net or tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1-3 and part of Zone 4).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring chinook gill net fishery:

(a) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches. Use of monofilament nets is allowed.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(c) From the area as described in section (1) of this rule, adipose fin-clipped chinook salmon, sturgeon and shad may be taken for commercial purposes by gill net during the following open period:

- (A) 12:00 noon, February 23 to 6:00 a.m., February 24, 2006.
- (B) 12:00 noon, March 2, 2006 to 12:00 noon, March 3, 2006.
- (C) 6:00 a.m., March 7, 2006 to 6:00 a.m., March 8, 2006.

(4) During the spring chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is unlawful for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon

ADMINISTRATIVE RULES

request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have in possession a certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the selective fishery. No individual may obtain more than one certificate. The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

(15) Nothing in this section sets any precedent for any fishery after the 2006 spring chinook fishery. The fact that an individual may hold a selective fishery certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a selective fishery in spring 2007 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2006. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(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; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06

Rule Caption: To extend the spring chinook gill net commercial fishery and modify commercial smelt fishing periods in the Columbia River mainstem.

Adm. Order No.: DFW 11-2006(Temp)

Filed with Sec. of State: 3-9-2006

Certified to be Effective: 3-9-06 thru 7-31-06

Notice Publication Date:

Rules Amended: 635-042-0022, 635-042-0130

Subject: This rule will extend the spring chinook gill net commercial fishery and modify commercial smelt fishing periods in the Columbia River mainstem. Revision is consistent with action taken March 8, 2006 by the Columbia River Compact.

Rules Coordinator: Tina Edwards—(503) 947-6033

635-042-0022

Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped chinook salmon, sturgeon and shad may be taken by gill net or tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1-3 and part of Zone 4).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large

mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring chinook gill net fishery:

(a) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches. Use of monofilament nets is allowed.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(c) From the area as described in section (1) of this rule, adipose fin-clipped chinook salmon, sturgeon and shad may be taken for commercial purposes by gill net during the following open period:

(A) 12:00 noon, February 23 to 6:00 a.m., February 24, 2006.

(B) 12:00 noon, March 2, 2006 to 12:00 noon, March 3, 2006.

(C) 6:00 a.m., March 7, 2006 to 6:00 a.m., March 8, 2006.

(D) 12:00 noon, March 9, 2006 to 6:00 a.m., March 10, 2006.

(4) During the spring chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is unlawful for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

ADMINISTRATIVE RULES

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have in possession a certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the selective fishery. No individual may obtain more than one certificate. The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

(15) Nothing in this section sets any precedent for any fishery after the 2006 spring chinook fishery. The fact that an individual may hold a selective fishery certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a selective fishery in spring 2007 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2006. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 7-31-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06

635-042-0130

Smelt Season

(1) Smelt may be taken for commercial purposes from the Columbia River from 7:00 a.m. to 4:00 p.m. on the following dates: January 2, January 5, January 9, January 12, January 16, January 19, January 23, January 26, January 30, February 2, February 6, February 9, February 13, February 16, February 20, February 23, February 27, March 2, March 6, March 11, March 13, March 16, March 20, March 23, March 27 and March 30, 2006.

(2) It is *unlawful* to use other than the following gear for the taking of smelt in the Columbia River:

(a) Gill nets of a mesh size not more than two inches. Nets may consist of, but are not limited to, monofilament webbing;

(b) Dip nets having a bag frame no greater than 36 inches in diameter;

(c) Trawl nets with:

(A) Head rope not to exceed 25 feet in length;

(B) Foot rope or groundline not to exceed 25 feet in length;

(C) Door size not to exceed three feet by four feet;

(D) Mesh size not to exceed two inches;

(E) Bag length from the center of the head rope to the terminal end of the bunt not to exceed 35 feet;

(F) Breast rope not to exceed five feet;

(G) Bridle rope from rear of doors to foot rope and head rope not to exceed eight feet.

(3) No more than one trawl net at a time may be fished from any fishing vessel to take smelt.

(4) In the Columbia River upstream from Zone 1, it is *unlawful* to take smelt from a trawl vessel which exceeds 32 feet in overall length.

(5) For the purposes of this rule, Zone 1 is the area downstream of a straight line from a beacon light at Grays Point on the Washington bank to the flashing 4-second red buoy "44" off the easterly tip of Tongue Point on the Oregon Bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; Administrative correction 3-17-00; DFW 80-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; Administrative correction 6-21-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; Administrative correction 8-19-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 8-2005(Temp), f. & cert. ef. 2-24-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06

.....

Rule Caption: To extend the spring chinook gill net commercial fishery in the Columbia River mainstem.

Adm. Order No.: DFW 12-2006(Temp)

Filed with Sec. of State: 3-13-2006

Certified to be Effective: 3-14-06 thru 7-31-06

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: This rule will extend the spring chinook gill net commercial fishery in the Columbia River mainstem. Revision is consistent with action taken March 13, 2006 by the Columbia River Compact.
Rules Coordinator: Tina Edwards—(503) 947-6033

635-042-0022

Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped chinook salmon, sturgeon and shad may be taken by gill net or tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1-3 and part of Zone 4).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The

ADMINISTRATIVE RULES

adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring chinook gill net fishery:

(a) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches. Use of monofilament nets is allowed.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(c) From the area as described in section (1) of this rule, adipose fin-clipped chinook salmon, sturgeon and shad may be taken for commercial purposes by gill net during the following open period:

(A) 12:00 noon, February 23 to 6:00 a.m., February 24, 2006.

(B) 12:00 noon, March 2, 2006 to 12:00 noon, March 3, 2006.

(C) 6:00 a.m., March 7, 2006 to 6:00 a.m., March 8, 2006.

(D) 12:00 noon, March 9, 2006 to 6:00 a.m., March 10, 2006.

(E) 12:00 noon, March 14, 2006 to 6:00 a.m., March 15, 2006.

(4) During the spring chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net.

Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is *unlawful* to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must

be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have in possession a certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the selective fishery. No individual may obtain more than one certificate. The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

(15) Nothing in this section sets any precedent for any fishery after the 2006 spring chinook fishery. The fact that an individual may hold a selective fishery certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a selective fishery in spring 2007 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2006. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(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; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06

Rule Caption: Closure of commercial troll salmon fisheries between March 15–April 30, 2006 from Cape Falcon to Oregon/California border.

Adm. Order No.: DFW 13-2006(Temp)

Filed with Sec. of State: 3-14-2006

Certified to be Effective: 3-15-06 thru 4-30-06

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 635-003-0004

Subject: This rule will implement modifications of season limits adopted for Oregon Ocean Commercial Troll Salmon seasons as established by National Marine Fisheries Service (NMFS) and National Oceanic and Atmospheric Administration (NOAA).

Rules Coordinator: Tina Edwards—(503) 947-6033

635-003-0004

Inclusions and Modifications

(1) OAR 635-003-0005 through 635-003-0076 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart H.**

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H**, provides requirements for commercial salmon fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) This rule contains requirements which modify commercial salmon fishing regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean commercial salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subpart H).**

(4) General Requirements, Definitions, Restrictions or Exceptions: Vessels prevented by unsafe weather conditions or mechanical problems from meeting management area landing restrictions, must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. Notification shall include the vessel name, port where delivery will be made, approximate number of salmon (by species) on board, and estimated time of arrival.

(5) South of Cape Falcon to Humbug Mountain:

(a) Closed for all salmon March 15–April 30;

(b) A triangular area offshore is open to the retention of all chinook salmon consistent with seasons adopted by the Pacific Fishery Management Council in adjacent waters, except that prior to August 1 only fin-clipped chinook salmon may be retained in this area. This triangular area extends from the green buoy approximately one-half mile offshore from the mouth of Tillamook Bay northeasterly to Twin Rocks (45°35'49" N. lat.) and southeasterly to Pyramid Rock (45°29'49" N. lat.).

(6) Humbug Mountain, Oregon, to Humboldt South Jetty: When the fishery is closed north of the Oregon/California border and open to the south, vessels with fish on board taken in the open area may request authorization to temporarily moor in Brookings, Oregon, prior to landing in California. Such vessels shall first notify the Chetco River Coast Guard Station via VHF Channel 22A between the hours of 0500 and 2200. Proper notification shall include the vessel name, number of fish on board, and estimated time of arrival.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 40-1995(Temp), f. & cert. ef. 5-18-95; FWC 62-1995(Temp), f. 7-27-95, cert. ef. 7-28-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 26-1996(Temp), f. 5-16-96, cert. ef. 5-17-96; FWC 31-1996(Temp), f. & cert. ef. 6-4-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 33-1997(Temp), f. & cert. ef. 5-28-97; FWC 44-1997(Temp), f. & cert. ef. 8-13-97; FWC 34-1998, f. & cert. ef. 5-4-98; DFW 36-1998(Temp), f. 5-12-98, cert. ef. 5-13-98 thru 5-15-98; DFW 38-1998(Temp), f. & cert. ef. 5-15-98 thru 6-15-98; DFW 39-1998(Temp), f. 5-19-98, cert. ef. 5-20-98 thru 5-23-98; DFW 44-1998(Temp), f. 6-1-98, cert. ef. 6-2-98 thru 6-4-98; DFW 64-1998(Temp), f. 8-14-98, cert. ef. 8-15-98 thru 8-21-98; DFW 65-1998(Temp), f. & cert. ef. 8-21-98 thru 8-31-98; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 45-2000(Temp), f. 8-10-00, cert. ef. 8-11-00 thru 8-31-00; DFW 46-2000(Temp), f. 8-10-00, cert. ef. 8-10-00 thru 9-30-00; DFW 49-2000(Temp), f. 8-17-00, cert. ef. 8-18-00 thru 9-30-00; DFW 56-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 9-30-00; DFW 59-2000(Temp), f. & cert. ef. 9-6-00 thru 9-30-00; DFW 73-2000(Temp), f. 10-26-00, cert. ef. 10-28-00 thru 11-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 48-2001(Temp), f. 6-14-01, cert. ef. 6-15-01 thru 6-30-01; DFW 58-2001(Temp), f. 7-18-01, cert. ef. 7-20-01 thru 9-30-01; DFW 67-2001(Temp), f. 8-2-01, cert. ef. 8-3-01 thru 9-30-01; DFW 69-2001(Temp), f. & cert. ef. 8-8-01 thru 9-30-01; DFW 74-2001(Temp), f. & cert. ef. 8-17-01 thru 9-30-01; DFW 83-2001(Temp), f. 8-30-01, cert. ef. 8-31-01 thru 9-30-01; DFW 22-2002(Temp), f. 3-19-02, cert. ef. 3-20-02 thru 4-30-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 58-2002(Temp), f. 6-6-02, cert. ef. 6-7-02 thru 6-30-02; DFW 65-2002(Temp), 6-27-02, cert. ef. 7-1-02 thru 12-27-02; DFW 72-2002(Temp), f. 7-11-02 cert. ef. 7-12-02 thru 12-31-02; DFW 76-2002(Temp), f. 7-25-02, cert. ef. 7-26-02 thru 12-31-02; DFW 77-2002(Temp), f. & cert. ef. 7-26-02 thru 12-31-02; DFW 84-2002(Temp), f. 8-8-02, cert. ef. 8-9-02 thru 12-31-02; DFW 86-2002(Temp), f. & cert. ef. 8-9-02 thru 12-31-02; DFW 92-2002(Temp), f. & cert. ef. 8-22-02 thru 12-31-02; DFW 101-2002(Temp), f. & cert. ef. 9-9-02 thru 12-31-02; DFW 111-2002(Temp), f. 10-8-02, cert. ef. 10-14-02 thru 12-31-02; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 47-2003(Temp), f. 6-5-03, cert. ef. 6-6-03 thru 6-30-03; Administrative correction, 2-18-05; DFW 10-2005(Temp), f. 3-2-05, cert. ef. 3-15-05

thru 4-30-05; DFW 17-2005(Temp), f. & cert. ef. 3-15-05 thru 4-15-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 13-2006(Temp), f. 3-14-06, cert. ef. 3-15-06 thru 4-30-06

Rule Caption: Area modification to Youngs Bay and additional fishing periods for Blind Slough Winter season commercial fisheries.

Adm. Order No.: DFW 14-2006(Temp)

Filed with Sec. of State: 3-15-2006

Certified to be Effective: 3-16-06 thru 7-27-06

Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160

Subject: These rules extend the spring chinook gill net commercial fishery boundary in the Youngs Bay fishery and add two additional fishing periods to the Blind Slough Winter season. Revision is consistent with action taken March 15, 2006 by the Columbia River Compact.

Rules Coordinator: Tina Edwards—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A), the spring fishery, paragraph (B), and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) 6:00 p.m. February 15, 2006 to 6:00 a.m. February 16, 2006; 6:00 p.m. February 19, 2006 to 12 Noon February 20, 2006; 6:00 p.m. February 22, 2006 to 6:00 a.m. February 23, 2006; 6:00 p.m. February 26, 2006 to 12 Noon February 27, 2006; 6:00 p.m. March 1, 2006 to 6:00 a.m. March 2, 2006; 6:00 p.m. March 5, 2006 to 12 Noon March 6, 2006; 6:00 p.m. March 8, 2006 to 12 Noon March 9, 2006 and 6:00 p.m. March 12, 2006 to 6:00 a.m. March 13, 2006.

(ii) March 16, 2006 from 6:00 a.m. to 10:00 a.m. and March 23, 2006 from 12 noon to 4:00 p.m.

(iii) March 27, 2006 from 6:00 a.m. to 6:00 p.m.; March 30, 2006 from 6:00 a.m. to 6:00 p.m.; April 3, 2006 from 6:00 a.m. to 6:00 p.m.; April 6, 2006 from 6:00 a.m. to 6:00 p.m.; April 10, 2006 from 6:00 a.m. to 6:00 p.m. and April 13, 2006 from 6:00 a.m. to 6:00 p.m.

(B) Spring Season:

(i) April 17, 2006 from 9:00 a.m. to 1:00 p.m.

(ii) 6:00 p.m. April 20, 2006 to 6:00 a.m. April 21, 2006; 6:00 p.m. April 24, 2006 to 6:00 a.m. April 25, 2006; 6:00 p.m. April 27, 2006 to 6:00 a.m. April 28, 2006; 6:00 p.m. May 1, 2006 to 12 Noon May 2, 2006; 6:00 p.m. May 4, 2006 to 12 Noon May 5, 2006; 12 Noon May 8, 2006 to 12 Noon May 12, 2006; 12 Noon May 15, 2006 to 12 Noon May 19, 2006; 12 Noon May 22, 2006 to 12 Noon May 26, 2006; 12 Noon May 29, 2006 to 12 Noon June 2, 2006; 12 Noon June 5, 2006 to 12 Noon June 9, 2006 and 12 Noon June 13, 2006 to 12 Noon June 16, 2006.

(C) Summer Season: 12 Noon June 21, 2006 to 12 Noon June 23, 2006; 12 Noon June 28, 2006 to 12 Noon June 30, 2006; 12 Noon July 5, 2006 to 6:00 p.m. July 6, 2006; 12 Noon July 12, 2006 to 6:00 p.m. July 13, 2006; 12 Noon July 19, 2006–6:00 p.m. July 20, 2006 and 12 Noon July 26, 2006 to 6:00 p.m. July 27, 2006.

(b) The fishing areas for the winter, spring and summer fisheries are:

(A) From February 15, 2006 through March 16, 2006 and from April 20, 2006 through July 27, 2006, the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(B) On March 23, 2006 and April 17, 2006, the fishing area extends from old Youngs Bay Bridge upstream to the confluence of the Youngs and Klaskanine rivers.

(C) From March 27, 2006 through April 13, 2006 the fishing area extends from markers at the mouth of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. 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 less than 7-inches during the winter season from February 15, 2006 to April 13,

ADMINISTRATIVE RULES

2006. It is *unlawful* to use a gill net having a mesh size that is more than 8-inches during the spring and summer seasons from April 17, 2006 to July 27, 2006.

(b) In the fishing area, as described in (1)(b)(C), the use of additional weights or anchors attached directly to the leadline is allowed upstream of the mouth of the Walluski River.

(3) A maximum of three green or white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & 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. & cert. 8-7-89, cert. 8-20-89; FWC 82-1990(Temp), f. & cert. 8-14-90, cert. 8-19-90; FWC 86-1991, f. & cert. 8-7-91, cert. 8-18-91; FWC 123-1991(Temp), f. & cert. 10-21-91; FWC 30-1992(Temp), f. & cert. 4-27-92; FWC 35-1992(Temp), f. & cert. 5-22-92, cert. 5-25-92; FWC 74-1992, f. & cert. 8-10-92, cert. 8-16-92; FWC 28-1993(Temp), f. & cert. 4-26-93; FWC 48-1993, f. & cert. 8-6-93, cert. 8-9-93; FWC 21-1994(Temp), f. & cert. 4-22-94, cert. 4-25-94; FWC 51-1994, f. & cert. 8-19-94, cert. 8-22-94; FWC 64-1994(Temp), f. & cert. 9-14-94, cert. 9-15-94; FWC 66-1994(Temp), f. & cert. 9-20-94; FWC 27-1995, f. & cert. 3-29-95, cert. 4-1-95; FWC 48-1995(Temp), f. & cert. 6-5-95; FWC 66-1995, f. & cert. 8-22-95, cert. 8-27-95; FWC 69-1995, f. & cert. 8-25-95, cert. 8-27-95; FWC 8-1995, f. & cert. 2-28-96, cert. 3-1-96; FWC 37-1996(Temp), f. & cert. 6-11-96, cert. 6-12-96; FWC 41-1996, f. & cert. 8-12-96; FWC 45-1996(Temp), f. & cert. 8-16-96, cert. 8-19-96; FWC 54-1996(Temp), f. & cert. 9-23-96; FWC 4-1997, f. & cert. 1-30-97; FWC 47-1997, f. & cert. 8-15-97; DFW 8-1998(Temp), f. & cert. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. 3-3-98; DFW 18-1998(Temp), f. & cert. 3-9-98, cert. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. 8-24-98; DFW 10-1999, f. & cert. 2-26-99; DFW 52-1999(Temp), f. & cert. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. 8-12-99; DFW 9-2000, f. & cert. 2-25-00; DFW 42-2000, f. & cert. 8-3-00; DFW 3-2001, f. & cert. 2-6-01; DFW 66-2001(Temp), f. & cert. 8-2-01, cert. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. 10-26-01 thru 12-31-01; DFW 15-2002, f. & cert. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. & cert. 8-5-02, cert. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. 2-14-03; DFW 17-2003(Temp), f. & cert. 2-27-03, cert. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. 4-30-03, cert. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. 2-13-04; DFW 19-2004(Temp), f. & cert. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. 4-8-04 cert. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. 5-5-04, cert. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. 5-17-04, cert. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. 8-2-04, cert. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. 2-14-05; DFW 15-2005(Temp), f. & cert. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. & cert. 5-17-05, cert. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. & cert. 7-8-05, cert. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. & cert. 7-14-05, cert. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. & cert. 8-1-05, cert. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. 10-4-05, cert. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. 2-15-06; DFW 14-2006(Temp), f. & cert. 3-15-06, cert. 3-16-06 thru 7-27-06

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only: February 22–February 23, 2006; February 26–February 27, 2006; March 1–March 2, 2006; March 5–March 6, 2006; March 8–March 9, 2006, March 12–March 13, 2006, March 19–March 20, 2006 and March 22–March 23, 2006.

(B) Blind and Knappa Sloughs:

(i) April 20–April 21, 2006; April 24–April 25, 2006 and April 27–April 28, 2006;

(ii) May 1–May 2, 2006; May 4–May 5, 2006; May 8–May 9, 2006; May 11–May 12, 2006; May 15–May 16, 2006; May 18–May 19, 2006; May 22–May 23, 2006; May 25–May 26, 2006; May 29–May 30, 2006;

June 1–June 2, 2006; June 5–June 6, 2006; June 8–June 9, 2006; June 12–June 13, 2006 and June 15–June 16, 2006.

(b) The fishing areas for the winter and springs seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the periods identified in (1)(a)(B)(i), the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter fishery, outlined above (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit 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 less than 7-inches;

(B) During the spring fishery, outlined above (1)(a)(B) and (1)(a)(C), gill nets may not exceed 100 fathoms in length with no weight limit 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 more than 8-inches.

(2) A maximum of three green or 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 (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

(3) 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. 8-23-96; FWC 48-1997, f. & cert. 8-25-97; DFW 15-1998, f. & cert. 3-3-98; DFW 67-1998, f. & cert. 8-24-98; DFW 86-1998(Temp), f. & cert. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. 2-26-99; DFW 48-1999(Temp), f. & cert. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. 8-12-99; DFW 9-2000, f. & cert. 2-25-00; DFW 42-2000, f. & cert. 8-3-00; DFW 65-2000(Temp) f. & cert. 9-22-00, cert. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. 2-6-01; DFW 84-2001(Temp), f. & cert. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. & cert. 2-18-02, cert. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. 2-14-03; DFW 34-2003(Temp), f. & cert. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. 4-30-03, cert. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. 2-13-04; DFW 19-2004(Temp), f. & cert. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. 4-8-04 cert. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. 5-5-04, cert. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. 5-17-04, cert. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. 8-2-04, cert. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. 9-17-04, cert. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. 2-14-05; DFW 16-2005(Temp), f. & cert. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. & cert. 8-1-05, cert. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. 10-4-05, cert. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. 2-15-06; DFW 14-2006(Temp), f. & cert. 3-15-06, cert. 3-16-06 thru 7-27-06

Department of Forestry Chapter 629

Rule Caption: Adopting the AG's Model Rules of Procedure — Board and Department of Forestry.

Adm. Order No.: DOF 3-2006

Filed with Sec. of State: 3-15-2006

Certified to be Effective: 3-15-06

Notice Publication Date:

Rules Amended: 629-001-0005

Subject: Adopting the Model Rules of Procedure under the Administrative Procedures Act promulgated by the Oregon Attorney General effective January 1, 2006.

Rules Coordinator: Gayle Birch—(503) 945-7210

ADMINISTRATIVE RULES

629-001-0005

Model Rules of Procedure

The Model Rules of Procedure under the Administrative Procedures Act, promulgated by the Attorney General effective January 1, 2006 are hereby adopted as the rules of procedure of the Board of Forestry and the State Forester.

[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 Forestry.]

Stat. Auth.: ORS 526.016(4) & 526.041

Stats. Implemented: ORS 183.341

Hist.: FB 27, f. 11-12-71, ef. 12-1-71; FB 34, f. 10-19-73, ef. 11-11-73; FB 46, f. & ef. 4-19-76; FB 4-1978, f. & ef. 3-13-78; FB 1-1980, f. & ef. 1-9-80; FB 8-1980, f. & ef. 3-20-80; FB 1-1982(Temp), f. & ef. 2-8-82; FB 2-1982, f. & ef. 3-3-82; FB 1-1984, f. & ef. 1-6-84; FB 5-1986, f. & ef. 6-17-86; FB 6-1988, f. & cert. ef. 9-9-88; FB 3-1992, f. & cert. ef. 3-10-92; FB 1-1994, f. & cert. ef. 3-11-94; FB 1-1996, f. & cert. ef. 3-13-96; DOF 3-1998, f. 3-10-98, cert. ef. 4-22-98; DOF 4-2000, f. 10-25-00, cert. ef. 10-31-00; DOF 1-2002, f. & cert. ef. 3-13-02; DOF 6-2004, f. & cert. ef. 6-10-04; DOF 3-2006, f. & cert. ef. 3-15-06

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 5-2006

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 11-1-05

Rules Amended: 413-015-0505, 413-015-0510, 413-015-0511, 413-015-0512, 413-015-0513, 413-015-0514

Rules Repealed: 413-015-0505(T), 413-015-0510(T), 413-015-0511(T), 413-015-0512(T), 413-015-0513(T), 413-015-0514(T)

Subject: OAR 413-015-0505, 413-015-0510, 413-015-0511, 413-015-0512, 413-015-0513, and 413-015-0514 which concern Child Safety Assessment and Safety Planning are amended to state that a review of a safety plan will include contact with treatment providers or staff from other agencies who are involved with any family member included in the safety plan. This review must include all treatment providers or other agencies (staff who are currently working with these family members or have worked with them in the last 12 months). These amendments set time lines for completing the safety plan review at critical junctures, for documenting it, and for obtaining supervisory review and approval of the review and of any changes made to the safety plan. These amendments establish procedures and time lines for supervisory review and approval of the child safety plan before a child is returned home. The rules about the Initial Safety Assessments and Time Frames (OAR 413-015-0505) and the Initial Safety Plan (OAR 413-015-0510) are amended to clarify the intent of these rules. These rules are also amended to reflect new Department terminology and to correct formatting and punctuation.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0505

Initial Safety Assessments and Time Frames

(1) To complete a safety assessment, the CPS worker must:

(a) Make efforts to contact the child at home, school, day care, or any other place the worker believes the child may be found. If the worker is unsuccessful, the worker must document in the assessment activities section of the GAP all attempts made to contact the child and the dates of those attempted contacts.

(b) Have face-to-face contact with the child who is the subject of the referral.

(c) Have face-to-face contact with the primary parent or caregiver. If it is not possible to make contact, document why contact was not made.

(d) Determine if other children in the home are safe.

(e) Utilize the GAP and interviewing guidelines set out in OAR 413-015-0700 to 413-015-0740 to:

(A) Identify safety threats;

(B) Assess risk influences; and

(C) Assess parents' or caregivers' protective capacity.

(2) Except as provided in section (3) of this rule, the CPS worker must complete a safety assessment within the following time lines:

(a) **Immediate Response:** The CPS worker must complete a safety assessment within 24 hours of the time the report alleging child abuse is received by the Department.

(b) **Response Required:** The CPS worker must make a face-to-face contact with the child within five days of the day the report alleging child abuse is received by the Department and must complete the safety assessment without undue delay after that face-to-face contact.

(3) **Exceptions:**

(a) Any exception to the time lines given in section (2) of this rule requires CPS supervisor approval, written justification, and an explanation of how the child's safety needs have been considered.

(b) If the screener was granted an extension to complete the screening process, the CPS supervisor may adjust the safety assessment time lines as follows:

(A) **Immediate Response:** The CPS worker must complete a safety assessment within 24 hours of the end date of the last screening extension or the date the CPS assessment was assigned, whichever is earlier.

(B) **Response Required:** The CPS worker must complete a safety assessment within five days of the end date of the last screening extension or the date the CPS assessment was assigned, whichever is earlier.

(4) **Documentation requirements.** The CPS worker must document, using the GAP:

(a) The initial safety assessment within five working days following face-to-face contact with a child; and

(b) The initial safety plan within the CPS assessment time frames (*see* OAR 413-015-0400(5)).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 13-2005(Temp), f. & cert. ef. 9-15-05 thru 3-1-06; CWP 14-2005(Temp), f. & cert. ef. 9-30-05 thru 3-1-06; CWP 5-2006, f. & cert. ef. 3-1-06

413-015-0510

Initial Safety Plan

(1) **Safety Plan.** The CPS worker must develop and document a safety plan when a current safety threat has been identified as a result of a child safety assessment and a case is being opened. If there is adequate parental or caregiver protective capacity to mitigate the safety threat, then the documentation occurs in the assessment activities section of the GAP.

(2) The CPS worker must develop the safety plan with family participation whenever possible.

(3) The CPS worker must utilize the GAP to consider safety threats, risk influences, and parent's or caregiver's protective capacity in developing the safety plan.

(4) If the CPS worker knows or has reason to know the case involves an Indian child, the CPS worker must involve the Indian child's tribe when developing the safety plan unless the tribe declines to participate.

(5) The safety plan must contain one or both of the following elements depending on the individual safety needs of children in the family:

(a) An in-home safety plan. An in-home safety plan must be developed when the protective capacity of the parent or caregiver can be enhanced or supported to create safety for the children.

(b) An out-of-home safety plan. An out-of-home safety plan must be developed if reasonable efforts or active efforts (if applicable) have been made to prevent the removal of the child from the home and:

(A) Existing protective capacity of the parent or caregiver cannot be enhanced or supported to provide for the child's safety; or

(B) There is no parent or caregiver to provide for the child's safety needs.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 13-2005(Temp), f. & cert. ef. 9-15-05 thru 3-1-06; CWP 5-2006, f. & cert. ef. 3-1-06

413-015-0511

Review of Safety Plan

(1) The assigned worker must complete the following activities at the critical case junctures and within the time frames described in section (2):

(a) Review child safety;

(b) Review the child safety plan;

(c) Review changes to the child safety plan; and

(d) Make the following contacts:

(A) Face-to-face contact with the child;

(B) Face-to-face contact with the custodial parent or caregiver;

(C) Contact those persons who are providing services or monitoring behaviors related to identified safety threats and either currently work with a parent or child identified in the safety plan or who have worked with such parent or child since the last safety plan review. Examples of persons who should be contacted as provided in this section are persons who provide

ADMINISTRATIVE RULES

parent training, substance abuse treatment, batterer intervention treatment, probation supervision or parole supervision.

(2) The review and contact required by section (1) must be completed by the assigned worker at the following critical case junctures:

(a) Upon completion of the CPS assessment — see OAR 413-015-0400 and 413-015-0405 for requirements for the review.

(b) Following transfer of a case to another worker — Review and contact must be completed by the receiving worker within five days immediately following the transfer.

(c) Prior to a change from supervised to unsupervised visitation — Review and contact must be completed within five days immediately prior to the change.

(d) Prior to a change in placement — Review and contact must be completed within five days immediately prior to the change.

(e) Upon a child's return home — Review and contact must be completed within three days immediately following return.

(f) After a significant change in family circumstances or constellation — A significant change includes a new live-in companion or housemate, new baby, change in employment status, divorce, substance abuse relapse, mental health incident, missed medical appointment by the caregiver for a vulnerable baby, or a change in the protective capacity of a parent or caregiver. Review and contact based upon a significant change in family circumstances or constellation must be completed as follows:

(A) If the child is at home, within five days after identification of the change.

(B) If the child is in substitute care, within 30 days after identification of the change.

(g) Prior to recommending dismissal of juvenile court jurisdiction — Review and contact must be completed within seven days immediately prior to making a recommendation that the juvenile court dismiss jurisdiction.

(h) Prior to closure of the case — Review and contact must be completed within seven days immediately prior to the closure.

(3) Child safety and the safety plan must also be reviewed anytime the child welfare caseworker has face-to-face contact with the child, including a mandatory 30-day visitation, which is governed by Child Welfare policy "Caseworker Contact with Children, Parents, and Caregivers," Policy I-B.1, OAR 413-080-0040 to 413-080-0060.

(4) The review and contact described in sections (1) and (2) of this rule must be documented in the FACIS safety plan screen within 14 days after the completion of the review.

(5) The supervisor must review child safety and approve the child safety plan, including changes made to the plan, not later than the time of the documentation required by section (4) of this rule.

(6) In addition to the review and contact requirements described in this rule, child safety and the safety plan will be discussed:

- (a) At each TDM, FDM, or other family meeting;
- (b) At a high-risk staffing;
- (c) When the case is reviewed by a Citizen Review Board; and
- (d) During a juvenile court proceeding.

(7) Child's return home.

(a) Except as provided in subsection (7)(c) of this rule, a supervisor must review child safety and approve the current safety plan within seven days immediately prior to the return of a child to the child's parent's home. The supervisor must:

(A) Review the identified safety threats and abusive behavior that caused the child to be placed in out-of-home care and confirm that the safety threats and abusive behaviors have been addressed;

(B) Confirm that persons providing services or monitoring behaviors related to identified safety threats that are either currently working with a parent or child identified in the safety plan or who have worked with a parent or child since the last safety plan review have been involved in the process that resulted in the decision to return a child to the child's parent's home. Examples of the persons who should be involved in the decision making process include persons who provide parent training, substance abuse treatment, batterer intervention treatment, probation supervision or parole supervision.

(C) Confirm that information from other community partners or involved agencies including the Citizen Review Board has been gathered, documented and considered by the caseworker as part of the decision making process.

(D) Review the current safety plans, service agreements, and most recent court orders to ensure that parents have successfully completed required services and demonstrated changes in parental behavior and home environment.

(E) Review all evaluation and treatment documents to assure that treatment recommendations have been followed, needed reports have been received and reviewed, and that there is documented change in parental protective capacity related to child safety concerns.

(F) Discuss with the caseworker the current home environment and confirm that there is documentation as to when the caseworker last visited the family to which the child is being returned. If the caseworker noted any concerns, the supervisor must assure that there is documentation as to how the worker confirmed that the concerns have been addressed and resolved. There must also be documentation of all persons residing in the home. CPS record and criminal records checks must be obtained on all household members and reviewed (see OAR 413-015-1120).

(G) Assure that the plan for in-home supervision is appropriate and specific as to how the supervision will be executed.

(H) Document the supervisor's review and findings required by section (7) in the FACIS safety plan screen prior to the child's return home.

(b) In the event a court orders the return of a child to the child's parent's home before the supervisory review can be completed as described in section (7) of this rule, the review and documentation of the review must occur as soon as practicable, but no later than seven days following the court order. In all other respects, the review must meet the requirements of subsection (7)(a).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 13-2005(Temp), f. & cert. ef. 9-15-05 thru 3-1-06; CWP 5-2006, f. & cert. ef. 3-1-06

413-015-0512

Mandatory Reporting of New Safety Threats

When a new or unaddressed safety threat is reported on an existing child welfare case, the following must occur:

(1) The child welfare worker who has information that indicates a new or unaddressed safety threat must make a CPS report to a screener.

(2) The screener will consult with a CPS supervisor to determine the Department's response in accordance with OAR 413-015-0200 to 413-015-0225.

(3) When the referral is assigned for a CPS assessment, the CPS worker must complete a safety assessment in accordance with OAR 413-015-0505, "Initial Safety Assessments and Time Frames," and OAR 413-015-0400 to 413-015-0410.

(4) If a new safety threat is identified, a new safety plan must be developed or the current plan revised in accordance with OAR 413-015-0510, "Initial Safety Plan."

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 17-2004, f. & cert. ef. 11-1-04; CWP 13-2005(Temp), f. & cert. ef. 9-15-05 thru 3-1-06; CWP 5-2006, f. & cert. ef. 3-1-06

413-015-0513

Closing a Safety Plan

(1) The caseworker will close the safety plan when a case is being closed and services are no longer being provided because:

(a) The child is returned to the home of the child's parents and:

(A) The identified safety threats have been eliminated; or

(B) The parent's or caregiver's protective capacity can manage the identified safety threats; or

(b) A permanent plan, such as adoption or legal guardianship, has been established and return to a parent is no longer the plan.

(2) A family decision meeting will be held to determine whether identified safety threats have been addressed so that the safety plan can be closed. If a family decision meeting is not held as described in this section, supervisory approval and supporting documentation is required to explain why the meeting was not held.

(3) A supervisor must approve the closure of a safety plan. Before approving the closure, the supervisor must determine that closure is appropriate because one of the circumstances described in (1) applies, a family decision meeting has been held or there is documentation explaining why a meeting was not held and current safety threats have been addressed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 17-2004, f. & cert. ef. 11-1-04; CWP 13-2005(Temp), f. & cert. ef. 9-15-05 thru 3-1-06; CWP 5-2006, f. & cert. ef. 3-1-06

413-015-0514

Use of Team Decision Meetings (TDMs)

(1) A TDM is used by DHS staff to gather information for making a child placement decision. Except as provided in section (3) of this rule, a TDM must be held:

ADMINISTRATIVE RULES

(a) When a child is about to be or has been initially placed in substitute care:

- (A) Prior to placement of the child;
- (B) Within 24 hours of an emergency placement; or
- (C) On the next working day after a placement occurs during an evening, holiday, or weekend.

- (b) Before the child is returned to the home of the parent.
- (2) The following requirements apply to the use of TDMs:

(a) The DHS staff retains final responsibility for assessing child safety and approving the safety plan.

(b) Each TDM must include a review of the identified safety threats and the safety plan.

(c) A supervisor or a staff person other than the caseworker, designated by a supervisor, must attend a TDM held to determine the initial placement for a child.

(3) If a TDM is not held as required by section (1) of this rule, supervisory approval and supporting documentation are required to explain why the TDM was not held.

(4) A supervisor must review the identified safety threats and abusive behavior and confirm that the safety threats and abusive behaviors have been addressed in the safety plan developed in a TDM and approve the safety plan before a placement is made or a child is returned home. Supervisory approval of the plan must be documented on the TDM notes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 17-2004, f. & cert. ef. 11-1-04; CWP 13-2005(Temp), f. & cert. ef. 9-15-05 thru 3-1-06; CWP 5-2006, f. & cert. ef. 3-1-06

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 6-2006(Temp)

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06 thru 8-28-06

Notice Publication Date:

Rules Amended: 413-200-0307

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.

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 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 Founded 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

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

Rule Caption: Prior Authorized Drugs and Prior Authorization Criteria.

Adm. Order No.: OMAP 4-2006(Temp)

Filed with Sec. of State: 3-15-2006

Certified to be Effective: 3-15-06 thru 9-7-06

Notice Publication Date:

Rules Amended: 410-121-0040

Subject: The Pharmaceutical Services Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to certain clients. OMAP temporarily amended 410-121-0040 in order to include additional details regarding why certain drugs and categories of drugs require prior authorization in addition to including what the general prior authorization criteria are for the drugs and categories of drugs requiring prior authorization. This rule amendment does not expand existing OMAP prior authorization to new classes of drugs. This temporary rule provides clarifying criteria for drugs or classes of drugs that are already subject to prior authorization under OAR 410-121-0040.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining Prior Authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by OHP in a manner consistent with the Prioritized List of Health Services and its corresponding treatment guidelines, included within the client's benefit package of covered services, and not otherwise excluded or limited.

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these Pharmacy Provider rules, including PA requirements imposed in this rule.

(3) The Department of Human Services (DHS) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480) The drugs and categories of drugs for which DHS requires PA for this purpose are listed in Table 410-121-0040-1, with their approval criteria.

(4) DHS may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Drug Use Review (DUR) Board and adopted by the Department in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which DHS requires PA for this purpose are included in Table 410-121-0040-2, with their approval criteria.

(5) PA is required for brand name drugs that have two or more generically equivalent products available. Criteria for approval are:

ADMINISTRATIVE RULES

(a) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria.

(b) If (5)(a) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(6) PA will not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by DHS; or

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP.

(7) Psychotropic prescriptions for children under the age of six cannot be processed when a default 999999 provider number has been entered. If such a default provider number is used, the drug may not be dispensed until PA has been obtained. The PA process will include providing the correct provider number.

(a) Table 121-0040-1.

(b) Table 121-0040-2.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03, cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03, cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03, cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04, cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06

.....

Department of Human Services, Director's Office Chapter 407

Rule Caption: Prohibiting Discrimination Against Individuals with Disabilities.

Adm. Order No.: DHSD 1-2006

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 11-1-05

Rules Adopted: 407-005-0000, 407-005-0005, 407-005-0010, 407-005-0015, 407-005-0020, 407-005-0025, 407-005-0030

Subject: Establishing a Department policy prohibiting discrimination in the provision of Department of Human Service programs, services and activities on the basis of disability in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-005-0000

Purpose

These rules (407-005-0000 through 407-005-0030) establish a Department policy of non-discrimination on the basis of disability in accordance with the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 1-2006, f. & cert. ef. 3-1-06

407-005-0005

Definitions

The following definitions apply to rules 407-005-0000 through 407-005-0030:

(1) "Alternate Format Communication" means printed material converted to a communication style that meets the accessibility needs of individuals with disabilities to achieve "effective communication." The types of alternate format that the Department offers include but are not limited to: large print, Braille, audiotape, electronic format (E-mail attachment, diskette, or CD-ROM) and oral presentation.

(2) "Americans with Disabilities Act" is a comprehensive federal law passed in 1990, which prohibits discrimination on the basis of disability in employment, programs and services provided by state and local governments; goods and services provided by private companies; commercial

facilities; telecommunications and transportation. The ADA was crafted upon a body of existing legislation, particularly the Rehabilitation Act of 1973 (Section 504), which states that no recipient of federal financial assistance may discriminate against qualified individuals with disabilities solely because of a disability. (Public Law 101-336)

(3) "An Individual with a Disability" means an individual who:

(a) Has a physical or mental impairment that substantially limits one or more major life activities; or

(b) Has a record or history of such an impairment; or

(c) Is regarded as having such an impairment.

(4) "Auxiliary Aids or Services" mean devices or services that meet the accessibility needs of individuals with hearing, cognitive or speech impairments to achieve "effective communication." The types of auxiliary aids and services that DHS offers include but are not limited to: qualified sign language interpreters, text telephone (TTYs), oral presentation, notetakers and communication through computer keyboarding.

(5) Department means the "Department of Human Services."

(6) "Report of Discrimination" means a report filed with the Department by a client, client applicant or specific class of individuals or their representative(s) alleging an act of discrimination by the Department or a Department contractor, their agents or subcontractors, or a governmental entity under intergovernmental agreement with the Department, regarding delivery of Department services, programs or activities that are subject to Title II of the ADA or Section 504 of the Rehabilitation Act.

(7) "Federal Discrimination Complaint" means a complaint by a client, client applicant or specific class of individuals or their representative(s) filed with a federal agency alleging an act of discrimination by a public entity.

(8) "Qualified Individual with a Disability" means an individual who can meet the essential eligibility requirements for the program, service or activity with or without Reasonable Modification of rules, policies or procedures, or the provision of auxiliary aids and services.

(9) "Direct threat" means a significant risk to the health or safety of others that cannot be eliminated or reduced to an accepted level through the provision of auxiliary aids and services or through reasonably modifying policies, practices or procedures, that person is not considered a qualified individual with a disability and may be excluded from DHS programs services or activities. The determination of direct threat to the health and safety of others must be based on an individualized assessment relying on current medical evidence, or the best available objective evidence that shows:

(a) The nature, duration and severity of the risk;

(b) The probability that a potential injury will actually occur; and

(c) Whether reasonable modifications of policies, practices or procedures will lower or eliminate the risk.

(10) "Reasonable Modifications" means a modification of policies, practices or procedures made to a program or service that allows an individual with a disability to participate equally in the program or benefit from the service.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 1-2006, f. & cert. ef. 3-1-06

407-005-0010

Non-discrimination

(1) No qualified individual with a disability shall on the basis of disability, be discriminated against, be excluded from participation in, or be denied the benefits of the services, programs or activities of the Department. In providing any benefit or service, DHS may not, directly or through contractual or other arrangements, on the basis of a disability deny a qualified individual the opportunity to participate in a service, program or activity or to receive the benefit or services offered. DHS will not discriminate against a qualified individual with a disability, on the basis of disability in the granting of licenses and certificates.

(2) The Department will provide services, programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities within the context of the program being administered. For purposes of this section, "Integrated Setting" means a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.

(3) The Department will not require a qualified individual with a disability to participate in services, programs, or activities that are separate or different, despite the existence of permissibly separate or different programs or activities.

(4) The Department will not apply eligibility criteria or standards that screen out or tend to screen out an individual with a disability from fully and equally enjoying any goods or services, unless such criteria can be

ADMINISTRATIVE RULES

shown to be necessary for the provision of those goods and services or is determined by the Department to be a legitimate safety requirement.

(5) The Department will ensure each program, service or activity, including public meetings, hearings and events, when viewed in the entirety, is readily accessible to and usable by individuals with disabilities. For purposes of this section, accessible means the ability to approach, enter, operate, participate in, and/or use safely and with dignity by a person with a disability.

(6) Nothing in these rules prohibits the Department from providing benefits or services to individuals with disabilities, or to a particular class of individuals with disabilities, beyond those required by law.

(7) Nothing in these rules requires an individual with a disability to accept a modification, service, opportunity, or benefit provided under these rules that the individual decides not to accept.

(8) The Department will provide auxiliary aids and services or alternate format communication to individuals with disabilities where necessary to ensure an equal opportunity to participate in, and enjoy the benefits of, a service, program or activity, unless it would result in a fundamental alteration of the program or an undue financial or administrative burden. Although the Department shall determine which aid or format, if any, can be provided without fundamental alteration or undue burden, primary consideration should be given to the choice of the requestor.

(9) Except as authorized under specific programs, the Department is not required to provide personal devices, individually prescribed devices, readers for personal use or study, or services of a personal nature.

(10) The Department will not assess a charge or fee to an individual with a disability or any group of individuals with disabilities to cover the costs of measures required to provide the individual with the non-discriminatory treatment required by this policy.

(11) The Department will not deny individuals the opportunity to participate on planning or advisory boards based on their disability.

(12) The Department will not discriminate against individuals that do not have disabilities themselves, but have a known relationship or association with one or more individuals who have disabilities.

(13) The Department's determination of direct threat to the health and safety of others must be based on an individualized assessment relying on current medical evidence, or the best available objective evidence that shows:

- (a) The nature, duration and severity of the risk,
- (b) The probability that a potential injury will actually occur; and
- (c) Whether reasonable modifications of policies, practices or procedures will lower or eliminate the risk.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 1-2006, f. & cert. ef. 3-1-06

407-005-0015

Illegal Drug Use

(1) Except as provided in subsection (2) of this rule, OAR 407-005-0000 through 407-005-0030 does not prohibit discrimination against an individual based on that individual's current illegal use of drugs.

(2) The Department will not deny health services or services provided in connection with drug rehabilitation to an individual on the basis of that individual's current use of drugs, if the individual is otherwise entitled to such services. However, a drug rehabilitation or treatment program may deny participation to individuals who engage in illegal use of drugs while they are in the program.

(3) A program may adopt reasonable policies related to drug testing that are designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in the current illegal use of drugs.

(4) A client with a psychoactive substance use disorder resulting from current illegal use of drugs is not considered to have a disability under OAR 407-005-0000 through 407-005-0030 unless the client has a disability due to another condition.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 1-2006, f. & cert. ef. 3-1-06

407-005-0020

Reasonable Modifications

(1) The Department will make Reasonable Modifications to policies, practices or procedures of a program, services or activity when the modifications are necessary to avoid discrimination based on disability unless the modification would fundamentally alter the nature of the program, service or activity or create an undue administrative or financial burden.

(2) When providing program access to a qualified individual with a disability would cause a fundamental alteration of the program, service or

activity or undue financial or administrative burden, the Department will, to the extent the benefit of the program, service or activity can be achieved, provide program access to the point at which the program becomes fundamentally altered or experiences an undue burden.

(3) Alternate Format communication is considered to be within the scope of reasonable modifications.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 1-2006, f. & cert. ef. 3-1-06

407-005-0025

Requesting a Reasonable Modification

(1) To request a reasonable modification to a Department program, service or activity a client applicant, client or public member must submit to program staff a request for a reasonable modification to the applicable program. Requests may be made verbally or by completing the Request for Reasonable Modification form.

(2) Upon receipt of a request for modification the Department will:

(a) Determine whether additional documentation regarding the claimed disability is needed and request such documentation;

(b) Within fifteen (15) working days of the request or the receipt of additional medical documentation, whichever is later, provide to the requestor notification of approval, approval with alternative modifications or denial of the request for reasonable modification. All denials and approvals with alternative modifications that were not requested will be clearly labeled a "Preliminary Notification Subject to Review."

(c) Ensure that approved modifications occur within a reasonable time.

(3) A "Reasonable Modification Team" means a two person team appointed by program managers that meet to evaluate a Request for Reasonable Modification decision that either denied the request or approved the request but with modifications other than those requested.

(4) This process may include additional communication with the individual requesting the Reasonable Modifications.

(5) Preliminary Notifications will automatically be reviewed by a Reasonable Modification Team that will notify the requestor of the final result of the review within fifteen (15) working days of the preliminary notification or within fifteen working days following receipt of medical or other supporting documentation requested by the Team, whichever is later.

(6) An individual whose request for reasonable modification has been denied or approved with alternative modifications which the individual believes to be inadequate may file a Report of Discrimination with the Department within 60 days of the final result or file a complaint with the appropriate federal regulatory agency within 180 days of the final result.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHSD 1-2006, f. & cert. ef. 3-1-06

407-005-0030

Report of Discrimination and Other Remedies Available for Alleged Discrimination

(1) A client or client applicant or specific class of individuals or their representative(s) may file with the Department a Report of Discrimination based on disability in the following circumstances:

(a) The final result under OAR 407-005-0025 for a Reasonable Modification Request was denied or was approved with an alternative to the requested modification which is believed to be inadequate;

(b) A request for auxiliary aids and services was denied or was approved with an alternative to the request which is believed to be inadequate;

(c) A request for an alternate format communication was denied or was approved with an alternative to the request which is believed to be inadequate;

(d) Inability to access facilities used for Department programs;

(e) Denial of participation in Department programs and services.

(2) A Report of Discrimination must be filed within 60 calendar days of the date of the alleged discrimination unless otherwise set forth in these rules. In the Food Stamp program, a Report of Discrimination filed more than 60 but less than 180 days of the alleged discrimination will be referred to the Food and Nutrition Service for investigation and is not otherwise covered by this rule.

(3) A Report of Discrimination may be submitted verbally or on a Report of Discrimination Form available at any Department office or by calling any Department office.

(4) The claim of discrimination will be investigated and will include an interview with the complainant and upon conclusion of the investiga-

ADMINISTRATIVE RULES

tion, a Letter of Determination shall be issued within (40) calendar days from the receipt of the Discrimination Report.

(5) An individual may appeal the Letter of Determination to the Civil Rights Review Board (CRRB) within thirty (30) calendar days of receiving the Letter of Determination. CRRB means a panel of Department employees appointed by the Director that reviews the decisions made by the Department ADA Coordinator or the Civil Rights Investigator on discrimination complaints filed with the Department.

(6) At the discretion of CRRB, this may include additional communication with the client.

(7) The remedies available under OAR 407-005-0000 through 407-005-0030 are available in addition to other remedies available under state or federal law or Oregon Administrative Rules, except that these remedies must be exhausted where exhaustion is a requirement of seeking remedies in another forum.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: DHS 1-2006, f. & cert. ef. 3-1-06

Rule Caption: Guide for Employees Who Are Subjects of a CPS Assessment.

Adm. Order No.: DHS 2-2006

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 1-1-06

Rules Adopted: 407-010-0001

Subject: This rule establishes the development of policies and procedures to guide the use of information between Oregon Youth Authority (OYA) and DHS employees who are subjects of a Child Protective Services (CPS) assessment. This information is provided by CPS supervisors in relation to the requirements of OAR 413-015-0405(9).

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-010-0001

Policies and Procedures to Guide Use of Information on OYA and DHS Employees Who are Subjects of a CPS Assessment

The DHS Office of Human Resources will develop policies and procedures to guide use of information provided by CPS supervisors in relation to the requirements of OAR 413-015-0405(9).

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: DHS 2-2006, f. & cert. ef. 3-1-06

Department of Human Services, Public Health Chapter 333

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

Adm. Order No.: PH 4-2006(Temp)

Filed with Sec. of State: 3-2-2006

Certified to be Effective: 3-2-06 thru 8-1-06

Notice Publication Date:

Rules Amended: 333-076-0101, 333-076-0125, 333-076-0130, 333-076-0135

Subject: The Department of Human Services is temporarily amending Oregon Administrative Rules (OAR), 333-076-0101 and 333-076-0135 relating to ambulatory surgical centers, in order to implement 2005 Oregon Laws, Chapter 665 (HB 2800). Oregon Administrative Rules 333-076-0125 and 333-076-0130 are being amended to correct rule references.

Rules Coordinator: Christina Hartman—(971) 673-1291

333-076-0101

Definitions

As used in OAR chapter 333, division 76 unless the context requires otherwise, the following definitions apply:

(1) "Health Care Facility" (HCF) has the meaning given the term in ORS 442.015, and includes but is not limited to the following classifications:

(a) "Hospital" means an establishment with an organized medical staff with facilities that include inpatient beds, and with medical services, including physician services and continuous nursing services under the

supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for, but not limited to, acutely ill patients and accident victims, or to provide treatment for the mentally ill or to provide treatment in special inpatient care facilities. "Special inpatient care facilities" are facilities with inpatient beds and other facilities designed and utilized for special health care purposes, to include but not be limited to: Rehabilitation center, college infirmary, chiropractic facility, facility for the treatment of alcoholism or drug abuse, or inpatient care facility meeting the requirements of ORS 441.065, and any other establishment falling within a classification established by the Division, after determination of the need for such classification and the level and kind of health care appropriate for such classification;

(b) "Long term care facility" (LTCF) means an establishment with permanent facilities that include inpatient beds, providing medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director of the Department of Human Services, to provide treatment for two or more unrelated patients. "Long term care facility" includes the terms "skilled nursing facility" and "intermediate care facility," but such definition shall not be construed to include facilities licensed and operated pursuant to ORS 443.400 to 443.455; and

(c) "Ambulatory surgical center" (ASC) means a health care facility which performs outpatient surgery not routinely or customarily performed in a physician's or dentist's office, and is able to meet health facility licensure requirements:

(A) In the case of outpatient surgery involving termination of pregnancy, procedures routinely and customarily done in physician's offices are the following:

- (i) Dilation and curettage;
- (ii) Suction curettage;
- (iii) Sharp curettage; and
- (iv) Dilation and evacuation.

(B) A freestanding birthing center means a health care facility licensed for the primary purpose of performing low risk deliveries.

(2) "Authentication" means verification that an entry in the patient medical record is genuine.

(3) "Certified Nursing Assistant" (CNA) means a person who is certified by an Oregon State Board of Nursing approved training program to assist licensed nursing personnel in the provision of nursing care.

(4) "Certified Nurse Anesthetist" (CRNA) means a registered nurse certified by the American Association of Nurse Anesthetists.

(5) "Certified Nurse Midwife" (CNMW) means a registered nurse certified by the Oregon State Board of Nursing as a nurse practitioner midwife.

(6) "Chiropractor" means a person licensed under ORS Chapter 684 to practice chiropractic.

(7) "Circulating nurse" means a registered nurse who is responsible for coordinating the nursing care and safety needs of the patient in the operating room and who also meets the needs of operating room team members during surgery.

(8) "Division" means the Department of Human Services.

(9) "Governing Body" means the body or person legally responsible for the direction and control of the operation of the facility.

(10) "Governmental Unit" means the state, or any county, municipality, or other political subdivision, or any related department, division, board or other agency.

(11) "Health Care Facility Licensing Law" means ORS 441.015 to 441.990 and rules thereunder.

(12) "Inpatient Beds" means a bed in a facility available for occupancy by a patient who will or may be cared for and treated on an overnight basis.

(13) "Institutional Health Services" means health services provided in or through health care facilities and includes the entities in or through which such services are provided.

(14) "Licensed" means that the person or facility to whom the term is applied is currently licensed, certified or registered by the proper authority to follow his or her profession or vocation within the State of Oregon, and when applied to a health care facility means that the facility is currently and has been duly and regularly licensed by the Division.

(15) "Licensed Nurse" means a Registered Nurse (RN) or a Licensed Practical Nurse (LPN).

(16) "Licensed Practical Nurse" (LPN) means a person licensed under ORS Chapter 678 to practice practical nursing.

(17) "Major Alteration" means changes other than repair or replacement of building materials and equipment with materials and equipment of a similar type.

ADMINISTRATIVE RULES

(18) "Naturopath" means a person licensed under ORS Chapter 685 to practice naturopathy.

(19) "New Construction" means a new building or an addition to an existing building.

(20) "NFPA" means National Fire Protection Association.

(21) "Nurse Practitioner" means a registered nurse who has been certified by the Board of Nursing as qualified to practice in an expanded specialty role within the practice of nursing.

(22) "Nursing Assistant" means a person certified as meeting the educational requirements established by the Oregon State Board of Nursing (OSBN). Responsibilities shall be limited to functions included in a course curricula approved by OSBN.

(23) "Oregon Sanitary Code" means the Food Sanitation Rules, OAR chapter 333-150-0000.

(24) "Patient Audit" means review of the medical record and/or physical inspection of a patient.

(25) "Person" means an individual, a trust or estate, a partnership or corporation (including associations, joint stock companies and insurance companies, a state or a political subdivision or instrumentality including a municipal corporation).

(26) "Physician" means a person licensed under ORS Chapter 677 to practice medicine by the Board of Medical Examiners.

(27) "Physician's Assistant" means a person who is registered as a physician's assistant in accordance with ORS 677.

(28) "Podiatrist" means a person licensed under ORS Chapter 677 to practice podiatry.

(29) "Podiatry" means the diagnosis or the medical, physical or surgical treatment of ailments of the human foot, except treatment involving the use of a general or spinal anesthetic unless the treatment is performed in a hospital certified in the manner described in subsection (2) of ORS 441.055 and is under the supervision of or in collaboration with a physician licensed to practice medicine by the Board of Medical Examiners for the State of Oregon. "Podiatry" does not include the administration of general or spinal anesthetics or the amputation of the foot.

(30) "Registered Nurse" (RN) means a person licensed as a Registered Nurse under ORS Chapter 678.

(31) "Type I ambulatory surgical center" means a licensed health care facility for the performance of outpatient surgical procedures including, but not limited to, cholecystectomies, tonsillectomies or urological procedures, involving general anesthesia or a relatively high infection control consideration.

(32) "Type II ambulatory surgical center" means a licensed health care facility for the performance of outpatient surgical procedures including, but not limited to eyes, extremities, epidermis or diagnostic workups with local anesthesia or conscious sedation.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441
Hist.: HD 3-1990, f. 1-8-90, cert. ef. 1-15-90; PH 4-2006(Temp), f. & cert. ef. 3-2-06 thru 8-1-06

333-076-0125

Personnel

(1) The facility shall maintain a sufficient number of qualified personnel to provide effective patient care and all other related services.

(2) There shall be written personnel policies and procedures which shall be made available to personnel.

(3) Provisions shall be made for orientation.

(4) Provisions shall be made for an annual continuing education plan.

(5) There shall be a job description for each position which delineates the qualifications, duties, authority and responsibilities inherent in each position.

(6) There shall be an annual work performance evaluation for each employee with appropriate records maintained.

(7) There shall be an employee health program for the protection of patients:

(a) Pursuant to OAR 333-019-0010:

(A) To protect the public health, persons who work in ambulatory surgery centers shall not attend or work at these facilities whilst in a communicable stage of any restrictable diseases unless authorized to do so as hereunder specified.

(B) At such facilities, restrictable diseases include: chickenpox, pertussis, rubella, scabies, diphtheria, measles, Salmonella Typhi infection, shigellosis, Shiga-toxicogenic Escherichia coli (STEC) infection, hepatitis A, tuberculosis, open or draining skin lesions infected with Staphylococcus aureus or Streptococcus pyogenes, and any illness accompanied by diarrhea or vomiting.

(b) The infection control committee of the health care facility shall adopt policies to restrict the working of employees with health care facility restrictable diseases. When measures have been taken to prevent the transmission of disease and these measures are in accordance with written procedures approved by the infection control committee of the facility after consultation with the local health officer, infectious employees may work in a health care facility. Nothing in these rules prohibits health care facilities and local health departments from adopting additional or more stringent rules for exclusion from these facilities.

(c) Pursuant to OAR 333-019-0041:

(A) Each ambulatory surgery center shall formally assess the risk of tuberculosis transmission among staff following the recommendations outlined in "Guidelines for preventing the transmission of Mycobacterium tuberculosis in Health-Care Facilities," published by the Centers for Disease Control and Prevention (Morbidity and Mortality Weekly Report, Vol. 43, Number RR-13, October 28, 1994) or otherwise approved by the Division;

(B) All personnel working in an ambulatory surgery center shall, within 30 days prior to or following employment, have an examination to determine the presence of and to exclude transmissible tuberculosis, as specified in OAR 333-026-0015;

(C) An employee whose employment never requires him/her to be in a room where patients or residents might enter, and who does not handle clinical specimens or other material from patients or their rooms, may be exempted from the requirements of paragraphs (7)(c)(A) and (B) of this rule. An example of such an employee would be an administrative person or research worker whose place of work is remote from patient or residential care areas and who does not come in contact with clinical specimens;

(D) In the event that a case of communicable tuberculosis is diagnosed in an employee or patient of a health care facility, the facility shall conduct an investigation to identify contacts. The local health department shall assist in the investigation;

(E) The actions taken under paragraphs (7)(c)(A) through (D) of this rule and all results thereof shall be fully documented for each employee. Such documentation is subject to review by authorized representatives of the Division.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441
Hist.: HD 3-1990, f. 1-8-90, cert. ef. 1-15-90; PH 4-2006(Temp), f. & cert. ef. 3-2-06 thru 8-1-06

333-076-0130

Policies and Procedures

The governing body shall have a formal organizational plan with written policies, procedures and by-laws that are enforced and that clearly set forth the organizational plan with written responsibilities, accountability and relationships of professional and other personnel including volunteers.

(1) The clinical services of each ASF shall be under the supervision of a manager who shall be an RN or a physician.

(2) The following are written policies and procedures that the ASF shall develop and implement:

(a) Types of procedures which may be performed in the facility;

(b) Types of anesthesia which may be used including storage procedures. Where inhalation anesthetics and medical gases are used there shall be procedures to assure safety in storage and use;

(c) Criteria for evaluating patient before admission and before discharge or transfer;

(d) Nursing Service activities;

(e) Infection control;

(f) Visitor's conduct and control;

(g) Criteria and procedures for admission of physicians, dentists, or other individuals within the scope of his or her license, to the staff;

(h) Content and form of Medical Records;

(i) Procedures for storage and dispensing of clean and sterile supplies and equipment and the processing and sterilizing of all supplies, instruments and equipment used in procedures unless disposable sterile packs are used;

(j) Procedures for the disposal of pathological and other potentially infectious waste and contaminated supplies. Guidelines established by the Division shall be used in developing these procedures;

(k) Procedures for the procurement, storage and dispensing of drugs;

(l) If the program calls for the serving of snacks or other foods, procedures shall be written covering space, equipment and supplies. Arrangements may be made for outside services. All food services shall meet the requirements of the Oregon State Food Sanitation Rules, OAR 333-150-0000;

ADMINISTRATIVE RULES

(m) Procedures for the cleaning, storage and handling of soiled linen and the storage and handling of clean linen;

(n) Policies and procedures relating to routine laboratory testing;

(o) A policy and procedure which assures at least annual training in emergency procedures, including, but not limited to procedures for fire and other disaster; infection control measures; and for staff involved in direct patient care, procedures for life threatening situations including, but not limited to, cardiopulmonary resuscitation and the life saving techniques for choking; and

(p) Policies and procedures for essential life saving measures and stabilization of a patient and arrangements for transfer to an appropriate facility.

Stat. Auth.: ORS 441 & 442

Stats. Implemented: ORS 441

Hist.: HD 11-1980, f. & ef. 9-10-80; HD 25-1983(Temp), f. & ef. 12-21-83; HD 23-1985, f. & ef. 10-11-85; Renumbered from 333-023-0163(1); HD 3-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0100(2)(a) & (b)(A) - (Q); PH 4-2006(Temp), f. & cert. ef. 3-2-06 thru 8-1-06

333-076-0135

Nursing Services

(1) An RN shall be responsible for the nursing care provided to the patients.

(2) The number and types of nursing personnel, including RNs, LPNs and nursing and surgical assistants shall be based on the needs of the patients and the types of services performed.

(3) At least one RN and one other nursing staff member shall be on duty at all times patients are present.

(4)(a) The duties of a circulating nurse performed in an operating room of a Type I ambulatory surgical center shall be performed by a registered nurse licensed under ORS 678.010 to 678.410.

(b) In any case requiring anesthesia or conscious sedation, a circulating nurse shall be assigned to, and present in, an operating room for the duration of the surgical procedure unless it becomes necessary for the circulating nurse to leave the operating room as part of the surgical procedure. While assigned to a surgical procedure, a circulating nurse may not be assigned to any other patient or procedure.

(c) Nothing in this section precludes a circulating nurse from being relieved during a surgical procedure by another circulating nurse assigned to continue the surgical procedure.

(5) Nurses who supervise the recovery area shall have current training in resuscitation techniques and other emergency procedures.

Stat. Auth.: ORS 441 & 442

Stats. Implemented: ORS 441

Hist.: HD 11-1980, f. & ef. 9-10-80; HD 25-1983(Temp), f. & ef. 12-21-83; HD 23-1985, f. & ef. 10-11-85; Renumbered from 333-023-0163(1); HD 3-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0100(4)(a) - (c); PH 4-2006(Temp), f. & cert. ef. 3-2-06 thru 8-1-06

.....

Department of Human Services, Self-Sufficiency Programs Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Adm. Order No.: SSP 4-2006

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 2-1-06

Rules Amended: 461-155-0250, 461-155-0290, 461-155-0291, 461-155-0295

Subject: OAR 461-155-0250 is being amended to raise the adjusted income limit for the OSIP EPD (supplemental income for employed persons with disabilities) and OSIPM EPD (Medicaid coverage for employed persons with disabilities) programs to reflect the increase in the federal poverty standards for 2006.

OAR 461-155-0290 is being amended to raise the Adjusted Income Standard for the QMB-BAS program (the basic program providing additional medical coverage to qualified Medicare beneficiaries). This increase in allowable income is directly related to the increase in the federal poverty standards. The income limit is 100% of the federal poverty standard (FPL). This normally changes every April, based on the FPL changes earlier (usually February) in the year. This amendment will affect clients eligible for the program and applicants who may have been over income previously.

OAR 461-155-0291 is being amended to raise the Adjusted Income Standard for the QMB-DW program (a program for disabled workers which pays the Medicare Part A premium for eligible individuals under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed). This increase in allowable income is directly related to the increase in the Federal Poverty Standards (FPL). The income limit is 200% of the Federal Poverty standard. This normally changes every April, based on the FPL changes earlier (usually February) in the year. This amendment will affect clients eligible for the program and applicants who may have been over income previously.

OAR 461-155-0295 is being amended to raise the Adjusted Income Standard for the QMB-SMB (special Medicare beneficiary) program, which pays all or part of the Medicare Part B premium for qualified individuals. This increase in allowable income is directly related to the increase in the Federal Poverty Standards (FPL). The income level for the SMB subset of QMB-SMB is from 100% of FPL up to 120% of the FPL. The income level for the SMF subset of QMB-SMB (for which the federal acronym is QI-1) is from 120 up to 135% FPL. These standards normally change every April, based on the FPL changes earlier (usually February) in the year. This amendment will affect clients eligible for the program and applicants who may have been over income previously.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0250

Income and Payment Standard; OSIP, OSIPM

(1) For OSIP and OSIPM (except OSIP-EPD and OSIPM-EPD) clients in long-term care and in waived nonstandard living arrangements, the countable income limit standard is 300 percent of the SSI standard. The one-person SSI standard is used for an individual who has no income and is living alone in the community to compute the countable income limit. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non-SSI OSIP and OSIPM (except OSIP-EPD and OSIPM-EPD) adjusted income standard takes into consideration the need for housing, utilities, food, clothing, personal incidentals and household supplies. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The payment standard is used as the adjusted income limit and to calculate cash benefits for non-SSI OSIP clients. The OSIP-AB adjusted income standard includes a transportation allowance. The total standard is: [Table not included. See ED. NOTE.]

(4) The payment standard for SSI/OSIP clients living in the community is either the SIP amount or the ESB amount. The SIP (supplemental income payment) is a need amount added to any other special or service needs to determine the actual payment. The ESB (excess SSI benefit) is a resource amount used to offset special and service need payments:

(a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than \$20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is \$20 or more: [Table not included. See ED. NOTE.]

(c) The SSI/OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, \$20 is added to the SIP amount.

(d) For SSI couples in an AFC, ALF or RCF, an amount is added to each person's SIP entry that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.

(5) For OSIP and OSIPM clients in long-term care, the following amounts are allowed for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unusual medical expenses (UME), \$90 is allowed.

(b) For all other clients, \$30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted income limit is 250 percent of the 2006 federal poverty level for a family of one. This 250 percent limit equals \$2,042 per month or \$24,500 per year.

(7) In the OSIP-EPD and OSIPM-EPD programs, \$970 in earnings is needed to meet the requirement in OAR 461-110-0115 for "sufficient earnings" in the definition of "attached to the workforce."

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

ADMINISTRATIVE RULES

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06

461-155-0290

Income Standard; QMB-BAS

The adjusted income standard for the QMB-BAS program is 100 percent of the 2006 federal poverty level. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06

461-155-0291

Income Standard; QMB-DW

The adjusted income standard for the QMB-DW program is 200 percent of the 2006 federal poverty level (*see* OAR 461-155-0290). [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06

461-155-0295

Income Standard; QMB-SMB

The adjusted income standard for QMB-SMB is 135 percent of the 2006 federal poverty level (*see* OAR 461-155-0290). [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06

.....

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Adm. Order No.: SSP 5-2006(Temp)

Filed with Sec. of State: 3-6-2006

Certified to be Effective: 3-6-06 thru 8-31-06

Notice Publication Date:

Rules Amended: 461-160-0580

Subject: Rule 461-160-0580 is being amended to be consistent with the new federal requirement that available income of the Medicaid client receiving long-term care services (after required deductions for personal needs, etc.) and income of the community spouse must be used to meet the community spouse's monthly maintenance needs before any additional resources can be transferred to the community spouse to generate interest income to meet the need. Prior to enactment of the Deficit Reduction Act of 2005, using the income first was

optional. Under the new federal law, using income first is mandatory in all situations. Although the Department's calculation for the community spouse's needs used income first, court actions filed by attorneys on behalf of community spouses for transfers of resources and spousal support orders were not required to use income first.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-160-0580

Excluded Resource; Community Spouse Provision (OSIP and OSIPM except OSIP-EPD and OSIPM-EPD)

(1) In the OSIP and OSIPM programs, this rule applies to an institutionalized spouse who began a continuous period of care.

(2) Whether a couple lives together or not, the determination of whether the value of the couple's resources exceed the eligibility limit for the institutionalized spouse for OSIPM program is made as follows:

(a) The first step is the determination of what the couple's combined countable resources were at the beginning of the most recent continuous period of care. (The beginning of the continuous period of care is the first month of that continuous period.)

(A) Division 461-160 rules applicable to OSIP describe which of the couple's resources are countable resources. Division 461-160 rules applicable to OSIP clients are applicable to determine whether a community spouse's resources are countable, even if the rule only applies to OSIP clients.

(B) The countable resources of both spouses are combined.

(C) At this point in the computation, the couple's combined countable resources are considered available equally to both spouses.

(b) The second step is the calculation of one half of what the couple's combined countable resources were at the beginning of the continuous period of care. The community spouse's half of the couple's combined resources is treated as a constant amount when determining eligibility.

(c) The third step is the determination of the community spouse's resource allowance. The community spouse's resource allowance is the largest of the four following amounts:

(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care, but not more than \$99,540.

(B) \$19,908 (the state community-spouse resource allowance).

(C) A court-ordered community spouse resource allowance. In this rule, (OAR 461-160-0580(2)(c)(C) and (2)(f)(C)), the term *court-ordered community spouse resource allowance* means a court-ordered community spouse resource allowance that, in relation to the income generated, would raise the community spouse's income to a court-approved monthly maintenance needs allowance. In cases where the client became an institutionalized spouse on or after February 8, 2006, this resource allowance must use all of the client's available income and the community spouse's income to meet the community spouse's monthly maintenance needs allowance before any resources are used to generate interest income to meet the allowance.

(D) After considering the income of the community spouse and the income available from the institutionalized spouse, an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. The amount described in this paragraph (D) is considered only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:

(i) The monthly income allowance computed in accordance with OAR 461-160-0620.

(ii) The difference between:

(I) The sum of gross countable income of the community spouse and the institutionalized spouse; and

(II) The applicable need standard under OAR 461-160-0620(1)(d).

(d) The fourth step is the determination of what the couple's current combined countable resources are when a resource assessment is requested or the institutionalized spouse applies for OSIPM. The procedure in subsection (2)(a) (first step) of this rule is used.

(e) The fifth step is the subtraction of the community spouse's resource allowance from the couple's current combined countable resources. The resources remaining are considered available to the institutionalized spouse.

(f) The sixth step is a comparison of the value of the remaining resources to the OSIP resource standard for one person (under OAR 461-160-0015(6)(a)). If the value of the remaining resources is at or below the standard, the institutionalized spouse meets this eligibility requirement. If the value of the remaining resources is above the standard, the institution-

ADMINISTRATIVE RULES

alized spouse cannot be eligible until the value of the couple's combined countable resources is reduced to the largest of the four following amounts:

(A) The community spouse's half of what the couple's combined countable resources were at the beginning of the continuous period of care (but not more than \$99,540) plus the OSIP resource standard for one person.

(B) \$19,908 (the state community-spouse resource allowance), plus the OSIP resource standard for one person.

(C) A court-ordered community spouse resource allowance plus the OSIP resource standard for one person. (See paragraph (2)(c)(C) of this rule for a description of the *court-ordered community spouse resource allowance*.)

(D) The OSIP resource standard for one person plus the amount described in the remainder of this paragraph. After considering the income of the community spouse and the income available from the institutionalized spouse, add an amount which, if invested, would raise the community spouse's income to the monthly maintenance needs allowance. Add this amount only if the amount described in subparagraph (i) of this paragraph is larger than the amount described in subparagraph (ii); it is the difference between the following:

(i) The monthly income allowance computed in accordance with OAR 461-160-0620.

(ii) The difference between:

(1) The sum of gross countable income of the community spouse and the institutionalized spouse; and

(II) The applicable need standard under OAR 461-160-0620(1)(d).

(3) Once eligibility has been established, resources equal to the community spouse's resource allowance (under subsection (2)(c) of this rule) must be transferred to the community spouse if those resources are not already in that spouse's name. The institutionalized spouse must indicate his or her intent to transfer the resources and must complete the transfer to the community spouse within 90 days. This period may be extended for good cause. These resources are excluded during this period. After this period, resources owned by the institutionalized spouse but not transferred out of that spouse's name will be countable and used to determine ongoing eligibility.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 5-2006(Temp), f. & cert. ef. 3-6-06 thru 8-31-06

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

Rule Caption: This rule change is for consistency of the fireworks rule definitions.

Adm. Order No.: OSFM 4-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 2-1-06

Rules Amended: 837-012-0510, 837-012-0555

Subject: Changes are being made to 837-012-0510(19) to add wording to the definition of "Retail Fireworks" to be consistent with the definition of retail fireworks in the public display and retail rules. Changes are being made to 837-012-0555(4) to add and delete wording to be consistent with retail fireworks rules.

Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-012-0510

Definitions

For purposes of ORS 480.110 through 480.165 and OAR 837-012-0500 through 837-012-0570, the following definitions apply:

(1) "Agricultural Fireworks" shall mean Fireworks used for the purpose of scaring away or repelling birds or animals pursuant to ORS 480.122 or controlling predatory animals pursuant to ORS 480.124.

(2) "BATFE" shall mean the Bureau of Alcohol, Tobacco, Firearms and Explosives.

(3) "Carton, Container, or Case" shall mean any box, parcel, bundle, or other package used to hold or contain Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks for purposes of transportation and/or storage. The term does not include:

(a) The wrapping and/or packaging used to hold or contain a single or small number of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks; or

(b) A vehicle or other mobile container used to transport Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(4) "Domicile" shall mean a Person's legal home; the particular place that a Person intends to make the Person's fixed and permanent home and abode.

(5) "Exempt Fireworks" shall mean Novelties and Trick Noisemakers.

(6) "Fireworks" shall have the meaning provided in ORS 480.110(1). The term includes Retail Fireworks, Public Display Fireworks and Agricultural Fireworks. The term does not include Exempt Fireworks.

(7) "Individual" shall mean a single human being.

(8) "Individual Member of the General Public" shall mean:

(a) For Persons in Oregon, any Person who has not been issued a Wholesale Permit, a general, limited or special effects public display permit, a retail permit, or an agricultural permit by the Office of State Fire Marshal.

(b) For Persons outside of Oregon, any Person who has not been issued a license and/or permit when such a license and/or permit is required, authorizing the Person to Sell, purchase, obtain, transport, possess, use or discharge Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(9) "In-state Wholesaler" shall mean a Wholesaler who owns, possesses, or occupies a Wholesale Site located in Oregon.

(10) "Local Fire Authority" shall mean the local fire official having jurisdiction over the Wholesale Site and Wholesale Operations.

(11) "Manager" shall mean the Individual identified on the Permit Application who is responsible for, and directs the operations at, the Wholesale Site.

(12) "NFPA" shall mean the National Fire Protection Association.

(13) "Novelties and Trick Noisemakers" shall mean those items described in ORS 480.110(1)(a) and (b) and NFPA 1124, Section 1.4, 2003 Edition. It also means Exempt Fireworks.

(14) "Out-of-State Wholesaler" shall mean a Wholesaler who owns, occupies, or possesses a Wholesale Site located outside of Oregon.

(15) "Permit Application" shall mean the application form(s) and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of a Wholesale Permit.

(16) "Public Display Fireworks" shall mean Fireworks that are authorized under a general, limited, or special effects public display permit issued pursuant to ORS 480.130, 480.140 and 480.150.

(17) "Residence" shall mean the particular dwelling place where a Person lives and has a present intent to remain for a period of time.

(18) "Resident" shall mean any Person who occupies a dwelling in a state and has a present intent to remain in the state for a period of time.

(19) "Retail Fireworks" shall mean those items described in ORS 480.127(4), specifically Combination Items, Cone Fountains, Cylindrical Fountains, Flitter Sparklers, Ground Spinners, Illuminating Torches, and Wheels. The term does include a firework designed with the means to roll or move while remaining on the ground, that travels 12' or less horizontally on smooth surfaces.

(20) "Retailer" shall mean any Person who, Sells, transfers, or provides by any other means, or intends to Sell, transfer or provide by any other means, Retail Fireworks to Individual Members of the General Public.

(21) "Sales Representative" shall mean an Individual who is an employee of the Wholesale Permit holder and is authorized to conduct sales for the Wholesale Permit holder.

(22) "Sell" shall mean to transfer possession of property from one Person to another Person for consideration.

(23) "Wholesale Operations" shall mean the sale of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks and related activities, including the purchase, possession, storage and transportation of such Fireworks.

(24) "Wholesale Permit" shall mean the official written document issued by the Office of State Fire Marshal that authorizes the purchase,

ADMINISTRATIVE RULES

transport, possession, packaging, storing and sale of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks when otherwise in compliance with all applicable requirements of ORS 480.110 through 480.165, OAR chapter 837, division 12, and any other applicable federal, state and local laws, rules and regulations.

(25) "Wholesale Site" shall mean the location where a Wholesaler's sales and storage facilities are operated and maintained.

(26) "Wholesaler" shall mean any Person who Sells or provides by any other means, or intends to Sell or provide by any other means, Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

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

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 7-2004(Temp), f. & cert. ef. 12-13-04 thru 6-10-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 4-2006, f. & cert. ef. 3-10-06

837-012-0555

Prohibited Acts and Limitations

(1) Wholesale Permit holders shall not create, maintain, or allow the existence of a fire hazard at any location under their control where Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks are stored, transported, sold, or used.

(2) No Wholesale Permit holder shall Sell or provide by any other means, including donation:

(a) Fireworks or Public Display Fireworks to any Individual under 21 years of age;

(b) Retail Fireworks or Agricultural Fireworks to any Individual under 18 years of age if the sale or provision of Retail Fireworks or Agricultural Fireworks is to an Individual in Oregon;

(c) Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks to any Person who does not possess a valid permit for such Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks issued by the Office of State Fire Marshal, or if required, a valid license and/or permit issued by the equivalent agency in the Person's state of Residence or the state of destination for the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks;

(d) Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks which have been altered in any manner.

(3) No Person who has been convicted of a violation of ORS 480.110 through 480.165 or OAR chapter 837, division 12, or who has had any Fireworks permit or operator certificate suspended, denied or revoked, shall participate in any manner in Wholesale Operations, for a period not to exceed three years.

(4) A Wholesale Permit holder shall not employ, or have direct business ties with, any Person whose Wholesale or Retail Fireworks Permit or operator certificate is revoked or suspended.

(5) No Individual under 18 years of age shall participate in any manner in Wholesale Operations involving Fireworks, Retail Fireworks, or Agricultural Fireworks.

(6) No Individual under 21 years of age shall participate in any manner in Wholesale Operations involving Public Display Fireworks.

(7) A Wholesale Permit holder shall not fill out, complete or submit a general, limited, or special effects public display permit, retail permit, or agricultural use permit previously filled out or completed by a different Wholesaler unless the Wholesale Permit holder has applied for and received approval from the Office of State Fire Marshal to do so.

(8) Wholesale Permit holders shall not sell, provide, ship, transport, keep, offer for sale, expose for sale, possess, use, explode or have exploded any Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks that have not been approved, certified or listed for transport by the United States Department of Transportation and/or the United States Consumer Product Safety Commission, or if the Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks do not have a United States Bureau of Explosives Temporary Transfer Permit.

(9) A Wholesale Permit or permit number that has expired or has not been issued, shall not authorize the purchase, use, discharge, transportation, storage, possession, sale or provision by any other means, including donation, of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks.

(10) Every Person who knows of, engages in, allows, or is otherwise a party to, Wholesale Operations not in conformance with ORS 480.110 through 480.165 and OAR chapter 837, division 12, may be subject to denial, revocation, or suspension of the Person's Fireworks permit or oper-

ator certificate issued by the Office of State Fire Marshal, and/or a civil penalty.

(11) No Person shall purchase or otherwise obtain, possess, use, discharge, transport, offer for sale, sell, transfer or otherwise provide Fireworks, Retail Fireworks, Public Display Fireworks or Agricultural Fireworks without first applying for and obtaining the appropriate permit issued by the Office of State Fire Marshal pursuant to ORS 480.110 through 480.165 and OAR chapter 837, division 12.

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 1-2005(Temp), f. & cert. ef. 1-13-05 thru 7-11-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 4-2006, f. & cert. ef. 3-10-06

Rule Caption: Update language and reduce permit fees.

Adm. Order No.: OSFM 5-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 2-1-06

Rules Amended: 837-012-0620, 837-012-0625

Subject: These rule changes include updating language. They are also necessary to downward adjust retail fireworks permit fees not ratified by the 2005 legislature. Previous temporary rules were filed regarding permit fees, and this permanent rule filing is to repeal the previous temporary rules.

Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-012-0620

Retail Permit Applications

(1) Any Person engaged in, or intending to engage in, the sale or provision by any other means of Retail Fireworks to Individual Members of the General Public shall apply for and obtain a Retail Permit issued by the Office of State Fire Marshal.

(2) A separate Retail Permit shall be applied for and obtained for each Retail Sales Outlet that may conduct sales of Retail Fireworks in Oregon.

(3) Only one application for a Retail Permit may be made for each Retail Site except pursuant to OAR 837-012-0630(3).

(4) The application for a Retail Permit shall be made on a form provided by the Office of State Fire Marshal.

(5) All information provided by the applicant on the Permit Application shall be true and correct to the applicant's knowledge.

(6) In addition to completion of the application form, applicants shall submit copies of a sketch of the Retail Site in accordance with subsection (7) of this rule.

(7) The sketch of the Retail Site, required pursuant to subsection (6) of this rule, shall include without limitation, the following:

(a) A diagram of the Retail Sales Outlet and its relationship to adjacent areas located at the Retail Site;

(b) For all Outdoor Sales, the location and distances of all structures, Buildings, highways, streets, trees, and other vegetation within 50 feet of the Retail Sales Outlet;

(c) For all Indoor Sales, the location of the Sales Display and the location and distances of all highly combustible materials within a 20-foot radius of the Sales Display;

(A) For Retail Sales Outlets located within structures or Buildings of less than 1,000 square feet, all Exits from the Building or structure;

(B) For Retail Sales Outlets located in structures or Buildings of greater than 1,000 square feet, all Exits from the Building or structure located within 75 feet of the Sales Display;

(C) For tents, all exits from the tent.

(D) A list of the general types of merchandise located within 20 feet of the Sales Display. This requirement does not apply to Tents.

(d) The location of any open flames, exposed heating elements or other direct sources of ignition, including, but not limited to, coffee makers, food warmers, cookers and broilers located inside the Retail Sales Outlet or, for Indoor Sales, within 20 feet of the Sales Display.

(8) Any applicant for a Retail Permit, other than an Individual, shall list on the application form the name, address, and phone number of one Individual holding a management position within the permit holder's company or organization. See definition of "Person" in ORS 174.100(4) and "Individual" in OAR 837-012-0610(18).

(9) As part of the Permit Application process, the applicant shall apply for and obtain, in writing when available;

ADMINISTRATIVE RULES

(a) All required local and state building code, fire code and business licensing inspections, approvals, permits and/or licenses; and

(b) All required state and local land use and zoning permits, licenses and/or approvals for the Retail Site.

(10) Applicants shall submit their completed Permit Application to the Local Fire Authority for review and signature approving the Retail Site prior to submission of the Permit Application to the Office of State Fire Marshal.

(11) The required Local Fire Authority signatures are:

(a) For retail sales conducted inside city limits, the Permit Application must be signed by the city Fire Chief or his authorized representative;

(b) For retail sales conducted outside city limits, but inside a rural Fire Protection District, the Permit Application must be signed by the district Fire Chief or his authorized representative;

(c) For retail sales conducted outside both city limits and a rural Fire Protection District, the Permit Application must be signed by the District Deputy State Fire Marshal.

(d) Applicants must also obtain the signature of the Local Fire Authority with jurisdiction over the Retail Fireworks storage location, regardless of whether the storage location is the same as the Retail Site.

(12) Proof of identification of the Individual Responsible for Sales shall be provided to the Local Fire Authority at the time the Permit Application is submitted to the Local Fire Authority for review and signature. The proof of identification shall be a current and recognizable photographic identification.

(13) Permit Applications shall not be submitted to the Office of State Fire Marshal prior to January 1 of the year for which the permit is sought.

(14) ORS 480.127 requires retail fireworks sales applicants to apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale. However, due to limited resources in the fireworks program, it is recommended that retail fireworks permit applications be postmarked or submitted to the OSFM by April 15 of the year for which the permit is sought.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.110, 480.120, 480.127, 480.130, 480.150, 480.152, 480.154, 480.156, 480.158, 480.160 & 480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; OSFM 5-1998(Temp), f. & cert. ef. 12-14-98 thru 6-12-99; OSFM 2-1999, f. & cert. ef. 6-21-99; OSFM 7-2000(Temp), f. & cert. ef. 6-5-00 thru 12-1-00; Administrative correction 6-14-01; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 3-2005, f. & cert. ef. 2-15-05; OSFM 9-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 5-2006, f. & cert. ef. 3-10-06

837-012-0625

Retail Permit Fees

(1) Permit fees shall be paid at, or mailed to, the Office of State Fire Marshal and shall accompany the Permit Application.

(2) Payment shall be made by personal check, business check, cashier's check or money order made payable to the Office of State Fire Marshal. If the fee is paid by either personal or business check, the Office of State Fire Marshal shall not take any action on the Permit Application until the check has cleared the bank.

(3) The permit fee for each Permit Application shall be \$50.

(4) Permit fees are non-refundable and non-transferable.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; OSFM 14-2000, f. & cert. ef. 12-4-00; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 3-2005, f. & cert. ef. 2-15-05; OSFM 13-2005(Temp), f. & cert. ef. 8-16-05 thru 2-11-06; OSFM 2-2006(Temp), f. & cert. ef. 2-13-06 thru 3-10-06; OSFM 5-2006, f. & cert. ef. 3-10-06

Rule Caption: Update language and reduce permit fees.

Adm. Order No.: OSFM 6-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 2-1-06

Rules Amended: 837-012-0750, 837-012-0855, 837-012-0900, 837-012-0910

Subject: These rule changes are necessary to downward adjust public display fireworks permit fees not ratified by the 2005 legislature. Previous temporary rules were filed regarding permit fees, but the permanent rule filing process has not been completed yet.

Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-012-0750

Display Permit Application Fees

(1) Display Permit Application fees shall be paid at, or mailed to, the Office of State Fire Marshal and shall accompany the Display Permit Application.

(2) Payment shall be made by personal check, business check, cashier's check or money order made payable to the Office of State Fire Marshal. If the fee is paid by either personal or business check, the Office of State Fire Marshal shall not take any action on the Display Permit Application until the check has cleared the bank.

(3) The Display Permit Application fee for a Display Permit is \$50.

(4) Display Permit Application fees are non-refundable and non-transferable.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. ef. 6-20-02; OSFM 2-2005, f. & cert. ef. 2-15-05; OSFM 13-2005(Temp), f. & cert. ef. 8-16-05 thru 2-11-06; OSFM 3-2006(Temp), f. & cert. ef. 2-13-06 thru 3-10-06; OSFM 6-2006, f. & cert. ef. 3-10-06

837-012-0855

Barge Requirements

(1) Barges Shall be permitted to be manned or unmanned as long as the Operator and Assistants remain in control of the Barge, Barge Display Site and firing of the Display.

(2) The movement and location of a Barge(s) Shall be controlled at all times, whether self propelled, controlled by another vessel, or secured by anchoring or mooring.

(3) The means of controlling the movement and location of a Barge pursuant to subsection (2) of this rule Shall be done so by means that have been approved by the Local Fire Authority prior to the Display.

(4) Barges Shall be used as a Discharge Site only if the Barge is sufficiently stable and seaworthy so that the type of Fireworks and the placement of the Fireworks, Mortars, and accompany equipment on the Barge Shall not compromise the stability or seaworthiness of the Barge when the Fireworks are discharged.

(5) When the Operator and/or Assistant(s) Shall be located on the Barge during the Display, the Barge(s) that are manned during firing Shall have a safety shelter. The safety shelter Shall:

(a) Be of sufficient size to accommodate all Individuals present during the actual firing of Display;

(b) Have a minimum of three sides and a roof; and

(c) Have walls and a roof constructed of at least 3/4 in. (19 mm) plywood or equivalent material.

(6) Separation between Mortars and safety shelter Shall be 2ft / in. (0.6 m / 25 mm) of diameter of any Mortars up to 6 in. (152 mm) in diameter. For shells larger than 6 in. (152 mm) in diameter, the minimum separation distance Shall be 4 ft / in. (1.22 m / 25 mm) of shell diameter.

EXCEPTION: If the safety shelter is constructed of stronger material, then the separation distance between Mortars and the shelter Shall be permitted to be reduced at the discretion of the Local Fire Authority and/or the Office of State Fire Marshal.

(7) The required minimum size for a Barge (in square feet) for a particular Display Shall be determined by the following calculations;

(a) Minimum Discharge Site (in square ft) = sum of (total number of each size Mortar times its inside diameter) divided by two (2).

EXCEPTIONS: Multi-shot devices up to 3 in. in diameter Shall be calculated at twice the actual footprint of each such device (length X width). Ground Display Pieces Shall be excluded from the calculations for minimum Display set-up area.

(b) Total # of 3 in. Mortar x 3 + total number of 4 in. Mortars x 4 + total number of 5 in. Mortars x 5 + etc.)/2

EXAMPLE: A Display containing 100 - 3 in. shells, 50 - 4 in. shells, 20 - 5 in. shells, 10 - 6 in. shells, and 5 - 8 in. shells would require the following minimum Display set-up area.

$$\frac{100 \times 3 + 50 \times 4 + 20 \times 5 + 10 \times 6 + 5 \times 8}{2}$$

$$\frac{300 + 200 + 100 + 60 + 40}{2}$$

$$700 / 2 = 350 \text{ sq ft}$$

(8) Barges Shall be configured, and the Display so arranged, that Operators, Assistants and any other Individuals on the Barge can readily exit the Barge in case of an emergency.

Stat. Auth.: ORS 476.030 & 480.150

Stats. Implemented: ORS 480.110 - 480.165

Hist.: OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. ef. 6-20-02; OSFM 6-2006, f. & cert. ef. 3-10-06

ADMINISTRATIVE RULES

837-012-0900

Transportation and Storage

(1) Storage of Fireworks in residential locations, mini-storage units or other structures is prohibited unless such storage is in accordance with the **Oregon Fire Code 2004 Edition, Oregon Structural Specialty Code 2004 Edition, and NFPA 1124 Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles 2003 Edition**, these rules or requirements of the Local Fire Authority.

(2) Applicants Shall also provide a complete and detailed description of how and where they will store Fireworks in their possession before, during and after the Display. The description Shall include:

(a) The address of the storage site and the location of the storage area(s) at the storage site;

(b) The dates the Fireworks will be at each storage site; and

(c) The type of magazine in which the Fireworks Shall be stored.

(3) Fireworks may be stored up to a maximum of 30 days prior to the Display.

(4) Unused Fireworks Shall be returned to the Wholesaler who provided them within 7 days after the Display date.

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

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 6-2006, f. & cert. ef. 3-10-06

837-012-0910

Prohibited Acts and Limitations

(1) No Individuals Shall be allowed in the discharge area while under the influence of alcohol, narcotics, or drugs.

(2) No smoking Shall be allowed within 50 feet of any area where Fireworks or other pyrotechnic materials are present.

(3) Only authorized Individuals will be allowed within the Discharge Site.

(4) No Individual Shall maintain or allow the existence of a fire hazard at any location under their control where Fireworks are stored, transported, sold, or used.

(5) No Permit Holder Shall use:

(a) Any Fireworks that have been altered;

(b) Any Fireworks other than those supplied and/or distributed by a Person with a current Oregon wholesale Fireworks Permit.

(6) No Person who has been cited or arrested for Fireworks violations or who has had a Wholesale, or Retail Fireworks Permit or operator certificate suspended or revoked Shall participate in any manner in the public Fireworks Display, including storage, distribution, or transportation of pyrotechnics for a period not to exceed three years.

(7) The Permit does not authorize the manufacture, sale, use, discharge or possession of Fireworks in any city or county in which such devices are prohibited by law or ordinance.

(8) Permit Holders Shall not use, explode or have exploded any Fireworks device that has not been approved, certified or listed for transport by the U.S. Department of Transportation or has a U.S. Bureau of Explosive Temporary Transfer Permit.

(9) Displays Shall not be conducted in the event the Office of State Fire Marshal or fire authority has invoked a burning ban. If the Display Site is a large body of water or close proximity indoor event, and in the opinion of the Local Fire Authority and the State Fire Marshal the Display presents no more fire hazard than at other time, the Permit Shall be issued.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. f. 6-20-02; OSFM 6-2006, f. & cert. ef. 3-10-06

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Amends requirement for physical examinations.

Adm. Order No.: DPSST 3-2006

Filed with Sec. of State: 2-28-2006

Certified to be Effective: 2-28-06

Notice Publication Date: 2-1-06

Rules Amended: 259-008-0010

Subject: Amends current medical examination requirements for law enforcement officers who change employers or terminate employment but are re-employed prior to their certification lapsing. Creates new provisions for hiring agency discretion in certain instances.

Rules Coordinator: Bonnie Salle—(503) 378-2431

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer

(1) Citizenship.

(a) A person may not be employed as a corrections officer for more than one year unless the person is a citizen of the United States.

(b) A person may not be employed as a police or parole and probation officer for more than 18 months unless the person is a citizen of the United States.

(2) Age. No law enforcement unit in this state shall employ as a police officer, corrections officer or parole and probation officer, any person who has not yet attained the age of 21 years.

(3) Fingerprints. On or before the date of employment, each police, corrections, or parole and probation officer shall be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and shall forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(a) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(b) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(c) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department shall comply with the most current requirements.

(d) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department shall be completed and returned to the Department by the applicant pending fingerprint clearance.

(4) Criminal Records. No police, corrections, or parole and probation officer shall have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Conviction:

(a) A law enforcement officer, instructor, telecommunicator, or EMD who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

(b) When an agency receives notification of a conviction from its employee, or another source, they must notify the Department within five (5) business days.

(A) The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(6) Moral Fitness (Moral Character). All law enforcement officers must be of good moral fitness as determined by a thorough background investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the officer's performance on the job which makes the officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the officer's ability to perform competently.

ADMINISTRATIVE RULES

(c) If reliable evidence is received by the Board or Department that a law enforcement officer lacks good moral fitness, a rebuttable presumption will be raised that the law enforcement officer does not possess the requisite moral fitness to be a law enforcement officer. The burden shall be upon the law enforcement officer to prove good moral fitness.

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma; or

(B) Successful completion of the General Educational Development (GED) Test.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above shall consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Reading and Writing Standard. Before beginning basic police training, challenging basic police training, or beginning the police career officer development course, each applicant shall provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language. The hiring agency is responsible for administering a reading and writing instrument, approved by DPSST, and shall forward the results to DPSST on an application for training (Form F-5) prior to the applicant being admitted to basic police training. Implementation of this rule will take effect within one year from September 1, 2001.

(8) Physical Examination. All law enforcement officers and applicants must be examined by a licensed physician or surgeon.

(a) The medical examination shall be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and shall conform to applicable standards of the Americans with Disabilities Act (ADA), Title 42 USC 12101.

(b) Individuals who have had a successfully completed physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(c) The Department will not require a new physical examination when a law enforcement officer obtains employment, or re-employment, in the same discipline if the officer:

(A) Has had a successfully completed a physical examination, and

(B) Is currently certified; or

(C) Is an officer currently employed full-time in another jurisdiction who has successfully completed a comparable physical examination in that jurisdiction.

(d) Notwithstanding subsection (c), a medical examination may be required by a hiring agency at its discretion.

(e) Police, Corrections, and Parole and Probation applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) in each eye. Due to the demonstrated likelihood of dislodgment or breakage, candidates who are able to wear only glasses with frames must meet an uncorrected standard not worse than 20/100 (Snellen) in each eye. Those candidates who use soft contact lenses (SCLs) must have vision correctable to at least 20/30 in each eye, with no uncorrected standard, provided the employing agency will monitor compliance. Replacement glasses or lenses (as appropriate) must be on the person or readily available at all times during each work shift.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST.

(C) Depth Perception. Depth Perception must be sufficient to demonstrate stereopsis adequate to perform the essential tasks of the job. The recommended test is the Random Stereo Test with 60 seconds of arc.

(D) Peripheral Vision. Visual Field Performance must be 140 degrees in the horizontal meridian combined.

(E) Night Blindness. A history of night blindness should be evaluated to determine applicant's capacity to perform essential tasks at night or in dark or low light settings.

(f) Applicants for the position of police or corrections officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(g) Applicants for the position of parole and probation officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 35 decibels (db) at the 500, 1000, 2000, and 3000 Hertz levels in either ear with no single loss in excess of 45 db.

(h) If amplification device(s) is (are) necessary to meet the criteria in (f) or (g) above, or if applicant cannot meet the above criteria and wishes to pursue application, applicant must:

(A) Obtain a hearing evaluation by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) to determine current hearing aid requirement; and

(B) Achieve a Speech Reception Threshold (SRT) of no greater than 25 db for each ear;

(C) Police, corrections and parole and probation officers must achieve a Speech Discrimination test score of no less than 90% utilizing a standard 50-word presentation at 60 db Hearing Threshold Level (HTL). The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, and throat) designated by the Department to verify that the applicant's hearing meets the Board's minimum hearing standard. The verification examination will be at the expense of the applicant or the applicant's employing agency. The equipment utilized for all of these evaluations must be calibrated annually using current ANSI standards.

(D) Hearing amplification devices used to meet the hearing standard must be the type that protects the applicant from further hearing degradation due to amplification of loud sounds.

(i) Applicants for the position of police, corrections, or parole and probation officer must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. For police and corrections officers abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

(j) Applicants for the position of police, corrections, or parole and probation officer who have a history of organic cardio-vascular disease or a finding during the medical examination of organic cardio-vascular disease will necessitate further medical evaluation.

(A) Resting blood pressure must be less than or equal to 140 mmHg systolic and 90 mmHg diastolic on three successive readings.

(B) Applicants must not have a functional and therapeutic cardiac classification greater than the Heart Association's Class A.

(C) Failure to meet guidelines (j), (A) and (B) will require further medical evaluation.

(D) If the applicant has controlled hypertension not exceeding the above standards and is on medication with side effect profiles, which do not interfere with performance of duty, then the condition may not be excludable.

(E) Functional Capacity I patients with cardiac disease may not be excludable, if they have no limitations of physical activity and ordinary physical activity does not cause discomfort and they do not have symptoms of cardiac insufficiency, nor experience angina pain.

(F) Therapeutic Classification A patients with cardiac disease, whose physical activity is restricted, should be evaluated thoroughly.

(G) If further medical examination is required under (j), it will be at the expense of the applicant or hiring authority.

(k) All law enforcement applicants must submit a current-version DPSST Medical Examination Report (DPSST Form F2), or a medical report completed by a licensed physician containing at a minimum the information on Form F2 and a signed statement by the examining physician that the applicant does not have any condition, physical, mental, or emotional, which, in his/her opinion, suggests further examination. This Report will be furnished to the examining physician by the hiring agency. The physician must indicate that the applicant is or is not physically able to perform the duties of a law enforcement officer as prescribed by DPSST.

(l) A copy of the Medical Examination Report must be sent to the Department prior to acceptance into a basic course, or any course where such report is required by the Department.

(m) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

ADMINISTRATIVE RULES

(n) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and the safety of co-workers. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(o) A person or department head requesting a waiver of any physical requirement set forth in section (8) of this rule shall submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request. The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed. Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency. If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void. If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

[ED. NOTE: Forms referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 3-2006, f. & cert. ef. 2-28-06

Rule Caption: Expands college education credits utilized for certification to include distance learning education.

Adm. Order No.: DPSST 4-2006

Filed with Sec. of State: 2-28-2006

Certified to be Effective: 2-28-06

Notice Publication Date: 2-1-06

Rules Amended: 259-008-0045

Subject: Amends current rule language which limited educational credits for upper levels of certification to include distance learning education courses from a degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.594(2) or a community college, a college or university whose coursework or degree has been accepted for credit by a degree granting community college, college or university accredited by a recognized national or regional accrediting body.

Rules Coordinator: Bonnie Salle—(503) 378-2431

259-008-0045

College Education Credits

(1) Credit for preservice or inservice college education will not be accepted in lieu of the Basic Course described in OAR 259-008-0025.

(2) College credits must be combined with experience and training in determining eligibility for Intermediate, Advanced, Supervisory, Management, and Executive Certification.

(3) College credits or degrees used for certification must have been earned from the following:

(a) A degree-granting community college, college or university accredited by a recognized national or regional accrediting body; or

(b) A community college, college or university whose coursework or degree has been accepted for credit by a degree granting community college, college or university accredited by a recognized national or regional accrediting body.

(c) A degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(d) For purposes of this rule, a recognized national or regional accrediting body is one recognized by the U.S. Department of Education, or the Council on Higher Education Accreditation (CHEA), or its predecessor.

(4) Any college credits obtained in a foreign country, which are claimed to be comparable to credits or a degree granted by a licensing body in the United States or US Territories must be evaluated by a credentialing agency that is a member of the National Association of Credential

Evaluation Services (NACES). The credentialing agency must send an evaluation to the Department for approval, at the applicant's expense, before any educational credit is accepted as equivalent.

(5) Certification Credit. The Department must receive sealed official transcripts from a college or a certified true copy of official transcripts prior to entering college credit on an applicant's official record. Evaluation of these credits is subject to the conditions prescribed in sections (3) and (4) of this rule and OAR 259-008-0060.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0025, PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0051, 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 5-1999, f. & cert. ef. 7-29-99; BPSST 4-2001, f. & cert. ef. 8-22-01; DPSST 4-2006, f. & cert. ef. 2-28-06

Department of Transportation Chapter 731

Rule Caption: Payments to Highway Construction Contractors for the unanticipated escalation in the cost of steel materials.

Adm. Order No.: DOT 4-2006

Filed with Sec. of State: 2-16-2006

Certified to be Effective: 2-16-06

Notice Publication Date: 1-1-06

Rules Adopted: 731-007-0335

Rules Amended: 731-005-0470

Rules Repealed: 731-007-0335(T)

Subject: HB 2077 requires the Department of Transportation to adjust the amount paid to a contractor under the contract if the contractor requests an adjustment and the steel material delivered to the contractor was more than 10 percent above the market price of the steel material on the contractor's original bid quote. OAR 731-007-0335 establishes the process for making payments to Highway Construction Contractors for the unanticipated escalation in the cost of steel materials. This rule covers: which contracts are eligible, the process for requesting an adjustment, documentation required, the department response to the request, and schedule for payment. HB 2077 also requires the Department of Transportation to include a price escalation and de-escalation clause in public improvement contracts involving the construction, reconstruction or major renovation of a road or highway. The amendment to OAR 731-005-0470 establishes the need for the escalation and de-escalation clause for steel materials to be permanently incorporated.

Rules Coordinator: Brenda Trump—(503) 945-5278

731-005-0470

Solicitation Methods

(1) Policy. It is the policy of the State of Oregon to encourage open and impartial competition in public contracting. ODOT may establish Competition by comparing price, product and service quality, product performance, and an Entity's ability to perform, technical competence and ability to make timely deliveries. ODOT must make every effort to construct Public Improvements at the least cost to ODOT.

(2) Solicitation Methods. ODOT may encourage meaningful competition through a variety of solicitation methods. ODOT shall choose the solicitation method that is most likely to encourage Offers representing optimal value to ODOT.

(a) ODOT may use an Invitation to Bid if ODOT believes it will receive optimal value by selecting the lowest priced Offer that meets the technical requirements of ODOT's Specifications.

(b) ODOT may use a Request for Proposal if ODOT believes it will receive optimal value:

(A) By selecting an Offer using both price and non-price related factors; or

(B) By selecting an Offer using both price and non-price related factors and permitting negotiations pursuant to OAR 731-005-0650.

(c) ODOT may permit negotiations under a Request for Proposal pursuant to OAR 731-005-0650 if:

(A) ODOT intends to consider alternative terms and conditions to reduce Agency cost or enhance the value of the product or service requested; or

(B) ODOT finds negotiation is required to effect a successful procurement (e.g. the Specifications are complex and ODOT expects numer-

ADMINISTRATIVE RULES

ous queries as to the proper interpretation of the Specification; the Work requires a high level of technical or managerial competence that cannot be defined adequately in the Specifications; or ODOT believes negotiations are necessary to gauge the Proposer's understanding of complex Specifications).

(3) Solicitation Documents. The Solicitation Document shall include the following:

(a) General Information.

(A) Notice of any pre-Offer conference as follows:

(i) The time, date and location of any pre-Offer conference;

(ii) Whether attendance at the conference will be mandatory or voluntary; and

(iii) That statements made by ODOT's representatives at the conference are not binding upon ODOT unless confirmed by Written Addendum.

(B) The deadline for submitting mandatory prequalification applications and the class or classes of Work for which Offerors must be prequalified if prequalification is a requirement;

(C) The name and title of the authorized Agency person designated for receipt of Offers and contact person (if different);

(D) Instructions and information concerning submission requirements including the address of the office to which Offers must be delivered and any other special information, e.g., whether Offers may be submitted by Facsimile or Electronic Data Interchange (See OAR 731-005-0500 and 731-005-0510 for required provisions for Facsimile or Electronic Data Interchange);

(E) The time, date and place of Opening;

(F) The time and date of Closing after which ODOT will not accept Offers, which time shall be not less than five Days after the date of the last publication of the advertisement. The interval between the date of issuance of the Solicitation Document and a Closing should not be less than 14 Days for an ITB and not less than 30 Days for an RFP unless ODOT finds a shorter interval is in the public's interest. If ODOT is issuing an ITB that may result in a Contract for a Public Improvement with a value in excess of \$75,000, ODOT shall not designate a time of Closing that falls when ODOT is closed to the public or after 12 noon on Friday (see also, OAR 731-007-0260; for timing issues relating to Addenda see OAR 731-005-0580(3));

(G) The form and submission of Offers and any information required therein, including Bid or Proposal security, if any;

(H) The office where the plans and Specifications for the Work or goods may be reviewed;

(I) A statement that each Offeror to an ITB or RFP must identify whether the Bidder or Proposer is a "resident bidder," as defined in ORS 279A.120;

(J) If the Contract resulting from a Solicitation will be a Contract for a Public Work subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a), a statement that no Offer will be received or considered by ODOT unless the Offer contains a statement by the Offeror as a part of its Offer that "Contractor agrees to be bound by and will comply with the provisions of ORS 279C.830 or 40 U.S.C. 276a."

(K) If the Work so requires, a statement that ODOT will not receive or consider an Offer from an Entity when the Entity is not registered with the Construction Contractors Board or is not licensed by the State Landscape Contractors Board as required by ORS 671.530;

(L) Whether a Contractor or a subcontractor under the Contract must be licensed under ORS 468A.720;

(M) Contractor's certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110. (See OAR 731-005-0670(3)); and

(N) How ODOT will notify Offerors of Addenda and how ODOT will make Addenda available. See OAR 731-005-0580.

(b) Agency Need. The character of the Work or goods ODOT is purchasing including, if applicable, a description of the acquisition, Specifications, delivery or performance schedule, inspection and acceptance requirements.

(c) Evaluation process.

(A) A statement that ODOT may reject any Offer not in compliance with all prescribed solicitation bidding procedures and requirements and other applicable laws, and that ODOT may reject for good cause any or all Offers upon ODOT's finding that it is in the public interest to do so;

(B) The anticipated solicitation schedule, deadlines, protest process, and evaluation process, if any;

(C) Evaluation criteria, including the relative value applicable to each criterion, that ODOT will use to determine the Responsible Bidder with the lowest Responsive Bid or the Responsible Proposer with the best

Responsive Proposal and the evaluation criteria ODOT will use to determine acceptability of any Work or goods to be purchased:

(i) If Contract award is to be based upon low Bid, ODOT shall set forth objective evaluation criteria in the Solicitation Document. Examples of such criteria that may be used in determining low Bid include, but are not limited to, conversion costs, transportation cost, volume weighing, trade-in allowances, cash discounts, depreciation allowances, cartage penalties, ownership or life-cycle cost formulas, performance history on other private and public Contracts, experience of key personnel, adequacy of equipment and physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation criteria need not be precise predictors of actual future costs. However, to the extent possible, such evaluation factors shall be reasonable estimates based upon information ODOT has available concerning future use;

(ii) If the Solicitation Document is a Request for Proposal, ODOT shall set forth selection criteria in the Solicitation Document. Examples of evaluation criteria include price or cost, quality of a product or service, past performance, management, capability, personnel qualification, prior experience, compatibility, reliability, operating efficiency, expansion potential, experience of key personnel, adequacy of equipment or physical plant, financial wherewithal, sources of supply, references and warranty provisions. Evaluation factors need not be precise predictors of actual future costs and performance, but to the extent possible, such factors shall be reasonable estimates based on information available to ODOT; or

(iii) If the Solicitation Document is a Request For Proposal and ODOT is willing to negotiate terms and conditions of the Contract, ODOT must identify the specific terms and conditions in the Solicitation Document that are subject to negotiation and authorize Offerors to propose certain alternative terms and conditions in lieu of the terms and conditions ODOT has identified as authorized for negotiation. ODOT must describe the evaluation and negotiation process in accordance with OAR 731-005-0650, including the Competitive Range; and

(D) Reference to statutory preference for materials and supplies manufactured from recycled materials under ORS 279A.125.

(d) Terms and conditions. ODOT shall include all Contract terms and conditions, including warranties and bonding requirements, ODOT considers necessary. Without limiting the preceding sentence, ODOT must include all applicable Contract provisions required by ORS 279C.500 through 279C.870 as follows:

(A) Payment of all Entities furnishing labor or material, contributions to Industrial Accident Fund, liens and withholding taxes (ORS 279C.505);

(B) If the Contract is for a Public Improvement, a condition that the Contractor shall demonstrate it has established a drug-testing program for its employees;

(C) If the Contract calls for demolition Work described in ORS 279C.510, a condition requiring the Contractor to salvage or recycle construction and demolition debris, if feasible and cost-effective;

(D) If the Contract calls for lawn or landscape maintenance, a condition requiring the Contractor to compost or mulch yard waste material at an approved site, if feasible and cost effective (ORS 279C.510);

(E) Payment of claims by public officers (ORS 279C.515(1));

(F) Contractor and first-tier subcontractor liability for late payment on Public Improvement Contracts pursuant to ORS 279C.515(2);

(G) Entity's right to file a complaint with the Construction Contractors Board for all Contracts related to a Public Improvement Contract (ORS 279C.515(3));

(H) Hours of labor in compliance with ORS 279C.520 and 279C.540;

(I) Environmental and natural resources regulations (ORS 279C.525);

(J) Payment for medical care and providing workers' compensation (ORS 279C.530);

(K) Maximum hours and overtime (ORS 279C.540);

(L) Claims for overtime (ORS 279C.545);

(M) Prevailing wage rates (ORS 279C.800 to 279C.870);

(N) Fee paid to BOLI (ORS 279C.825);

(O) Retainage (ORS 279C.550 through 279C.570);

(P) Prompt payment policy (ORS 279C.570);

(Q) Contractor's relations with subcontractors (ORS 279C.580);

(R) Notice of claim (ORS 279C.605);

(S) With respect to state Agencies, provisions regarding use of recovered resources and recycled materials and to the extent economically feasible, use of recycled paper and PETE products (ORS 279A.150 and 279A.155);

(T) Contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385;

ADMINISTRATIVE RULES

(U) A Contract provision substantially as follows: "All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements." (ORS 279C.530(2));

(V) Contractor's certification that all subcontractors performing Work described in ORS 701.005(2) (i.e., construction Work) will be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence Work under the Contract; and

(W) Price escalation and de-escalation Contract Provision relating to steel materials. As used in this paragraph, "steel material" includes any steel products used for and permanently incorporated in the construction, reconstruction or major renovation of a road or highway. "Escalation and de-escalation" relate to and shall be applied to the raw steel in the steel materials listed in the Contract Provision.

(e) If federal funds are involved, the federal laws, rules and regulations applicable to the fund requirements shall govern in the event they conflict with a provision required by ORS 279A.120 to 279A.155.

(f) Unless otherwise provided in the Contract, the Contractor shall not assign, sell, dispose of, or transfer rights, nor delegate duties under the Contract, either in whole or in part, without ODOT's prior Written consent. Unless otherwise agreed by ODOT in Writing, such consent shall not relieve the Contractor of any obligations under the Contract. Any assignee or transferee shall be considered the agent of the Contractor and be bound to abide by all provisions of the Contract. If ODOT consents in Writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its surety, if any, shall remain liable to ODOT for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless ODOT otherwise agrees in Writing.

Stat. Auth.: ORS 184.616, 184.619, 279A.050 & 279A.065
Stats. Implemented: ORS 279A.030, 279A.120, 279C.300, 279C.345, 279C.365, 279C.375, 279C.390, 279C.500 - 279C.870, 305.385, 701.005 & 701.055
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 4-2006, f. & cert. ef. 2-16-06

731-007-0335

Agency Payment for Steel Escalation

(1) The purpose of this rule is to carry out the provisions of Section 2, Chapter 557, Oregon Laws 2005, as authorized by Section 2, subsection (5).

(2) A Contractor's request for an adjustment of payment under the provisions of this rule must be received by the Department of Transportation (ODOT) prior to January 2, 2010.

(3) This rule applies only to ODOT Public Improvement Contracts executed on or after April 1, 2003 and before October 1, 2005, and that are not eliminated by section (4) of this rule.

(4) This rule does not apply to Public Improvement Contracts that meet all of the following:

(a) The Project is included in the Statewide Transportation Improvement Program;

(b) The Project is partially funded by the Federal Highway Administration; and

(c) The Project is classified as "Local Agency." Such projects are not typically on the State or Federal highway system and all or nearly all matching funds are provided by the Local Agency. The final decision of the applicability of the classification of a project as "Local Agency" will be at the sole discretion of ODOT.

(5) Process:

(a) A Contractor must initiate the request for an adjustment of payment in the format required by ODOT on Form 734-2615. The request must be received by ODOT prior to January 2, 2010.

(b) The Contractor must demonstrate with written contemporaneous documentation that the market price of a steel material charged to the Contractor, on the date the steel material was delivered to the Contractor, was more than 10 percent above the market price of the steel material on the Contractor's original bid quote. The Contractor must demonstrate that the steel material was required either as a contract pay item or as incidental to a contract pay item. The steel material shall have been purchased by and delivered to the Contractor after the original bid quote was made. Materials salvaged by the Contractor would not be eligible for this reimbursement.

(A) The Contractor must itemize and include a total of the amount requested. Example: Invoice Value of Steel - (1.10 X Bid Quote Value of Steel) = Escalation Example: \$125 - (1.10 X \$100) = \$15.

(B) The Contractor must certify under penalty of law for perjury or false swearing that the request is a true statement of the actual costs incurred in the request.

(C) The Contractor must send the request to the ODOT Project Manager.

(D) The Contractor is obligated to respond to a request from ODOT for additional clarification or information. Failure by the Contractor to provide a response in writing within 14 calendar days of receipt of the Project Manager's request is deemed to have waived its right to further review and the request for steel escalation will not be considered preserved.

(c) The Project Manager will, within 45 days of receiving the contractor's request, consider, investigate, and evaluate the Contractor's request and provide a written response to the Contractor. The Project Manager will use the expertise of a statewide central position assigned to review adjustments of payment for steel escalation to provide consistency in ODOT's evaluation and decision on the Contractor's request. The request will be reviewed in its entirety for compliance with Oregon Laws 2005, Ch 557, Section 2 and this rule. During its review, ODOT will verify that the request correlates with an increased cost of steel to ensure the increase is due to an industry wide market price increase of steel and the increase is not unique to this request. The Project Manager's written response to the Contractor's request will either:

(A) Request additional written information or documentation to substantiate the Contractor's request if the Project Manager determines it is needed. The Contractor shall either:

(i) Provide the requested written information to the Project Manager or meet with the Project Manager within 14 calendar days of receiving the request, or as otherwise agreed to by the parties, to present the additional information or documentation, or make other arrangements with the Project Manager to supply that information. Upon receipt of the information, the Project Manager will respond as provided in subsection (c) of this section.

(ii) Provide the Project Manager a written statement that it cannot supply the required information and request the Project Manager issue a decision without the information. Upon receipt of the written statement, the Project Manager will respond as provided in subsection (c) of this section.

(B) Provide the Contractor with the Project Manager's decision. The Project Manager's decision either will agree to the Contractor's request or will deny in full or part the Contractor's request.

(d) The Contractor, within 14 calendar days of receiving the Project Manager's decision, shall do one of the following:

(A) Provide the Project Manager a written acceptance of the decision. See subsection (f) of this section if payment is due.

(B) Provide the Project Manager with a written rejection of the decision. See subsection (e) of this section for resolution process for denials.

(e) Resolution process for Contractor rejection of Project Manager's decision. If the Contractor rejects the Project Manager's decision in section (5)(c)(B) of this rule, the Contractor may request that the Project Manager's decision be escalated to the claim review process established in the Contract with ODOT. The Contractor must notify the ODOT Project Manager within 14 calendar days of issuance of the Project Manager's decision and request the issue be escalated. The Contractor is deemed to have waived its right to further review and the request for steel escalation will not be considered preserved if the Contractor fails to provide the written notice within 14 days of issuance of the Project Managers decision.

(f) Payment. Upon execution of a Change Order ODOT will include such payment on the next scheduled monthly payment for active projects or will issue payment on inactive or closed projects within 30 calendar days. Late payment interest will apply for the number of days above the 45 calendar days allowed in subsection (c) of this section or if ODOT does not make payment within 30 calendar days after the Change Order is executed. The request for adjustment will be considered a claim for payment on the day it is escalated by the Contractor under subsection (e) of this section. Interest, if applicable, will be included in accordance with ORS 279C.

Stat. Auth.: ORS 184.616, 184.619 & Sec. 2, Ch. 557, OL 2005
Stats. Implemented: Sec. 2, Ch. 557, OL 2005
Hist.: DOT 7-2005(Temp), f. & cert. ef. 11-17-05 thru 5-15-06; DOT 4-2006, f. & cert. ef. 2-16-06

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Industry standard miles per gallon for purposes of International Fuels Tax Agreement Audits.

Adm. Order No.: MCTD 1-2006

Filed with Sec. of State: 2-16-2006

ADMINISTRATIVE RULES

Certified to be Effective: 2-16-06

Notice Publication Date: 1-1-06

Rules Adopted: 740-200-0045

Subject: ODOT adopted the International Fuel Tax Agreement (IFTA) Audit Procedures Manual effective January 1, 2005. Section A550.100 of the manual describes methodology a jurisdiction may use to estimate fuel tax liability when an IFTA licensee fails to maintain or provide records to support the taxes the licensee reports. One factor of the estimation is an examination of industry average miles per gallon (mpg) for equipment operated by the licensee. The manual does not provide further guidance regarding establishment of an industry average. This rule is adopted to describe the method Oregon will use to determine industry average for the purpose of an IFTA audit. The rule further describes when Oregon may use industry averages, or use the IFTA standard of 4 mpg for reported taxes that are not supported by the licensee's records.

Rules Coordinator: Brenda Trump—(503) 945-5278

740-200-0045

Industry Standard Average MPG

The International Fuel Tax Agreement (IFTA) Audit Manual adopted under OAR 740-200-0040 describes that industry averages may be used to determine fuel tax liability when a licensee fails to maintain or provide records adequate to support reported fuel tax.

(1) The Motor Carrier Transportation Division will periodically analyze industry fleet data to determine Oregon industry standard average miles per gallon (MPG) segregated by four vehicle weight groups:

- (a) 26,001–33,000 pounds;
- (b) 33,001–60,000 pounds;
- (c) 60,001–80,000 pounds; and
- (d) Over 80,000 pounds.

(2) Failure to maintain or provide records required by IFTA adequate to support reported fuel tax and described in OAR 740-200-0040(2) may result in assessment of fuel taxes:

(a) Calculated by using Oregon industry standard MPG averages determined as described in section (1) of this rule for applicable weight groups; or

(b) Using 4.0 MPG for all taxable vehicles if the licensee has either:

(A) Repeatedly failed to maintain or provide required records and has been assessed in a prior audit using the Oregon industry standard average MPG; or

(B) Used the Oregon standard industry average MPG to report taxes without records to support the use.

Stat. Auth.: ORS 823.011 & 825.555

Stats. Implemented: ORS 825.494 & 825.555

Hist.: MCTD 1-2006, f. & cert. ef. 2-16-06

Department of Veterans' Affairs Chapter 274

Rule Caption: Oregon Veterans' Emergency Financial Assistance Program.

Adm. Order No.: DVA 2-2006(Temp)

Filed with Sec. of State: 2-23-2006

Certified to be Effective: 2-23-06 thru 8-18-06

Notice Publication Date:

Rules Adopted: 274-012-0001, 274-012-0100, 274-012-0105, 274-012-0110, 274-012-0115, 274-012-0120, 274-012-0125, 274-012-0130, 274-012-0131

Subject: House Bill 3504 of the 2005 Regular Legislative Session created the Oregon Veterans' Emergency Financial Assistance Program (OVEFAP) to provide emergency financial assistance to Oregon veterans and their immediate families. The Department of Veterans' Affairs has adopted these rules to implement the program and to set the criteria for determining eligibility to receive emergency financial assistance.

House Bill 5163 appropriated \$500,000 for the biennium beginning July 1, 2005 to be expended for the OVEFAP.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-012-0001

Definitions for OAR 274-012-0001 through 274-012-0130

As used in Sections 0001 through 0130 of division 012, unless otherwise required by context:

(1) "Department" or "ODVA" means the State of Oregon Department of Veterans' Affairs.

(2) "Program" or "OVEFAP" means the Oregon Veterans' Emergency Financial Assistance Program as established in Chapter 831, Oregon Laws 2005 (House Bill 3504).

(3) "Under Honorable Conditions" means that the official documents of discharge, service, or separation issued upon the termination of the veteran's active duty service with the Armed Forces are characterized by the relevant branch of the Armed Forces as "honorable" or "under honorable conditions."

(4) "Veteran" means a veteran as defined in Chapter 831, Oregon Laws 2005, section 6 (4)(b).

(5) "Immediate family" means a spouse, child or stepchild.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010, 408.225 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

274-012-0100

Purpose and Objective

(1) It is the expressed policy of the Department to provide appropriate emergency financial assistance to veterans and their immediate families by means of the Department's Emergency Financial Assistance Program.

(2) Within the funds established by the Department, pursuant to Chapter 831, Oregon Laws 2005, an account is designated to be used by the Department consistent with this program. Funds held within this account will be used by the Department consistent with this division 012 and applicable law exclusively for the purpose of assisting veterans and their immediate family, as determined by the Department, who have insufficient funds to meet their financial needs or responsibilities. Such needs may include, but are not limited to:

(a) Emergency or temporary housing and related housing expenses, such as expenses for utilities, insurance, house repairs, rent assistance or food;

(b) Emergency medical or dental expenses;

(c) Emergency transportation;

(d) Expenses related to starting a business, such as business licenses or occupational licenses;

(e) Temporary income after military discharge; and

(f) Legal assistance.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

274-012-0105

Evidence Required to Establish Eligibility

The following documentation shall be submitted to the Department when applying for program funds:

(1) A copy of evidence of separation of military service under honorable conditions.

(2) Proof of current Oregon residence.

(3) Proof of any change in name:

(a) Where a veteran's name has been legally changed since discharge, a certified copy of the Court Order, marriage certificate, or divorce decree must be furnished to the Department;

(b) Where a veteran's name has been changed, but not legally, an affidavit from the veteran and affidavits from at least two disinterested persons must be furnished to the Department to show such change.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

274-012-0110

Applications

(1) Applications for assistance from the Program shall be made in such manner and detail, and on such forms, as the Department, in its reasonable discretion, shall determine.

(2) Applications generally will be prioritized by the Department for consideration based on the date of completed receipt by the Department. The Department may, however, consider applications in such other order and at such other times as it deems reasonable.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500

Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

ADMINISTRATIVE RULES

274-012-0115

Evidence of Need

When an application is made for emergency financial assistance, the applicant shall provide the Department with the documentation required under Subsection 0105, together with statement(s) and other documentation satisfactory to the Department indicating how the desired financial assistance will benefit the veteran and his/her immediate family. The Department may require additional documentation or information from the applicant as it deems necessary or appropriate.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

274-012-0120

Payment of Emergency Financial Assistance

(1) When determining to whom and in what amount Program funds will be made available to applicants, the Department may take into consideration various factors, including but not limited to:

- (a) The amount of available funds in the Program account;
- (b) Anticipated future deposits into the Program account;
- (c) The amount of present commitments from the Program account;
- (d) Anticipated future commitments from the Program account;
- (e) Comparative critical need by applicants as determined by the Department;

(f) The appropriateness of the requested assistance;

(g) The ability and established willingness of the applicant and the applicant's immediate family to appropriately use program assistance and to take steps for permanent improvement of their financial circumstances;

(h) The eligibility of the applicant;

(i) The number of persons and ages of such persons in the immediate family of the applicant;

(j) The health and medical needs of the applicant and of immediate family members;

(k) Any disability, particularly a disability that limits gainful employment, by an applicant or of an immediate family member of the applicant; and

(l) Other available assistance or support to the applicant and the applicant's immediate family, including but not limited to:

- (A) United States Department of Veterans Affairs (USDVA) benefits;
- (B) Social Security benefits;
- (C) Other pensions;
- (D) Millennium Bill benefits;
- (E) Medicare benefits;
- (F) Medicaid benefits;
- (G) Annuities;
- (H) Savings;
- (I) Investments; and
- (J) Income from other available resources.

(2) The payment of Program assistance is subject to the discretion of the Department in consideration of factors described above in Paragraph (1), together with any other factors, as deemed relevant by the Department. The Department may refuse, terminate, or suspend Program assistance to any veteran and the veteran's immediate family at any time without notice. The Department shall be under no obligation to provide Program assistance to any applicant or to the immediate family of any applicant.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

274-012-0125

Misrepresentation of Emergency Financial Assistance

The Department may require immediate reimbursement of funds, either in total or in part, if it is determined that applicant intentionally submitted invalid, incomplete, or fraudulent information when applying for funds from this Program, or if it is discovered that the funds were not used for the approved purpose(s).

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

274-012-0130

Review of Decisions

Any person adversely affected by a decision of the Department with respect to program assistance may write a letter of complaint to the Department's Director. The Director, or the Director's designee, will undertake such review of the complaint as deemed appropriate. The Director, or the Director's designee, will endeavor to provide a written response within

30 days of receipt of the written complaint and shall direct the Department to take such corrective action as is determined to be appropriate.

Stat. Auth.: Ch. 831, OL 2005, ORS 406.030, 406.050, 406.130 & 408.010
Stats. Implemented: Ch. 831, OL 2005, ORS 406.030, 406.050, 406.130 & 408.010
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

274-012-0131

Waiver of Rules

Subject to the limitations of the law, and at its sole discretion, the Department of Veterans' Affairs may waive all or part of these administrative rules.

Stat. Auth.: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Stats. Implemented: ORS 406.030, 406.050, 406.130, 408.010 & 408.500
Hist.: DVA 2-2006(Temp), f. & cert. ef. 2-23-06 thru 8-18-06

Employment Department

Chapter 471

Rule Caption: OAR 471-040-0007 Interpreted Hearings and OAR 471-040-0008 Interpretation for Individuals with Disabilities.

Adm. Order No.: ED 4-2006

Filed with Sec. of State: 3-3-2006

Certified to be Effective: 3-5-06

Notice Publication Date: 2-1-06

Rules Adopted: 471-040-0007, 471-040-0008

Subject: These rule changes are being made to insure that limited English proficient customers and those with physical barriers obtain a fair hearing.

Rules Coordinator: Lynn M. Nelson—(503) 947-1724

471-040-0007

Contested Case Proceedings Interpretation for Limited English Proficient Persons

(1) This rule applies to the Employment Department's Unemployment Insurance contested case proceedings that require the services of an interpreter for a limited English proficient person who is a party or witness.

(2) For purposes of this rule:

(a) A "limited English proficient person" means a person who, by reason of place of birth, national origin, or culture, speaks a language other than English and does not speak English at all or with adequate ability to communicate effectively in the proceedings;

(b) A "certified interpreter" means an interpreter certified under ORS 45.291; and

(c) A "qualified interpreter" means a person who is not certified under ORS 45.291, but is readily able to communicate with the limited English proficient person and who can orally transfer the meaning of statements to and from English and the language spoken by the limited English proficient person. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. A qualified interpreter does not include any person who is unable to interpret the dialect, slang or specialized vocabulary used by the party or witness.

(3) In conducting contested case proceedings under this rule, the Employment Department will comply with the applicable provisions of ORS 45.272 to 45.292.

(4) If a limited English proficient person is a party or witness in a contested case proceeding:

(a) The administrative law judge shall appoint a certified interpreter, if available, to interpret the proceedings to a limited English proficient party, to interpret the testimony of a limited English proficient party or witness, or to assist the administrative law judge in performing the duties of the administrative law judge.

(b) If a certified interpreter is unavailable, the administrative law judge shall appoint a qualified interpreter.

(c) Notwithstanding subsection (4)(a) of this rule, upon the request of a party or witness, the administrative law judge may appoint a qualified interpreter rather than a certified interpreter if the administrative law judge deems it appropriate under the circumstances.

(d) No fee shall be charged to any party or witness for the appointment and services of an interpreter in a contested case proceeding except as provided by ORS 45.275(5) and subsection (4)(g) of this rule.

(e) The administrative law judge may not appoint any person as an interpreter if the person has a conflict of interest with any of the parties or witnesses, is unable to understand or cannot be understood by the administrative law judge, party or witness, or is unable to work cooperatively with

ADMINISTRATIVE RULES

the administrative law judge, the person in need of an interpreter or the representative for that person. If a party or witness is dissatisfied with the interpreter selected by the administrative law judge, a substitute interpreter may be used as provided in ORS 45.275(5).

(f) If a party or witness is dissatisfied with the interpreter selected by the administrative law judge, the party or witness may use any certified interpreter, except that good cause must be shown for a substitution if the substitution will delay the proceeding. Good cause exists when information in the record establishes that the party or witness would be unable to effectively communicate without the assistance of a substitute interpreter.

(g) Fair compensation for the services of an interpreter shall be paid by the Employment Department except, when a substitute interpreter is used for reasons other than good cause, the party requesting the substitute shall bear any additional costs beyond the amount required to pay the original interpreter.

(5) In determining if a person is a qualified interpreter, the administrative law judge shall consider the following factors to ascertain whether the individual will be able to readily communicate with the limited English proficient person and orally translate the meaning of the statements made from English to the language spoken by the limited English proficient person:

(a) The person's native language;
(b) The number of years of education the person has in the language to be interpreted and the English language;

(c) The number of years of specialized training that has provided the person with the opportunity to learn and use the language to be interpreted and English;

(d) The amount of time the person has spent in countries where the language to be interpreted is the primary language;

(e) The number of years the person has spent acquiring the ability to read or write, or both, the language to be interpreted and the English language;

(f) The person's previous experience as an interpreter;
(g) The person's ability to interpret in a manner that conserves the meaning, tone, level, style, and register of the original statement, without additions or omissions;

(h) The person's ability to interpret the dialect, slang or specialized vocabulary of the original statement; and

(i) The person's knowledge of the Oregon Code of Professional Responsibility for Interpreters in Oregon Courts.

(6) In appointing an interpreter under this rule, the administrative law judge shall use a procedure and ask questions or make statements on the record substantially similar to the following:

(a) "Please state your name for the record."

(b) "Are you currently certified as an interpreter in Oregon in accordance with ORS 45.291 (in the language to be interpreted)?"

(c) "Is there any situation or relationship, including knowing any parties or witnesses in this case, that may be perceived by me, any of the parties, or any witnesses as a bias or conflict of interest in or with the parties or witnesses in this case?" If the prospective interpreter answers affirmatively, the administrative law judge shall inquire further to ascertain whether any disqualifying bias or conflict of interest exists with any of the parties or witnesses.

(d) "Are you able to understand me, the parties, and the witnesses in this proceeding?"

(e) "In your opinion, are the parties and witnesses able to understand you?"

(f) Directed at the parties and witnesses requiring the assistance of an interpreter: "Are you able to understand the interpreter?"

(g) "Are you able to work cooperatively with me and the person in need of an interpreter or counsel for that person?"

(h) If foregoing questions (b), (d), (e), (f), and (g) are answered affirmatively and the administrative law judge is satisfied that the prospective interpreter has no bias or conflict of interest under question (c), then the administrative law judge shall state: "I hereby appoint you as interpreter in this matter."

(i) If the prospective interpreter is not certified under ORS 45.291, then the administrative law judge shall proceed to determine whether the person is a qualified interpreter, using the criteria set forth in Section 5 of this rule. If a written statement of the prospective interpreter's qualifications is available, the administrative law judge shall enter that statement into the record. If a written statement of the prospective interpreter's qualifications is not available, the administrative law judge shall require the prospective interpreter to state his or her qualifications on the record. If the written statement is incomplete, or if the administrative law judge or a party

questions the interpreter's qualifications, the administrative law judge shall require the prospective interpreter to supplement his or her written statement of qualifications by providing additional information regarding the prospective interpreter's qualifications on the record.

(j) If the administrative law judge determines that the person is a qualified interpreter, then the administrative law judge shall state on the record, "Based on your knowledge, skills, training, or education, I find that you are qualified to act as an interpreter in this matter." If the administrative law judge is not satisfied that the person is capable of serving as a qualified interpreter, the administrative law judge shall not appoint the person to serve in such capacity.

(k) The administrative law judge will then administer the oath or affirmation for interpreters who are not certified under ORS 45.291: "Under penalty of perjury, do you (swear) (affirm) that you will make a true and impartial interpretation of the proceedings in an understandable manner, using your best skills and judgment in accordance with the standards and ethics of the interpreter profession?"

(l) After receiving the qualified interpreter's oath or affirmation, the administrative law judge shall state: "I hereby appoint you as interpreter in this matter."

(m) On the record, the administrative law judge will then instruct any limited English proficient party or witnesses as follows: "If, at any time during the hearing, you do not understand something, or believe there are problems with the interpretation, you should indicate by interrupting and calling this to my attention."

(7) If the Employment Department is on notice that a limited English proficient person is in need of an interpreter, the Employment Department shall provide notice of the need for an interpreter to the Office of Administrative Hearings which shall schedule that person's contested case proceeding for which notice has been provided with an interpreter. If the Employment Department is not on notice that an interpreter is needed for a limited English proficient person, the limited English proficient person, or that person's representative, must notify the Office of Administrative Hearings of such need in advance of the contested case proceeding for which the interpreter is requested.

(a) If, at the time of or during the contested case proceeding, it becomes apparent that an interpreter is necessary for a full and fair inquiry, the administrative law judge shall arrange for an interpreter and may postpone the proceeding if necessary.

(b) The request for an interpreter may be made orally or in writing to the Office of Administrative Hearings. At the request of the Office of Administrative Hearings such notice may include:

(A) The name of the person needing an interpreter;

(B) Whether the person needing an interpreter is a party or witness in the proceeding; and

(C) The language to be interpreted.

(8) If a party is limited English proficient, English language exhibits are to be handled as follows:

(a) If the limited English proficient party confirms on the record that an interpreter already has interpreted an English language document for the party, the administrative law judge may receive the document into evidence without further interpretation of the document, unless necessary to assist a witness to provide relevant testimony.

(b) If the administrative law judge intends to receive into evidence an English language document that has not been previously interpreted under subsection (8)(a), the administrative law judge shall read the document and allow for contemporaneous interpretation. If the document is lengthy, the administrative law judge need not read into the record clearly irrelevant portions of the document, provided however that the administrative law judge shall summarize the remaining content of the document on the record.

(c) If, at the time of the proceeding, the administrative law judge does not rule on the admissibility of an offered English language document, then the administrative law judge shall read the offered document into the record and allow contemporaneous interpretation, subject to the exception in Section (b). The interpreter shall interpret all such offered documents or portions of such documents read into the record.

(d) If an offer of proof for excluded evidence includes an English language document, the interpreter shall interpret the document, subject to the exception in Section (b), for a limited English proficient party on the record, or off the record if so confirmed on the record by the limited English proficient party.

(e) Offered English language documents that the administrative law judge decides to exclude, in whole or in part, as irrelevant, immaterial, or unduly repetitious do not need to be interpreted. The administrative law

ADMINISTRATIVE RULES

judge shall orally summarize the contents of such offered but excluded documents, and the interpreter shall interpret that summary.

(9) A party may offer non-English language documents. If such a document is received into evidence, it shall be translated in writing or read into the record in English by the interpreter. Although the non-English language document will be part of the record, the English version of the document shall be the evidence in the case.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 45.272 - 292
Hist.: ED 4-2006, f. 3-3-06, cert. ef. 3-5-06

471-040-0008

Contested Case Proceedings Interpretation for Individuals with a Disability

(1) For purposes of this rule:

(a) An "assistive communication device" means any equipment designed to facilitate communication by an individual with a disability;

(b) An "individual with a disability" means a person who cannot readily understand the proceedings because of deafness or a physical hearing impairment, or cannot communicate in the proceedings because of a physical speaking impairment;

(c) A "qualified interpreter" for an individual with a disability means a person readily able to communicate with the individual with a disability, interpret the proceedings and accurately repeat and interpret the statements of the individual with a disability.

(2) If an individual with a disability is a party or witness in a contested case proceeding:

(a) The administrative law judge shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to, or to interpret the testimony of, the individual with a disability.

(b) No fee shall be charged to the individual with a disability for the appointment of an interpreter or use of an assistive communication device. No fee shall be charged to any person for the appointment of an interpreter or the use of an assistive communication device if appointment or use is made to determine whether the person is disabled for purposes of this rule.

(4) When an interpreter for an individual with a disability is appointed or an assistive communication device is made available under this rule:

(a) The administrative law judge shall appoint a qualified interpreter who is certified under ORS 45.291 if one is available unless, upon request of a party or witness, the administrative law judge deems it appropriate to appoint a qualified interpreter who is not so certified.

(b) The administrative law judge may not appoint any person as an interpreter if the person has a conflict of interest with any of the parties or witnesses, is unable to understand or cannot be understood by the administrative law judge, party or witness, or is unable to work cooperatively with the administrative law judge, the person in need of an interpreter or the representative for that person. If a party or witness is dissatisfied with the interpreter selected by administrative law judge, a substitute interpreter may be used as provided in ORS 45.275(5).

(c) If a party or witness is dissatisfied with the interpreter selected by the administrative law judge, the party or witness may use any certified interpreter except that good cause must be shown for a substitution if the substitution will delay the proceeding.

(d) Fair compensation for the services of an interpreter or the cost of an assistive communication device shall be paid by the agency except, when a substitute interpreter is used for reasons other than good cause, the party requesting the substitute shall bear any additional costs beyond the amount required to pay the original interpreter.

(5) The administrative law judge shall require any interpreter for a person with a disability to state the interpreter's name on the record and whether he or she is certified under ORS 45.291. If the interpreter is not certified under ORS 45.291, the interpreter must state or submit his or her qualifications on the record and must swear or affirm to make a true and impartial interpretation of the proceedings in an understandable manner using the interpreter's best skills and judgment in accordance with the standards and ethics of the interpreter profession.

(6) A person requesting an interpreter for a person with a disability, or assistive communication device for an individual with a disability, must notify the administrative law judge as soon as possible, but no later than 14 calendar days before the proceeding, including the hearing or pre-hearing conference, for which the interpreter or device is requested.

(a) For good cause, the administrative law judge may waive the 14-day advance notice.

(b) The notice to the administrative law judge must include:

(A) The name of the person needing a qualified interpreter or assistive communication device;

(B) The person's status as a party or a witness in the proceeding; and

(C) If the request is in behalf of an individual with a disability, the nature and extent of the individual's physical hearing or speaking impairment, and the type of aural interpreter, or assistive communication device needed or preferred.

Stat. Auth.: ORS 657
Stats. Implemented: ORS 45.272 - 292
Hist.: ED 4-2006, f. 3-3-06, cert. ef. 3-5-06

Rule Caption: OAR 471-030-0125 Drug and Alcohol Adjudication Policy.

Adm. Order No.: ED 5-2006

Filed with Sec. of State: 3-9-2006

Certified to be Effective: 3-12-06

Notice Publication Date: 1-1-06

Rules Amended: 471-030-0125

Subject: The rule changes are being made to simplify and make more consistent the administration of the drug and alcohol adjudication policy for unemployment eligibility determination.

Rules Coordinator: Lynn M. Nelson—(503) 947-1724

471-030-0125

Drug/Alcohol Adjudication Policy

(1) Purpose. For purposes of any applicable provision of ORS 657.176, this rule establishes policy for adjudicating cases involving the use, sale, possession or effects of drugs or alcohol in the workplace.

(2) Definitions. For the purposes of this rule:

(a) For purposes of ORS 657.176(9)(a)(A), "workplace" means the employer's premises or any place at or in which an individual performs services for the employer or otherwise acts within the course and scope of employment.

(b) For purposes of ORS 657.176(9)(a)(B), an individual "fails or refuses to take" a drug or alcohol test when the individual does not take a drug or alcohol test as directed by the employer in accordance with the provisions of an employer's reasonable written policy or collective bargaining agreement.

(c) For purposes of ORS 657.176(9)(a) and 657.176(13)(d), an individual is "under the influence" of intoxicants if, at the time of a test administered in accordance with the provisions of an employer's reasonable written policy or collective bargaining agreement, the individual has any detectable level of drugs or alcohol present in the individual's system, unless the employer otherwise specifies particular levels of drugs or alcohol in its policy or collective bargaining agreement.

(d) "Performing services for the employer" as used in ORS 657.176(9)(a)(D) and "during work" as used in ORS 657.176(9)(a)(E) mean that an employee is on duty and is, or is expected to be, actively engaged in tasks as directed or expected by the employer for which the employee will or expects to be compensated with remuneration.

(e) For purposes of ORS 657.176(9)(a)(F), an individual "tests positive" for alcohol or an unlawful drug when the test is administered in accordance with the provisions of an employer's reasonable written policy or collective bargaining agreement, and at the time of the test:

(A) The amount of drugs or alcohol determined to be present in the individual's system equals or exceeds the amount prescribed by such policy or agreement; or

(B) The individual has any detectable level of drugs or alcohol present in the individual's system if the policy or agreement does not specify a cut off level.

(f) An individual fails a test for alcohol or unlawful drugs when the individual tests positive as described in subsection (e) of this section.

(g) For purposes of ORS 657.176(9) and 657.176(13), "unlawful drug" means a drug which is unlawful for the individual to use, possess, or distribute under Oregon law. This term does not include a drug prescribed and taken by the individual under the supervision of a licensed health care professional and used in accordance with the prescribed directions for consumption, or other uses authorized by law.

(h) "Connection with employment" as used in ORS 657.176(9)(a)(F) means where such positive test affects or has a reasonable likelihood of affecting the employee's work or the employer's interest and/or workplace.

(i) For purposes of ORS 657.176(9)(b)(A):

(A) "Recognized drug or alcohol rehabilitation program" means a program authorized and licensed under the provisions of OAR chapter 415, or authorized and licensed under similar provisions in another state.

ADMINISTRATIVE RULES

(B) "Documentation of participation in the program" means a signed statement by an authorized representative of the recognized program that the individual is/was engaged in a course of treatment.

(3) For purposes of ORS 657.176(9)(a), (10), and 657.176(13)(d), a written employer policy is reasonable if:

(a) The policy prohibits the use, sale, possession, or effects of drugs or alcohol in the workplace; and

(b) The employer follows its policy; and

(c) The policy has been published and communicated to the individual or provided to the individual in writing; and

(d) When the policy provides for drug or alcohol testing, the employer has:

(A) Probable cause for requiring the individual to submit to the test; or

(B) The policy provides for random, blanket or periodic testing.

(4) Probable Cause for Testing. For purposes of ORS 657.176(9)(a), an employer has probable cause to require an employee to submit to a test for drugs and/or alcohol if:

(a) The employer has, prior to the time of the test, observable, objective evidence that gives the employer a reasonable basis to suspect that the employee may be impaired or affected by drugs or alcohol in the workplace. Such evidence may include, but is not limited to, bizarre behavior in the workplace, a change in productivity, repeated tardiness or absences, or behavior which causes an on-the-job injury or causes substantial damage to property; or

(b) The employer has received credible information that a worker uses or may be affected by drugs or alcohol in the workplace; or

(c) Such test is required by applicable state or federal law, or an applicable collective bargaining agreement that has not been declared invalid in final arbitration; or

(d) Such test is required or allowed pursuant to a reasonable written last chance agreement.

(5) Random, blanket and periodic testing. For purposes of ORS 657.176(9) and (10):

(a) A "random test for drugs and/or alcohol" means a test for drugs and/or alcohol given to a sample drawn from a population in which each member of the population has an equal chance to be selected for testing.

(b) A "periodic test for drugs and/or alcohol" means a drug and/or alcohol test administered at various intervals.

(c) A "blanket test for drugs and/or alcohol" means a test for drugs and/or alcohol applied uniformly to a specified group or class of employees.

(6) For purposes of ORS 657.176(9)(a) and 657.176(13)(c), no employer policy is reasonable if the employee is required to pay for the cost of the test.

(7) For purposes of ORS 657.176(13)(c), a last chance agreement is a document signed by the employee for the condition of continued employment and is reasonable if:

(a) It is written; and

(b) It contains only reasonable conditions. Reasonable conditions include, but are not limited to, agreeing to remain drug or alcohol free; participating in a rehabilitation program; participating in an employee assistance program, or other similar program; submitting to random, blanket, or periodic drug or alcohol testing to demonstrate that the employee remains drug or alcohol free.

(c) A term requiring an employee to pay for any of the cost of participation in a rehabilitation program is reasonable only if the cost is reasonable in consideration of the employee's ability to pay.

(d) A term requiring an employee to pay for any of the cost of a drug or alcohol test is not a reasonable condition.

(8) Failure to Apply/Failure to Accept:

(a) A requirement that job candidates submit to a pre-employment drug or alcohol test does not make the work unsuitable for purposes of ORS 657.176(2) and 657.190.

(b) If, after being referred by the Employment Department, an individual does not apply for otherwise suitable work because the employer requires a pre-employment drug or alcohol test, the individual has committed a disqualifying act, unless the individual is required to pay for costs associated with the drug or alcohol test.

(c) If an individual does not accept an offer of otherwise suitable work because the employer requires pre-employment drug or alcohol testing, the individual has committed a disqualifying act, unless the individual is required to pay for the costs associated with the drug or alcohol test.

(9) The employee is discharged or suspended for committing a disqualifying act if:

(a) The employee violates or admits a violation of a reasonable written employer policy governing the use, sale, possession or effects of drugs, marijuana, or alcohol in the workplace, unless in the case of drugs, other than marijuana, the employee can show that the violation did not result from unlawful drug use.

(b) In the absence of a test, there is clear observable evidence that the employee is under the influence of alcohol in the workplace.

(10) Procedures for testing. For purposes of ORS 657.176(9)(a) and 657.176(10):

(a) In the case of a positive blood or urine test for drugs or alcohol, in order to determine whether an individual fails a test, is under the influence, or tests positive, an initial test must be confirmed by a test conducted in a federal or state licensed clinical laboratory.

(b) In the case of a positive breathalyzer test for alcohol, a confirming test is not required.

(11) If the employer discharges or suspends an employee because of use, sale, or possession of drugs or alcohol in the workplace and the employer has no written policy regarding the use, sale, or possession of drugs or alcohol in the workplace, the provisions of OAR 471-030-0038 apply.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.176 & Ch. 792, OL 2003 (SB 916)

Hist.: ED 17-2003, f. 12-31-03, cert. ef. 1-4-04; ED 5-2006, f. 3-9-06, cert. ef. 3-12-06

Oregon Department of Education Chapter 581

Rule Caption: Extend to State School for Deaf and State School for Blind, "zero-tolerance" for tobacco.

Adm. Order No.: ODE 8-2006

Filed with Sec. of State: 2-21-2006

Certified to be Effective: 2-21-06

Notice Publication Date: 1-1-06

Rules Amended: 581-021-0110

Subject: The proposed amendment would extend to the State School for the Deaf and State School for the blind, the requirement to have policies establishing "zero-tolerance" for tobacco and tobacco products to include students, staff and visitors.

If you have questions regarding this rule, please contact Randy Harnisch at (503) 378-3600 X2350 or email randy.harnisch@state.or.us. For a copy of this rule, please contact Paula Merritt at (503) 378-3600 X2223 or email paula.merritt@state.or.us

Rules Coordinator: Paula Merritt—(503) 378-3600, ext. 2223

581-021-0110

Tobacco Free Schools

(1) For the purpose of this rule "tobacco" is defined to include any lighted or unlighted cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product, and spit tobacco, also known as smokeless, dip, chew, and snuff, in any form.

(2) No student, staff member, or school visitor is permitted to smoke, inhale, dip, or chew or sell tobacco at any time, including non-school hours

(a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or

(b) On school grounds, athletic grounds, or parking lots.

(3) No student is permitted to possess a tobacco product:

(a) In any building, facility, or vehicle owned, leased, rented, or chartered by the school district, school, or public charter school; or

(b) On school grounds, athletic grounds, or parking lots.

(4) By January 1, 2006, school districts must establish policies and procedures to implement and enforce this rule for students, staff and visitors.

(5) For purposes of this rule, the term "school district" includes the Oregon School for the Deaf (OSD) and the Oregon School for the Blind (OSB). The Oregon School for the Deaf and the Oregon School for the Blind must establish, in cooperation with the Oregon Department of Education, policies and procedures to implement and enforce this rule for students, staff and visitors by June 30, 2006.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: ODE 30-2004, f. 9-15-04, cert. ef. 9-20-04; ODE 8-2006, f. & cert. ef. 2-21-06

Rule Caption: HB 2157 merged the current statutes and increased the fee.

ADMINISTRATIVE RULES

Adm. Order No.: ODE 9-2006

Filed with Sec. of State: 2-21-2006

Certified to be Effective: 2-21-06

Notice Publication Date: 1-1-06

Rules Amended: 581-022-1730, 581-022-1732

Subject: HB 2157 merged the current statutes and increased the fee. There is a current temporary rule in effect that will expire.

Rules Coordinator: Paula Merritt—(503) 378-3600 ext. 2223

581-022-1730

Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Subject individual" means: A person employed by a Private School in a position having direct, unsupervised contact with students and not requiring licensure under either ORS 342.120 to 342.200 or 342.455;

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed. Fees shall be paid to the Oregon Department of Education with submission of fingerprint cards and associated form. The fee amount and distribution shall be as follows:

- (A) Oregon State Police (OSP) — \$28;
- (B) Federal Bureau of Investigation (FBI) — \$24;
- (C) Oregon Department of Education — \$10;
- (D) TOTAL — \$62.

(d) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-C.

(e) "Convictions of crimes prohibiting employment, contract or assignment by a contractor" means, notwithstanding any other statutes or Oregon administrative rule, conviction of a crime listed in ORS 342.143, or making a false statement as to the conviction of a crime;

(f) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(g) "Private School" means a school that is registered with the Oregon Department of Education under ORS 345.515.

(2) The Department of Education shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the private school a fee not to exceed the actual cost of acquiring and furnishing the information.

(3) The Oregon Department of Education shall review the criminal records of subject individual upon the private school's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status. The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has made a false statement as to conviction of a crime.

(4) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(5) The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has been convicted of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number. The crimes listed in ORS 342.143 (1995 Replacement Part) are:

- (a) ORS 163.095 — Aggravated Murder;
- (b) ORS 163.115 — Murder;
- (c) ORS 163.185 — Assault in the First Degree;
- (d) ORS 163.235 — Kidnapping in the First Degree;
- (e) ORS 163.355 — Rape in the Third Degree;
- (f) ORS 163.365 — Rape in the Second Degree;
- (g) ORS 163.375 — Rape in the First Degree;
- (h) ORS 163.385 — Sodomy in the Third Degree;
- (i) ORS 163.395 — Sodomy in the Second Degree;
- (j) ORS 163.405 — Sodomy in the First Degree;

(k) ORS 163.408 — Unlawful Sexual Penetration in the Second Degree;

(l) ORS 163.411 — Unlawful Sexual Penetration in the First Degree;

(m) ORS 163.415 — Sexual Abuse in the Third Degree;

(n) ORS 163.425 — Sexual Abuse in the Second Degree;

(o) ORS 163.427 — Sexual Abuse in the First Degree;

(p) ORS 163.435 — Contributing to the Sexual Delinquency of a Minor;

(q) ORS 163.445 — Sexual Misconduct;

(r) ORS 163.465 — Public Indecency;

(s) ORS 163.515 — Bigamy;

(t) ORS 163.525 — Incest;

(u) ORS 163.547 — Child Neglect in the First Degree;

(v) ORS 163.575 — Endangering the Welfare of a Minor;

(w) ORS 163.670 — Using Child in Display of Sexually Explicit

Conduct;

(x) ORS 163.675 — Sale of Exhibition of Visual Reproduction of Sexual Conduct by Child;

(y) ORS 163.680 — Paying for Viewing Sexual Conduct Involving a Child;

(z) ORS 163.684 — Encouraging Child Sex Abuse in the First Degree;

(aa) ORS 163.686 — Encouraging Child Sex Abuse in the Second Degree;

(bb) ORS 163.687 — Encouraging Child Sex Abuse in the Third Degree;

(cc) ORS 163.688 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the First Degree;

(dd) ORS 163.689 — Possession of Materials Depicting Sexually Explicit Conduct of a child in the Second Degree;

(ee) ORS 164.325 — Arson in the First Degree;

(ff) ORS 164.415 Robbery in the First Degree;

(gg) ORS 166.005 Treason;

(hh) ORS 166.087 Abuse of Corpse in the first Degree;

(ii) ORS 167.007 — Prostitution;

(jj) ORS 167.012 — Promoting Prostitution;

(kk) ORS 167.017 — Compelling Prostitution;

(ll) ORS 167.062 — Sadoomasochistic Abuse or Sexual Conduct in Live Show;

(mm) ORS 167.065 — Furnishing Obscene Materials to Minors;

(nn) ORS 167.070 — Sending Obscene Materials to Minors;

(oo) ORS 167.075 — Exhibiting an Obscene Performance to a Minor;

(pp) ORS 167.080 — Displaying Obscene Materials to Minors;

(qq) ORS 167.087 — Disseminating Obscene Materials;

(rr) ORS 167.090 — Publicly Displaying Nudity or Sex for Advertising Purposes;

(ss) ORS 475.995 — Distribution of Controlled Substance to Minors;

(tt) ORS 475.999 — Manufacture or Delivery of controlled Substance to Minor or Student Within 1,000 Feet of School.

(6) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 of an attempt to commit any of the crimes listed in section (5) of this rule shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.

(7) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action. The Department of Education will return fingerprint cards and associated forms without appropriate fees without taking any other action.

(8) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

- (a) Card sequence number;
- (b) Name of Private School submitting the cards;
- (c) Date cards and Department form received;
- (d) Date incomplete card returned to the school (only if applicable);
- (e) Date completed card sent to Oregon State Police;
- (f) Date private school was notified of state police record or lack of record;

(g) Date FBI card returned to Department;

(h) Date private school was notified of FBI record or lack of record;

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 12-1998(Temp), f. & cert. ef. 6-23-98 thru 12-19-98; ODE 4-1999, f. & cert. ef. 1-12-99; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99;

ADMINISTRATIVE RULES

ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; ODE 3-2004, f. & cert. ef. 1-15-04; ODE 9-2006, f. & cert. ef. 2-21-06

581-022-1732

Fingerprinting of Subject Individuals Employed by Private Schools in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Subject individual" means:

(A) Any person newly hired after December 31, 1993 by a school district or an education service district into a position having direct, unsupervised contact with students and not requiring licensure under either ORS 342.120 to 342.200 or 342.455;

(B) Any person newly hired after December 31, 1993 as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under either ORS 342.120 to 342.200 or 342.455;

(C) Any person included above unless the current employer has on file evidence from a previous employer documenting a successfully completed Oregon and FBI criminal records check. The Oregon Department of Education or the Teacher Standards and Practices Commission verification of a previous check shall be acceptable only in the event the employer can demonstrate records are not otherwise available. Additional evidence that the employee has not resided outside the state between the two periods of time working in the district shall be maintained;

(D) An individual currently employed by a school district either part time or full time, which, has direct, unsupervised contact with children.

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed the local school district's State School Fund by the Department of Education for processing each fingerprint card submitted. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — \$28;

(B) Federal Bureau of Investigation (FBI) — \$24;

(C) Oregon Department of Education — \$10;

(D) TOTAL — \$62.

(d) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283.

(e) For purposes of criminal background checks pursuant to ORS 326.603 and 326.607, conducted in relation to individuals subject to such criminal background verification, the following definitions of "conviction" of a crime applies:

(A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143.

(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not effect the status of the conduct as a conviction for purposes of this rule.

(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(E) A conviction exists for purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.

(F) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.

(G) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication

or plea indicating the individual committed the offense in question is on the record.

(H) This rule is expressly made retroactive to June 1, 2002.

(f) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(g) "Newly hired" means the employment of a person after application or request for a position having direct, unsupervised contact with students without regard to that person's current or previous employer; and

(h) "School district" means a taxing district providing public elementary or secondary education, or any combination thereof, within the state; an education service district; the Oregon School for the Blind; the Oregon School for the Deaf; and an educational program under the Juvenile Corrections Education Program.

(2) School districts and education service districts shall adopt and implement local board policy related to fingerprint collection and processing which shall:

(a) Specify the criteria for determining which staff positions will warrant consideration for subject individuals as defined in this rule. The local districts shall publish a list of those positions affected;

(b) Specify the format used to notify subject individuals that fingerprinting and criminal record checks are required by law and that any action resulting from those checks may be appealed as a contested case;

(c) Provide a clear statement of district response to notification by the Superintendent of Public Instruction or the State Board of Education regarding persons who have either been convicted, or have made a false statement as to the conviction of any of the crimes prohibiting employment that are listed in section (9) of this rule;

(d) Specify that subject individuals may begin to carry out terms of a contract or employment on a probationary basis pending the return of criminal record checks by the FBI;

(e) Identify that employment shall be offered prior to collecting fingerprint cards for submission to the Department of Education and that fees may be collected from the applicant. The applicant may request that the amount of the fee be withheld from the amount otherwise due the individual, and the school district shall withhold the amount only upon the request of the subject individual; and

(f) Identify a procedure that ensures the integrity of fingerprint collection and will prevent any possible compromise of the process.

(3) Fingerprints may be collected by one of the following:

(a) Employing school district staff;

(b) Contracted agent of employing school district;

(c) Local or state law enforcement agency.

(4) School districts and education service districts shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints for each subject individual defined in this rule:

(a) Immediately following offer and acceptance of employment or contract;

(b) Subject individuals described in section (1)(a)(D) of this rule whose birth month is January, February, or March shall submit by January 1, 1997;

(c) Subject individuals described in section (1)(a)(D) of this rule whose birth month is April, May, or June shall submit by January 1, 1998;

(d) Subject individuals described in section (1)(a)(D) of this rule whose birth month is July, August, or September shall submit by January 1, 1999; and

(e) Subject individuals described in section (1)(a)(D) of this rule whose birth month is October, November, or December shall submit by January 1, 2000.

(5) The Department of Education shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the school district a fee not to exceed the actual cost of acquiring and furnishing the information.

(6) The Oregon Department of Education shall review the criminal records of subject individual upon the district's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status and related impact on employment or contract qualification. The Superintendent of Public Instruction or designee shall also notify the school district if the subject individual has made a false statement as to conviction of a crime.

(7) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision

ADMINISTRATIVE RULES

of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(8) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted shall be terminated from employment or contract status by the district.

(9) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, or have made a false statement as to the conviction of a crime, shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction. The crimes listed in ORS 342.143 (1995 Replacement Part) are:

- (a) ORS 163.095 — Aggravated Murder;
- (b) ORS 163.115 — Murder;
- (c) ORS 163.185 — Assault in the First Degree
- (d) ORS 163.235 — Kidnapping in the First Degree;
- (e) ORS 163.355 — Rape in the Third Degree;
- (f) ORS 163.365 — Rape in the Second Degree;
- (g) ORS 163.375 — Rape in the First Degree;
- (h) ORS 163.385 — Sodomy in the Third Degree;
- (i) ORS 163.395 — Sodomy in the Second Degree;
- (j) ORS 163.405 — Sodomy in the First Degree;
- (k) ORS 163.408 — Unlawful Sexual Penetration in the Second

Degree;

- (l) ORS 163.411 — Unlawful Sexual Penetration in the First Degree;
- (m) ORS 163.415 — Sexual Abuse in the Third Degree;
- (n) ORS 163.425 — Sexual Abuse in the Second Degree;
- (o) ORS 163.427 — Sexual Abuse in the First Degree;
- (p) ORS 163.435 — Contributing to the Sexual Delinquency of a

Minor;

- (q) ORS 163.445 — Sexual Misconduct;
- (r) ORS 163.465 — Public Indecency;
- (s) ORS 163.515 — Bigamy;
- (t) ORS 163.525 — Incest;
- (u) ORS 163.547 — Child Neglect in the First Degree;
- (v) ORS 163.575 — Endangering the Welfare of a Minor;
- (w) ORS 163.670 — Using Child in Display of Sexually Explicit

Conduct;

(x) ORS 163.675 — Sale of Exhibition of Visual Reproduction of Sexual Conduct by Child;

(y) ORS 163.680 — Paying for Viewing Sexual Conduct Involving a Child;

(z) ORS 163.684 — Encouraging Child Sex Abuse in the First Degree;

(aa) ORS 163.686 — Encouraging Child Sex Abuse in the Second Degree;

(bb) ORS 163.687 — Encouraging Child Sex Abuse in the Third Degree;

(cc) ORS 163.688 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the First Degree

(dd) ORS 163.689 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree

(ee) ORS 164.325 — Arson in the First Degree;

(ff) ORS 164.415 — Robbery in the First Degree;

(gg) ORS 166.005 — Treason

(hh) ORS 166.087 — Abuse of Corpse in the First Degree;

(ii) ORS 167.007 — Prostitution;

(jj) ORS 167.012 — Promoting Prostitution;

(kk) ORS 167.017 — Compelling Prostitution;

(ll) ORS 167.062 — Sadomasochistic Abuse or Sexual Conduct in Live Show;

(mm) ORS 167.065 — Furnishing Obscene Materials to Minors;

(nn) ORS 167.070 — Sending Obscene Materials to Minors;

(oo) ORS 167.075 — Exhibiting an Obscene Performance to a Minor;

(pp) ORS 167.080 — Displaying Obscene Materials to Minors;

(qq) ORS 167.087 — Disseminating Obscene Materials;

(rr) ORS 167.090 — Publicly Displaying Nudity or Sex for

Advertising Purposes;

(ss) ORS 475.995 — Distribution of Controlled Substance to Minors;

(tt) ORS 475.999 — Manufacture or Delivery of controlled Substance to Minor or Student Within 1,000 Feet of School.

(10) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 of an attempt to commit any of the crimes

listed in section (9) of this rule shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.

(11) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(12) Prior to making a determination that results in a notice and opportunity for hearing, the Superintendent of Public Instruction may cause an investigation to be undertaken. Subject individuals and districts shall cooperate with the investigation and may be required to furnish oral or written statements by affidavit or under oath. If the Superintendent of Public Instruction determines through investigation that a violation of this rule has not occurred, a written decision explaining the basis for the decision will be provided to the subject individual.

(13) Applicants may appeal a determination that prevents their employment or eligibility to contract with a school district as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.

(14) Contested case appeals may be informally resolved through procedures specified in ORS

(15) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action.

(16) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

- (a) Card sequence number;
- (b) District submitting the cards;
- (c) Date cards and Department form received;
- (d) Date completed card sent to Oregon State Police;
- (e) Date denial or probationary approval sent to district;
- (f) Date FBI card returned to Department; and
- (g) Date denial or final approval sent to district.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: EB 16-1997, f. & cert. ef. 12-29-97; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; Administrative correction 8-2-04; ODE 9-2006, f. & cert. ef. 2-21-06

Rule Caption: Identify what the nonreimbursable transportation costs will be beyond the 2004–05 school year.

Adm. Order No.: ODE 10-2006

Filed with Sec. of State: 2-21-2006

Certified to be Effective: 2-21-06

Notice Publication Date: 1-1-06

Rules Amended: 581-023-0040

Subject: The current rule does not identify what the nonreimbursable Transportation Costs will be beyond the 2004–05 school year. The rule must be updated to include the new amount.

Rules Coordinator: Paula Merritt—(503) 378-3600, ext. 2223

581-023-0040

Approved Transportation Costs for Payments from the State School Fund

(1) Definitions for the purpose of this rule:

(a) “Elementary School Student” means, notwithstanding any other OAR or statute, pupils attending a school offering only an elementary curriculum, any combination of grades K through 8;

(b) “Secondary School Student” means, notwithstanding any other OAR or statute, pupils attending a school offering any secondary curriculum for grades 9, 10, 11, or 12. Additionally, all students attending a school designated by the local school board through board action as a junior high school or middle school may be considered secondary students;

(c) “Mile(s) from School” means the distance a student lives from school, measured from the closest, reasonable, and prudent point between the school property identified by the local board for that pupil’s attendance and the property where the pupil lives. The distance will be measured over the shortest practicable route on maintained public roadways or over existing pedestrian facilities or pedestrian facilities capable of meeting the requirements listed in ORS 332.405(4);

(d) “Supplemental Plan” means a plan adopted by local school board resolution identifying groups or categories of students who live within the 1 and 1.5 mile limitations and require transportation based on health or safety reasons, including special education. Supplemental plan approvals

ADMINISTRATIVE RULES

may be ordered by the State Board of Education or its designated representatives. The State Board shall have the right of final review of any actions regarding supplemental plans. Appeals will be directed to the State Board for final consideration. The Plan must include the following:

(A) The approximate number of students to be transported based on the plan;

(B) The health or safety reasons cited for providing transportation;

(C) The local board resolution specifying the supplemental plan as submitted; and

(D) Any additional information or documentation supporting the supplemental plan deemed appropriate locally.

(e) "Local School Board" means, notwithstanding any other OAR or statute, the local school board for the district in which the student's legal residence is physically located. Local school boards are not required to provide transportation for students who have requested and received approval to attend a school other than that designated by the local school board for students living in their specified attendance area;

(f) "Bus Manufacturer's Rated Capacity" means the number of students to be used in the calculations specified in paragraph (5)(n)(B) of this rule and described below:

(A) Buses transporting only elementary students will have a passenger capacity as stated on the manufacturer's identification plate;

(B) Buses transporting only high school students, grades 9 through 12 will have a passenger capacity based on two students for each 39 inch bus seat;

(C) Buses transporting mixed groups from grades K-12 (in any combination) or groups of only junior high or middle school students will have a passenger capacity based on 2.5 students for each 39-inch bus seat.

EXAMPLE: A bus with a manufacturer's passenger capacity stated on the identification plate of 72 would have the following ratings: elementary - 72, high school only - 48, mixed groups - 60, middle school and junior high school - 60.

(2) Approved transportation costs shall include those costs incurred in transporting pupils to and from instructional programs during the regularly scheduled school term within the limitations specified by ORS 327.006 and 327.033. Approved transportation costs may include costs incurred in transporting students participating in extended school year programs eligible for funding from the State School Fund.

(3) Approved transportation costs shall include those district expenditures associated with:

(a) Home-to-school transportation of elementary school pupils who live at least one mile from school;

(b) Home-to-school transportation of secondary school pupils who live at least one and one-half miles from school;

(c) Transportation of pupils between educational facilities either within or across district boundaries, if the facilities are used as part of the regularly-scheduled instructional program approved by the Board;

(d) Transportation of pupils for in-state field trips when such represents an extension of classroom activities for instructional purposes, and shall include out-of-state destinations within 100 miles of the Oregon border;

(e) Transportation of pupils home to school for whom a supplemental plan has been approved by the State Board of Education in addressing safety, health, and special education needs;

(f) Transportation of preschool children in Early Childhood Special Education Services having an Individual Family Service Plan requiring transportation and preschool children receiving Early Intervention Services under the authority of ORS 343.533.

(g) School to home transportation following extended school day instructional programs for:

(A) Elementary school pupils who live at least one mile from school;

(B) Secondary school pupils who live at least one and one-half miles from school.

(4) Approved transportation costs shall exclude those district expenditures associated with transportation for the following unless the school program is required under provisions of the Individuals with Disabilities Education Act, ORS 343.533 or 339.010 through 339.090 and 339.250:

(a) Pupils living within the limits prescribed in ORS 327.006(2) for whom no supplemental plan has been approved by the State Board;

(b) Activity trips other than for instructional purposes;

(c) Athletic trips;

(d) School lunch purposes;

(e) Summer school;

(f) Adult education;

(g) Evening school;

(h) Preschool and/or nursery school;

(i) Board and room in lieu of transportation associated with field trips;

(j) Transportation facility and staff costs other than those directly related to approved pupil transportation activities.

(5) The computation shall be made as follows:

(a) Pupil Transportation Salaries;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance;

(c) All contracted Transportation;

(d) Travel of Pupil Transportation Personnel;

(e) Employee Benefits on Pupil Transportation Salaries;

(f) Pupil Transportation Insurance;

(g) Payments in Lieu of Transportation;

(h) Other Expenses of Pupil Transportation;

(i) Payments to Other Districts for Pupil Transportation;

(j) Leases and Rentals;

(k) Depreciation:

(A) Depreciation of Garage;

(B) Depreciation of Buses.

(l) Total of subsections (5)(a) through (k) of this rule;

(m) Deduct (if cost is included in detail above):

(A) Payments Received from Other Districts and from Patrons for reimbursable transportation;

(B) Nonreimbursable Transportation Costs:

(i) For 2003-04:

(I) Number of miles @ \$1.80 per mile for all school buses and school activity vehicles having a manufacturer's designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$.90 per mile for all school activity vehicles having a manufacturer's designed passenger capacity 20 or less including driver; or

(ii) For 2004-05:

(I) Number of miles @ \$1.85 per mile for all school buses and school activity vehicles having a manufacturer's designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$.925 per mile for all school activity vehicles having a manufacturer's designed passenger capacity 20 or less including driver; or

(iii) For 2005-06:

(I) Number of miles @ \$1.89 per mile for all school buses and school activity vehicles having a manufacturer's designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$.945 per mile for all school activity vehicles having a manufacturer's designed passenger capacity 20 or less including driver; or

(iv) For 2006-07:

(I) Number of miles @ \$1.93 per mile for all school buses and school activity vehicles having a manufacturer's designed passenger capacity greater than 20 persons including driver, or

(II) Number of miles @ \$.965 per mile for all school activity vehicles having a manufacturer's designed passenger capacity 20 or less including driver or;

(v)(I) Those local school board certified marginal costs attributable to services described in section (4)(a) of this rule, calculated and documented as follows: Documentation maintained by local district shall include: bus and route identification, school(s) being served, number of eligible students on board, number of ineligible students on board;

(II) Calculation of marginal costs shall be as follows: District Cost Per Mile of bus operation divided by the total number of students transported on each bus to derive an average cost per student. The cost per student multiplied by the number of ineligible students and the number of miles inside the limits provides the amount for deduction. Example: Cost per student = district cost per bus mile - number of students on bus; Total Deduction = cost per student x ineligible students x number of miles inside limit.

(III) No deduction will be made for transportation inside prescribed limits if the local board certifies student demographics would require student bus rides to or from school of more than one hour if the bus is routed in a manner making it accessible to the number of eligible students living outside the prescribed mileage limit equal to 130 percent of the bus manufacturer's rated capacity, or;

(IV) The local school board certifies that buses are routed in a manner to serve at least the number of eligible students living outside the prescribed mileage limits equal to 130 percent of the bus manufacturer's rated passenger capacity; and

(V) In either of the aforementioned situations, no additional costs have been incurred by the district for the identified service.

ADMINISTRATIVE RULES

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006 or third party medicaid payments for transportation, if used to support expenditures in subsections (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors;

(E) The percentage of transportation facility depreciation commensurate with the percentage of the total district fleet value based upon purchase price (see subsection (6)(k) of this rule) represented by nonpupil transportation equipment. Examples of nonpupil transportation equipment would include the following: lawnmowers, tractors, backhoes, trucks, pickups, cars, trailers, snowblowers, etc.

(n) Total Deductions ((5)(m)(A)+(m)(B)+(m)(C)+(m)(D)+ (m)(E));

(o) Approved Cost ((5)(l) minus (5)(n)).

(6) In the above computation, the following definitions apply:

(a) Pupil Transportation Salaries. Salaries and wages paid school bus drivers, assistants to driver, and that portion of salaries paid mechanics and other bus maintenance employees, supervisors of transportation, secretarial and clerical assistants, and persons assigned transportation oversight and coordination responsibilities attributable to the transportation program and documented through position descriptions and payroll records. No school district General Administration salaries may be included in this area;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance. Costs of gasoline, oil, lubricants, tires, tire repair, batteries, vehicle diagnosis and repair equipment identified as capital expenditures in the "Program Budget Manual," vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance;

(c) All Contracted Transportation. Payments to parents and independent public or private contractors for transporting pupils from home to school, between educational facilities and for nonreimbursable activities enumerated in paragraph (6)(l)(B) of this rule; and fares to public carriers for transporting pupils from home to school and between educational facilities;

(A) If a district retains ownership of buses and garages and contracts for the operation of the transportation system with provision in the contract for lease or rental of the buses and garages, the contracted transportation cost shown should reflect the gross bid including the lease or rental payment. The lease or rental payment shall be deducted in the computation as reported in paragraph (5)(n)(D) of this rule;

(B) If the district retains ownership of buses and garages and participates in a transportation cooperative or consortium through an intergovernmental agreement, depreciation apportionment provided under ORS 327.033 will be disbursed directly to the district. No depreciation component is approved for cooperative-owned buses or garages.

(d) Travel of Pupil Transportation Personnel. Meals, lodging, mileage, per diem and other travel expenses of pupil transportation personnel, and private car mileage if paid to bus drivers for travel to and from the point where school bus is parked if other than the central garage. The same travel expenses plus tuition or registration are included for attendance at Department of Education sponsored or presented pupil transportation training programs and seminars;

(e) Employee Benefits on Pupil Transportation Salaries. The district's contributions for employee benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(f) Pupil Transportation Insurance. Payments for public liability and property damage, medical care, collision, fire and theft, and insurance on garages and shops;

(g) Payments in Lieu of Transportation. Payments for pupils' board and room in lieu of transportation, consistent with ORS 332.405(2);

(h) Other Expenses of Pupil Transportation. District-paid fees for school bus drivers' physical examinations; interest on bus or garage contracts payable including lease-purchase agreements if capitalized (see subsection (6)(k) of this rule);

(i) Payments to Other In-State or Out-of-State Districts for Transportation. Payments to other districts for approved pupil transportation costs;

(j) Leases and Rentals. Rental or lease payments for the use of land or buildings used for approved pupil transportation. Rental or lease payments for buses operated by district personnel for approved pupil transportation.

NOTE: Only those leases which do not contain an option to purchase or application of rentals to purchase should be included in subsection (5)(j) of this rule. See subsection (6)(k) of this rule as to the proper treatment of other lease-purchase agreements;

(k) Depreciation. For purposes of computing depreciation, capitalized cost is defined to include the unit cost of the asset, exclusive of interest, for such assets purchased outright, by conventional contract, or by lease-pur-

chase agreement if such agreement contains any provision to acquire ownership at the end of the agreement by application of a portion of the rentals paid or a terminal payment. The computation of the capitalized cost and the depreciation shall be according to the following:

(A) Portions of Garages and Other Buildings Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract).

For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the garage or other building purchased and the dollar amount of interest payments associated with such purchase. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of four percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, the interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. Subsequent to July 1, 1975, the capitalized value shall represent the lease-purchase price less any interest payments contained in the agreement. Depreciation shall be computed at an annual rate of four percent.

(B) Buses and Other Vehicles Used for Approved Pupil Transportation:

(i) Outright purchase (including purchase by conventional contract).

For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the vehicle(s) purchased and the dollar amount of interest payments associated with such purchase. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of ten percent;

(ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, any applicable trade-in value, the dollar amounts of interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. The capitalized value of the vehicles shall represent the lease-purchase price including the trade-in allowance less interest payments contained in the agreement. Depreciation shall be computed at an annual rate of ten percent;

(iii) Lease agreements. If the district is leasing its buses under a lease agreement, the district shall report the annual lease cost. A lease agreement as used in this paragraph means an agreement whereby the lessor retains title to the buses being leased to the lessee school district and the title to the buses is never received by the lessee. Under such a lease agreement, the use of the buses by the lessee is limited by the term of the lease. If there is an auxiliary agreement either written or oral whereby at the end of the lease term, the title of the buses shall pass to the lessee school district, the agreement is not a lease agreement as described in this paragraph but is a lease-purchase agreement as outlined in subparagraph (ii) of this paragraph. The lease payment made by a school district obtaining the use of buses pursuant to a lease as defined in this paragraph shall be used in the computation of the reimbursement in place of the depreciation set forth in subparagraphs (i) and (ii) of this paragraph.

(l) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation if paid in support of expenditures listed in subsections (5)(a) through (l) of this rule;

(B) Nonreimbursable Transportation Costs. Actual bus mileage of excludable trips shall include the actual mileage in district owned or contracted buses for transportation for activity trips, athletic trips, school lunch purposes, summer school, adult education, evening school, nursery school, and any other nonreimbursable purposes. Such mileage shall be deducted at the rate indicated in subsection (5)(m)(B) of this rule. The rate of deduction may be reviewed periodically by the State Board of Education and adjusted accordingly;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation expenditures, exclusive of funds apportioned under ORS 327.006 and 327.033, that have been included in subsection (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors. Payments received from private contractors for the use of district owned buses and garages in the operation of the pupil transportation system by the private contractor. This item must be shown as Revenue Code 1930 in the school

ADMINISTRATIVE RULES

district audit and the gross payments to the contractor must be included in subsection (5)(c) of this rule.

(7) Each district shall maintain a record, by purpose, of total pupil transportation miles and shall submit a report of such to the Oregon Department of Education on the form provided. The accuracy of such records shall be certified by the district clerk.

(8) If an education service district offers a special service under the provisions of section (4) of ORS 334.175, including home-to-school transportation that would qualify for reimbursement under the provisions of ORS 327.006 if provided by a local school district, the following procedure in crediting the transportation expenditure to the local district may be employed:

(a) The education service district shall compute approved home-to-school transportation costs as provided in section (4) of this rule;

(b) The approved costs so determined shall be billed to and paid by each of the local school districts. The expenditure shall be accounted for by the local district as a transportation expenditure paid to another education agency;

(c) The audited district expenditure shall be recognized by the State Superintendent of Public Instruction in computing the local district's entitlement under ORS 327.006;

(d) If the education service district reimburses the local district the difference between that portion billed and that paid under ORS 327.006, such reimbursement - if derived from property tax sources by education service district resolution - shall not be deducted by the state in determining the local district's approved costs. The local district shall account for the education service district reimbursement as other general receipts are accounted for from the education service district.

(9) For purposes of computing board and room entitlement for a district operating a dormitory under provisions of ORS 327.006, the state assumes responsibility for its proportionate share of costs associated with the provision of food, facilities, staff, operation, and maintenance necessary to provide students with safe and healthy living conditions. The state does not assume responsibility for costs associated with recreation or entertainment of students. The approved cost against which the computation is made for state liability shall not exceed the limit stated in ORS 332.405. In addition, the state will assume its proportionate share of the cost of field trips as defined in subsection (3)(c) of this rule.

(10) The computation of approved expenditures for board and room entitlement shall be made as follows:

- (a) Salaries;
- (b) Operation:
 - (A) Utilities;
 - (B) Supplies;
 - (C) Other Operational Costs.
- (c) Maintenance:
 - (A) Upkeep;
 - (B) Replacement.
- (d) Fixed Charges:
 - (A) Employee Benefits;
 - (B) Other Fixed Charges.
- (e) Food;
- (f) Operation of Buses and Other Vehicles--Supplies, Repairs and

Maintenance;

- (g) Depreciation:
 - (A) Dormitory;
 - (B) Buses and Other Vehicles.
- (h) Total Expenditures (Sum of subsections (10)(a) through (g) of this

rule));

- (i) Deductions (subtract if cost is included in cost above):
 - (A) Payments Received from Other Districts and from Patrons;
 - (B) Nonreimbursable Transportation Costs as indicated in subsection

(5)(m)(B) of this rule;

- (C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006, 327.033, or third party medicaid payments, if used to support expenditures in subsections (10)(a) through (g) of this rule;
- (D) Federal School Lunch, Breakfast, and Milk Reimbursements;
- (E) Sales of Food.
- (j) Total Deductions (sum (10)(i)(A) + (i)(B) + (i)(C) + (i)(D) +

(i)(E));

(k) Approved Cost ((10)(h) minus (10)(j) of this rule).

(11) The items included in the board and room entitlement computation are defined as follows:

(a) Salaries. Salaries and wages paid dormitory personnel, including the dormitory manager, cooks, custodians, and other personnel directly

concerned with operation of the dormitory, and that portion of salaries paid secretarial and clerical assistants and other personnel attributable to the dormitory program;

(b) Operation:

(A) Utilities. Heat for buildings, water and sewage, electricity, telephone, and other utilities necessary for the operation of the dormitory;

(B) Supplies. Custodial supplies, supplies for care of grounds, linens, and other supplies necessary for the operation of the dormitory including food services. Purchase of food is included in subsection (11)(e) of this rule;

(C) Other Operational Costs. Contracted custodial services, window washing, laundry or linen services, etc., necessary for the operation of the dormitory.

(c) Maintenance:

(A) Upkeep. Expenditures associated with maintaining the existing dormitory facilities in a safe, healthy, and efficient condition, including supplies and materials for upkeep of dormitory grounds and the dormitory building. Costs associated with maintenance of recreational or entertainment facilities are excluded;

(B) Replacement of Equipment. Expenditures associated with replacing equipment necessary to the safe, healthy, and efficient operation of the dormitory. Replacement of equipment used for recreational or entertainment purposes are excluded.

(d) Fixed Charges:

(A) Employee Benefits. Expenditures for dormitory employees' benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(B) Other Fixed Charges. Expenditures for property insurance, liability insurance, rental of land and buildings for purposes associated with operation of the dormitory, and other fixed charges directly attributable to operation of the dormitory.

(e) Food. Expenditures for food necessary for the operation of the dormitory;

(f) Operation of Buses and Other Vehicles — Supplies, Repairs, and Maintenance. Expenditures for gasoline, oil, lubricants, tires, tire repair, batteries, vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance necessary for the operation of buses utilized for purposes stated in section (3) of this rule and of other vehicles necessary for the operation of the dormitory;

(g) Depreciation:

(A) Dormitory. For purposes of computing dormitory depreciation, capitalized cost is defined as the unit cost of the asset (including the cost of original equipment), exclusive of interest, plus the cost of substantial improvements or remodeling. Costs associated with providing recreational or entertainment facilities are not included. Depreciation shall be computed at an annual rate of four percent;

(B) Buses and Other Vehicles. Depreciation for buses used for approved pupil transportation and that portion of other vehicles necessary for operation of the dormitory shall be computed in accordance with the formula and definition stated in paragraph (6)(k)(B) of this rule.

(h) Total. Sum of subsections (10)(a) through (g) of this rule;

(i) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation or room and board if paid in support of expenditures listed in subsections (10)(a) through (f) of this rule;

(B) Nonreimbursable Transportation Costs. Costs for nonreimbursable transportation according to the formula and definition stated in paragraph (6)(l)(B) of this rule;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation or room and board expenditures exclusive of funds apportioned under ORS 327.006 that have been included in subsections (10)(a) through (f) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements. All federal receipts for school lunch, breakfast, and milk expenditures that have been included in subsections (10)(a) through (f) of this rule;

(E) Sales of Food. Money received from teachers, students, or other individuals from food sales for which the expenditures are included in subsections (10)(a) through (f) of this rule.

(12) Such items of expenditure as may be questionable in applying the policy stated in this administrative rule shall be resolved by the State Superintendent of Public Instruction and such determination shall be final.

(13) Apportionment of the State School Fund for 2001-02 and subsequent years.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013 & 820.100 - 820.120

Hist.: 1EB 177, f. 10-2-74; 1EB 181, f. 1-17-75, ef. 7-1-75; 1EB 209, f. 12-5-75, ef. 1-16-76; 1EB 220, f. 2-17-76, ef. 3-15-76; 1EB 233, f. 6-11-76, ef. 6-18-76; 1EB 4-1978, f. 1-27-78, ef. 1-27-78; 1EB 10-1980, f. & ef. 5-5-80; 1EB 6-1981, f. 3-2-81, ef. 3-3-81; 1EB 4-1982, f. & ef. 2-10-82; 1EB 15-1982, f. 8-4-82, ef. 8-5-82; 1EB 17-1983, f. 11-23-83, ef. 11-25-83; 1EB 1-1985, f. 1-4-85, ef. 1-7-85; 1EB 5-1986, f. 1-30-86, ef. 2-1-86; EB 4-1987, f. & ef. 2-20-87; EB 32-1987, f. & ef. 12-10-87; EB 42-1988, f. & cert. ef. 11-15-88; EB 3-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; EB 4-1997, f. & cert. ef. 4-25-97; ODE 9-2000, f. & cert. ef. 4-5-00; ODE 25-2001, f. & cert. ef. 11-7-01; ODE 9-2003, f. & cert. ef. 6-13-03; ODE 10-2006, f. & cert. ef. 2-21-06

.....

Rule Caption: Define process for constituent complaints and alleged violations of standards by an ESD.

Adm. Order No.: ODE 11-2006

Filed with Sec. of State: 2-21-2006

Certified to be Effective: 2-21-06

Notice Publication Date: 1-1-06

Rules Amended: 581-024-0215

Subject: The proposed amendments to the rule will define a process to allow the Superintendent to respond to constituent complaints and other alleged violations of standards by an ESD, other than through the regular, cyclical standardization review. The amendments would allow the Superintendent to respond promptly and appropriately in all cases alleged noncompliance.

Rules Coordinator: Paula Merritt—(503) 378-3600, ext. 2223

581-024-0215

Assignment of Standardization Classification

(1) The district's designation as standard, conditionally standard or nonstandard is determined by the State Superintendent of Public Instruction and is based on the district's compliance with the rules set out in division 24 of chapter 581 of the Oregon Administrative Rules.

(2) The Superintendent will review a district's compliance with division 24 standards as part of a comprehensive, regular review of the district, or may review a district in response to a public complaint alleging noncompliance with one or more of the Division 24 standards, or upon the Superintendent's own initiative at any time as may be necessary to ensure compliance with the Division 24 standards.

(3) During a review, the district shall cooperate with the Superintendent and provide any and all evidence the Superintendent considers necessary for the review. If as a result of a review of the district by the Superintendent it is determined that the district does not comply with one or more of the division 24 standards, the Superintendent will notify the district of the initial determination of noncompliance and give the district 15 days to respond.

(4) If after reviewing the district's response, the Superintendent determines that the district is in compliance with all division 24 standards, the Superintendent will within 15 days from the receipt of the district's response designate the district as standard.

(5) If after reviewing the district's response, the Superintendent determines that the district is not in compliance with one or more division 24 standards, the Superintendent will within 15 days from the receipt of the district's response designate the district as nonstandard and require from the district a plan to correct all deficiencies. The district will have 30 days to provide the Superintendent with the plan. The Superintendent may accept, reject or modify the plan within 30 days from the receipt of the district's plan and will order the district to comply with the plan as approved. The district will have 180 days from the approval of the plan to correct all identified deficiencies.

(6) If a plan is not submitted to the Superintendent within 30 days, the Superintendent will designate the district nonstandard.

(7) When a plan to correct deficiencies is approved by the Superintendent, the district is designated conditionally standard.

(8) When the district corrects all identified deficiencies, the district is designated standard.

(9) If after 180 days from the approval of the plan, the district has not corrected all identified deficiencies, the Superintendent will designate the district nonstandard.

(10) The Superintendent may impose sanctions on a nonstandard district, including requiring merger with a contiguous, standard district, withholding state school fund allocations and the sanctions described in ORS 342.173. The determination of sanction is left to the discretion of the Superintendent.

Stat. Auth.: ORS 334

Stats. Implemented: ORS 334.125

Hist.: 1EB 237, f. & ef. 7-9-76; 1EB 265, f. & ef. 8-22-77; 1EB 4-1985, f. 1-4-85, ef. 7-1-85; EB 16-1994, f. & cert. ef. 11-14-94; ODE 1-2005(Temp), f. & cert. ef. 2-14-05 thru 8-1-05; Administrative correction 8-17-05; ODE 11-2006, f. & cert. ef. 2-21-06

.....

Oregon Health Licensing Agency, Board of Cosmetology Chapter 817

Rule Caption: Adopt 2005 HB 2105 changes and will impose a fee increase for use of national examination.

Adm. Order No.: BOC 1-2006

Filed with Sec. of State: 3-15-2006

Certified to be Effective: 3-15-06

Notice Publication Date: 12-1-05, 2-1-06

Rules Amended: 817-005-0005, 817-010-0065, 817-010-0068, 817-010-0101, 817-010-0106, 817-015-0050, 817-015-0065, 817-020-0305, 817-030-0005, 817-030-0015, 817-030-0018, 817-030-0020, 817-030-0040, 817-030-0045, 817-030-0100, 817-035-0010, 817-035-0030, 817-035-0110, 817-040-0003, 817-080-0005, 817-090-0025, 817-090-0035, 817-090-0045, 817-090-0050, 817-090-0055, 817-090-0065, 817-090-0070, 817-090-0075, 817-090-0080, 817-090-0085, 817-090-0090, 817-090-0095, 817-090-0100, 817-090-0105, 817-090-0110, 817-090-0115, 817-100-0005, 817-120-0005

Subject: Amendments to the administrative rules address changes resulting from passage of HB 2105 by the 2005 Legislature. The legislation revises statutory definitions in ORS 690.005 for the four cosmetology fields of practice, changes "facial technology to "esthetics" to conform with national and international industry standards and reinstates full body skin care by removing the seventh vertebra restriction implemented in 1987, and adds clarification that nail technology services apply to the arm below the elbow and the leg below the knee. Amendments to rule definitions modify some definitions for clarity and delete others that are redundant or unnecessary. Revisions improve rule construction and wording, and correct specific statutory/rule citations throughout OAR 817.

FEE INCREASE: The written examination fee is being increased from \$10 to \$25 (per section) to enable use of a national examination. The fee increase was reviewed and approved by the 2005 Legislature and is included in the agency's 2005-07 Legislatively Adopted Budget, presented as *Policy Package 103 — National Testing*.

Division 035 amendments reinstates issuance of a paper inspection certificate to cosmetology facilities and independent contractors following an on-site visit by the agency's enforcement officer as a means of documenting the inspection for compliance with licensing, safety and infection control regulations. The agency's migration to a paperless/electronic inspection system did not provide a "record" of the inspection for the licensee to retain. The inspection certificate is not required to be posted in public view but must be available on the premises for review upon agency request.

Division 090 amendments conform all Civil Penalty rule provisions with the agency name change resulting from passage of HB 2103 by the 2005 Legislature (Oregon Health Licensing Agency) and identifies agency authority to assess civil penalties under ORS 676.992 resulting from passage of HB 2325 by the 2003 Legislature.

Administrative Rules are available on the agency's website — <http://egov.oregon.gov/OHLA/>

Material is available in alternative formats. Please contact Samantha Patnode, Board Liaison for additional information.

Rules Coordinator: Patricia C. Allbritton—(503) 378-8667, ext. 4322

817-005-0005

Definitions

The following definitions apply to OAR chapter 817, divisions 1 through 120.

(1) "Acceptable" means satisfactory or adequate; fulfilling the needs or requirements of a specified rule or provision.

(2) "Adequate ventilation" means ventilation by natural or mechanical methods which removes or exhausts fumes, vapors, or dust to prevent hazardous conditions from occurring in accordance with OAR 437,

ADMINISTRATIVE RULES

Division 2 and/or to allow the free flow of air in a room in proportion to the size of the room and the capacity of the room.

(3) "Affidavit of Licensure" means an original document verifying licensing history and status, including information disclosing all unresolved or outstanding penalties and/or disciplinary actions. The document is issued and signed by the regulatory authority in the state which issued the license with an official seal or stamp affixed to the document; it is not the certificate or license form issued which authorizes the holder to practice.

(4) "Agency" means the Oregon Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(5) "Approved" means accepted by the Agency, Board of Cosmetology or to the appropriate entity.

(6) "Article" means those items which compliment services provided in the practice of barbering, hair design, esthetics or nail technology, including but not limited to neck-strips, neck dusters, towels or linens, and cloth or plastic capes.

(7) "Barbering" has the definition set forth in ORS Chapter 690.005(2).

(8) "Board" means, pursuant to ORS 690.155 and 690.165, the entity that determines practice standards, education and training, and provides consultation to the agency on all disciplinary actions in accordance with ORS 690.167.

(9) "Career school" means, pursuant to ORS 345.010(4), an establishment licensed under ORS Chapter 345, to teach barbering, hair design, esthetics or nail technology, or any combination thereof

(10) "Certificate" means the document authorizing the holder to perform services in a field of practice, i.e. barbering, hair design, esthetics or nail technology (see, respectively, sections (7), (26), (33) and (44) of this rule).

(11) "Certificate of Identification" means authorization allowing a practitioner to perform services of barbering hair design, esthetics or nail technology outside of a licensed facility and in a client's residence or place of business.

(12) "Chemical service" means the use of any product which restruc-tures or removes hair or changes the shape or appearance of skin, hair or nails.

(13) "Clean" means the absence of soil or dirt, or the removal of soil or dirt by washing, sweeping, clearing away, or any other appropriate method used as a preliminary process in rendering a sanitary condition as defined in subsection (62) of this rule.

(14) "Cleanable" means a surface that can be made clean as defined in subsection (13) of this rule.

(15) "Common area" means an area of a facility which is used by all practitioners performing services, including, but not limited to reception areas, dispensing areas, sinks, shampoo bowls, hair dryers and hair dryer areas, and employee lounge areas.

(16) "Communicable disease or condition" means diseases or conditions diagnosed by a licensed physician as being contagious or transmittable which include but are not limited to the following:

- (a) Chickenpox;
- (b) Diphtheria;
- (c) Measles;
- (d) Meningococcal Disease;
- (e) Mumps;
- (f) Pertussis (whooping cough);
- (g) Plague;
- (h) Poison oak (a transmittable form of contact dermatitis);
- (i) Rubella;
- (j) Scabies;
- (k) Staphylococcal skin infection (boils, infected wounds);
- (l) Streptococcal infections (Strep throat);
- (m) Tinea (ring worm);
- (n) Tuberculosis.

(17) "Demonstration permit" means an authorization as defined in ORS 690.005(6) to practice on a limited basis for a maximum of 30 consecutive days.

(18) "Dermis" means the underlying or inner layer of the skin; the layer below the epidermis; the corium or true skin, including papillary layer, capillaries, tactile corpuscles, melanin (pigment), subcutaneous tissue, adipose or subcutis tissue, arteries and lymphatics.

(19) "Director" means the individual who is responsible for the performance of the agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

(20) "Disinfect" means to use a process to destroy harmful organisms, including bacteria, viruses, germs and fungi.

(21) "Dispensing area" means an area having non-porous surfaces and a sink with hot and cold running water where service preparations are conducted, such as mixing of chemicals, cleaning of tools and equipment, disposing of residues and rinsing parts of the body exposed to chemicals.

(22) "Disposable towels" means single-use paper towels or roller-type cloth towels furnished by laundries.

(23) "EPA" means Environmental Protection Agency, a branch of the Federal Government, which approves and registers chemical compounds and agents.

(24) "Epidermis" means the outermost layer of the skin; the outer epithelial portion of the skin, including stratum corneum, stratum lucidum, stratum granulosum, stratum spinosum (prickle cell layer), stratum mucosum and stratum germinativum.

(25) "Equipment" means those items needed to run a facility which includes but is not limited to waiting chairs, barber or style chairs, shampoo chairs, cabinets, sinks, shampoo bowls, stationary dryers, pedi bins or whirlpool foot spas, paraffin wax containers, and nail technology tables.

(26) "Esthetics" has the definition set forth in ORS 690.005(7).

(27) "Ethical" means conforming to professional standards of conduct in all occupational practices and in accordance with OAR 817, Division 120.

(28) "Exfoliate or exfoliation" means the process of sloughing off, removing, or peeling dead skin cells of the epidermis.

(29) "Facility" has the definition set forth in ORS 690.005(8).

(30) "Field of practice" means any of these disciplines: barbering, hair design, esthetics and/or nail technology.

(31) "Fire retardant container" means an air-tight metal or other approved container recognized by a national testing lab for the use of disposing of chemical waste or storing linens with chemical residue.

(32) "Fraud" means the intentional act of deceiving or cheating; a willful violation (refer to ORS 646 "Trade Regulations and Practice").

(33) "Hair design" has the definition set forth in ORS 690.005(10), which includes the braiding of hair.

(34) "High-level disinfectant" means a chemical agent, which has demonstrated tuberculocidal activity and is registered with the EPA.

(35) "Incompetency" means performance from which it may be concluded that the person either lacks or did not employ the knowledge and skill necessary to practice in an acceptable manner.

(36) "Independent Contractor" means an individual defined in ORS 690.005(11) who qualifies for a recognized business status under the provisions of ORS 670.600.

(37) "License" has the definition set forth in ORS 690.005(12).

(38) "Licensed health care facility" means a facility as defined by ORS 442.015(16), such as a hospital, special inpatient care facility, rehabilitation center, center for the treatment of alcoholism or drug abuse, assisted living care or nursing facility, or psychiatric hospital, which is licensed by a state regulatory agency or local governmental unit for the purpose of providing health care services.

(39) "Low-level disinfectant" means a chemical agent which has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity and is registered with EPA.

(40) "Manicuring" means services performed upon the nails of the hands as part of nail technology defined in ORS 690.005(13).

(41) "Manipulating" means, as referred to in ORS 690.005(7) articulation or massage, pressure, friction, stroking, tapping or kneading by manual or mechanical means, with or without lubricants such as salts, powders, liquids or creams, for the purpose of providing skin care.

(42) "Materials and supplies" means those items which complement the use of tools, including but not limited to hair tints, bleaches, permanent wave solutions, tonics, hair oils, shampoos, rinses, disinfectants, and chemicals.

(43) "Misconduct" means performing in an unethical, unprofessional or dishonest manner; or, acts involving violence against persons.

(44) "Nail Technology" has the definition set forth in ORS 690.005(13), which includes the following:

(a) The application and removal of artificial nails;

(b) The application of mini-art work, etching or imprinting on nails.

(45) "Negligence" means failure to exercise care in the safety and sanitary methods relating to ORS Chapter 690.

(46) "Non-absorbent" means incapable of absorbing or entrapping water or other liquids.

(47) "Official transcript" means an original document certified by the career school indicating hours and types of course work, examinations and

ADMINISTRATIVE RULES

scores that the student has completed, which has been mailed by USPS or other recognized mail service provider directly to the agency by the career school in a sealed envelope, or authorized transcript transmitted directly to the agency in a manner approved by the board.

(48) "Pedicuring" means services performed upon the nails of the feet as part of nail technology defined in ORS 690.005(13).

(49) "Permit" means either a demonstration permit as defined in subsection (17) or a temporary facility permit as defined in subsection (62) of this rule.

(50) "Practitioner" means any person whom the agency has certified to perform services on the public in any field of practice as defined in subsection (30) of this rule.

(51) "Premises" means the entire area of the facility, licensed by the agency and designated as a facility.

(52) "Probation" means continuation of certification, licensure, registration and/or permit under conditions set by the agency.

(53) "Public view" means open to view and easy for the public to see.

(54) "Reasonably accessible" means not more than three minutes travel time from any work location.

(55) "Reciprocity" means that an applicant, holding an active certificate or license in another state, meets the applicable qualifications and requirements pertaining to minimum competency through satisfactory completion of a national written and practical examination recognized and/or approved by the Board.

(56) "Registration" means an authorization to practice in barbering, hair design, esthetics and/or nail technology as an independent contractor.

(57) "Sanitary" means free of agents of infection, disease, or infestation by insects and vermin and free of soil, dust, or foreign material; referring to cleanliness.

(58) "Sanitized" means rendered free of soil, dust, foreign material, and agents of disease or infestation by insects or vermin through the use of effective cleaning.

(59) "Sanitizing container" means a receptacle, holding a disinfecting agent, which is large and deep enough to submerge the tool(s) or implement(s) or portion(s) thereof, which are to be disinfected.

(60) "Sharp edged or pointed, non-electrical tools and implements" means those items which may on occasion pierce or cut the skin and draw blood, includes razors, cuticle nippers, cuticle pushers, nail clippers, tweezers, comedone extractors, shears, and metal nail files.

(61) "Soiled" means an article that has been used and has not been cleaned or disinfected before use on the next client.

(62) "Suspend" means, as used in ORS 690.075, to place a certificate, license, registration and/or permit in an inactive status for an unspecified period of time.

(63) "Temporary facility permit" means an authorization as defined in ORS 690.005(17), not to exceed 30 consecutive days.

(64) "Tools and implements" means all portable articles and instruments, which the practitioner can carry to use in the performance of services on clients, including but not limited to combs, shears, clippers and yoyettes.

(65) "Work area" means an area where services are performed and preparations are conducted including but not limited to shampoo area, work stations and dispensing area.

Stat. Auth.: ORS 690.165 & 690.205(1)

Stats. Implemented: ORS 690.165 & 690.105(1)

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1982, f. & ef. 1-29-82; BH 2-1982, f. & ef. 3-31-82; BH 1-1983(Temp), f. & ef. 10-4-83; BH 4-1984, f. & ef. 12-7-84; Renumbered from 817-010-0002; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 2-1996, f. 6-28-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0065

Requirements and Standards

(1) All tools and implements that come in direct contact with a client, shall be disinfected or disposed of after use.

(2) Only disinfecting agents that meet the criteria set forth in OAR 817-010-0005(34) and (39) are approved for use.

(3) Holders of a facility license, independent contractor registration, or certificate of identification shall provide and maintain adequate disinfecting or sterilizing equipment for the number of practitioners, usage requirements, and volume of business.

(4) Optional sterilization equipment used in lieu of disinfectants shall be checked annually to ensure it is reaching the temperature and/or pressure required by manufacturer's instructions.

(5) When used according to the manufacturer's instructions, each of the following is an approved method of disinfecting tools and implements:

(a) Complete immersion in the disinfecting solution of the object(s) or portion(s) thereof to be disinfected;

(b) Steam sterilizer, registered and listed with the U.S. Food and Drug Administration; or

(c) Dry heat sterilizer or autoclave, registered and listed with the U.S. Food and Drug Administration.

(6) All disinfecting agents shall be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times the facility is open for business.

(7) Nail files, cosmetic sponges, buffer blocks, sanding bands or sleeves, orangewood sticks, and disposable nail bits that have not been approved by the agency for disinfection and reuse, shall be given to the client or discarded after use on each client. Presence of these articles in the work area (facility) shall be prima facie evidence of use.

(8) Protective gloves that are not cleaned with soap and water and disinfected shall be disposed of after use on a client (refer to provisions of OAR 817-015-0030(3) and (5)).

(9) All manual or mechanical devices and equipment used in the practice of cosmetology must meet all product registration requirements imposed by any federal, state, county, or local authority.

(10) All manual or mechanical devices or equipment used in the practice of cosmetology must be used in accordance with the product safety requirements imposed by any federal, state, county, or local authority.

(11) The holder of a facility license or independent contractor registration must verify, maintain, or be able to access documentation related to any device classified by the U.S. Food and Drug Administration (FDA) as a "Class I" or "Class II" manual or mechanical device that is used in the practice of cosmetology, including the practice of barbering, esthetics, hair design, and nail technology, as defined in ORS 690.005. Required documentation includes:

(a) Verification of establishment registration of manufacturer on FDA Registration Database;

(b) Verification of "FDA device registration" for Class I devices on FDA Device Listing Database (Form 2891, required under 21 CFR Part 807.20 and, if applicable FDA Form 2892);

(c) FDA 510K number for Class II devices, including the Intended Use Statement put forth by the FDA; and

(d) Certification or acknowledgement from the manufacturer or from a trainer approved by the manufacturer that each practitioner who uses any Class II device has been trained in the safe and effective use of the Class II device by the manufacturer or by a trainer approved by the manufacturer.

(12) Practitioners may not use any manual or mechanical device or equipment unless the use is consistent with client health and safety. In determining whether the use of any manual or mechanical device or equipment is consistent with client health and safety, the agency will consider the information provided in the documentation required by section (10) of this rule.

(13) In the provision of cosmetology services, practitioners may use Class II devices only for the use or uses intended by the manufacturer.

(14) Practitioners may use a Class III medical device only when providing services under the supervision of a physician.

(15) Practitioners must permit any representative of the agency to inspect any manual or mechanical device or equipment used in the practice of cosmetology or the documentation required by section (10) of this rule, upon demand.

NOTE: Class I devices are typically exempt from a 510(k) submission to the FDA because of their low risk and non-invasive nature, but are still registered with the FDA using Form 2891 and 2892. A Class II device has more potential for risk if the device is not designed properly, does not meet strict standards, or is not used properly. Class II devices may require additional controls such as special labeling, mandatory performance standards and post market review. Practitioners may use only those Class II devices intended by the manufacturer for use in providing cosmetology services. Only practitioners who have been trained in the safe and effective use of the device or equipment may use the device or equipment. Verification of establishment registration is necessary; FDA standards and regulations may be accessed at www.fda.gov/cdrhdevadvice. The documentation requirements described in section (10) of this rule apply to specialized items used in the practice of cosmetology, and may not apply to those items used in the delivery of basic services, which have been defined as an "article", "equipment", or "materials and supplies" in OAR chapter 817, division 005, such as scissors, combs, orangewood sticks, shampoo bowls, styling chairs or nail files.

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 2-1980, f. & ef. 5-29-80; BH 2-1982, f. & ef. 3-31-82; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02;

ADMINISTRATIVE RULES

BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0068

Disinfecting Non-Electrical Tools and Implements

All tools and implements used within a field of practice shall be disinfected before use on each client. The method for disinfecting non-electrical tools and implements will be as outlined below.

- (1) To disinfect all non-electrical tools and implements first:
 - (a) Remove all hair and/or foreign material;
 - (b) Clean thoroughly with soap or detergent and water;
 - (c) Rinse thoroughly with clear, clean water; and
 - (d) Complete process as outlined in section (2) or (3) of this rule; or
 - (e) Sterilize, using one of the approved methods listed in OAR 817-010-0065(5)(b) or (c).

(2) For all tools and implements without sharp edges or points, including but not limited to combs, brushes, rollers, rods, etc., totally immerse according to manufacturer's instructions in a solution containing 1,000 parts per million (ppm) of a commercial quaternary ammonium compound or other low-level disinfectant used according to the manufacturer's instructions.

(3) For all tools and implements with sharp edges or points totally, immerse in a high-level disinfectant used according to the manufacturer's instructions.

Stat. Auth.: ORS 690.165 & 690.205

Stats. Implemented: ORS 690.165 & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 2-1980, f. & ef. 5-29-80; BH 2-1982, f. & ef. 3-31-82; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0101

Equipment

(1) The surface of all equipment, including but not limited to backbars shall be of cleanable non-absorbent material. This requirement does not apply to the reception area of a facility where services are not performed.

(2) Shampoo bowls and sinks shall be clean and free of hair and residue.

(3) All equipment shall be clean and in good repair.

(4) A high-level disinfectant or bleach solution, used according to the manufacturer's instructions, shall be used to disinfect surfaces contaminated by blood or bodily fluids.

(5) Foot spa equipment shall be cleaned and disinfected with a high-level disinfectant after use on each client.

Stat. Auth.: ORS 676.605, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 690.165 & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0106

Floor Surface

(1) Floor surfaces in the working area of a facility shall be of a cleanable, non-absorbent material and shall be kept clean, orderly, and in good repair.

(2) Wooden floors which have a durable water-proof non-absorbent finish may be acceptable in working areas of the facility.

(3) Hair clippings shall not be allowed to accumulate and shall be disposed of in a covered container.

Stat. Auth.: ORS 690.165(3) & 690.205

Stats. Implemented: ORS 690.165(3) & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2006, f. & cert. ef. 3-15-06

817-015-0050

Skin Care Services

(1) Estheticians may use only those chemicals or products, natural or synthetic, and manual mechanical devices designed for skin care services of the epidermis.

(2) Estheticians shall not use chemicals or products, natural or synthetic, manual and mechanical devices, which may damage skin.

(3) Chemicals prohibited for use shall include, but not be limited to, the following:

(a) Unbuffered alpha-hydroxy acids at concentrations greater than 15 percent;

(b) Buffered concentrations of alpha-hydroxy acids of 10 to 30 percent where pH is less than 3;

(c) Any concentration or formulation of alpha-hydroxy acids greater than 30 percent;

(d) Any concentration or formulation of trichloroacetic acid (TCA) formulation containing phenol or resorcinol, or salicylic acid which acts on living tissue.

(4) An esthetician must obtain training in the safe and effective use of each chemical, product or device that the esthetician uses to provide services in the practice of esthetics, and must provide documentation of that training in response to a request from the agency.

(5) All exfoliant products or formulations, and manual or mechanical devices shall be used in accordance with manufacturers recommendations.

Stat. Auth.: ORS 676.605 & 690.165

Stats. Implemented: ORS 676.605 & 690.165

Hist.: BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-015-0065

Client Records

(1) Facility owners and independent contractors providing esthetic or nail technology services must maintain client records to ensure basic client information is available to safeguard the health and well being of both the client and practitioner.

(2) Legible hand-written or electronic records are acceptable. Basic client information includes the client's name, address, telephone number, type of service and date of service.

(3) The record must include the name and registration number of the practitioner providing service, and special instructions or notations that the practitioner believes to be pertinent to providing esthetic or nail technology services to the client, such as bleeding disorders, allergies or sensitivities to chemicals or products or complications during service(s).

(4) A practitioner may obtain medical advice if necessary to safeguard the client or the practitioner.

(5) Client records must be kept at the facility premises for a minimum of two years and must be made available immediately upon request from an enforcement officer of the Oregon Health Licensing Agency.

(6) A practitioner may not provide services to a client who refuses to provide the personal information required by (2) of this rule unless the client signs a waiver form documenting the client's refusal to provide the required information. The signed waiver form must be retained on file in the manner required in subsection (5) of this rule for client records.

Stat. Auth.: ORS 676.605 & 690.165

Stats. Implemented: ORS 676.605 & 690.165

Hist.: BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-020-0305

Licensed Health Care Facility

(1) Health care facilities licensed under ORS 441.025 or a residential facility licensed under ORS 443.415 are exempt from facility license requirements as stated in ORS 690.025(3) if services are provided to residents only.

(2) No person acting individually or jointly with any other person shall establish, conduct, maintain, manage or operate a facility defined in ORS 690.005(8) without a license issued by the Board of Cosmetology. Licensed health care facilities shall comply with the Board's licensing, safety and infection control rules if services regulated under ORS 690 are administered to the general public

(3) The agency may inspect those areas of a licensed health care facility where services are performed if alleged licensing or safety and infection control violations are reported. The agency may investigate the facility in response to a complaint. The agency may report the safety and infection control conditions and results of inspection or investigation to the Department of Human Services, Health Services and/or other appropriate agencies.

Stat. Auth.: ORS 690.015, 690.025, 690.035, 690.055, 690.165, 690.205 & 690.225

Stats. Implemented: ORS 690.015, 690.025, 690.035, 690.055, 690.165, 690.205, 690.225 & 442

Hist.: BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0005

Qualification and Training Requirements

To obtain an Oregon certificate in one or more fields of practice, individuals must complete required application documentation prescribed by

ADMINISTRATIVE RULES

the Board, provide satisfactory evidence of meeting certification requirements, which includes qualifying criteria listed in one of the following certification pathways, and submit payment of required fees.

CERTIFICATION PATHWAY ONE

(1) Graduate from Oregon Licensed Career School: Applicants must meet the education and training requirements in effect at the time of application. Applicants shall complete and pass courses required by the Oregon Department of Education, Private Career Schools, in one or more of the following educational programs offered through an Oregon licensed career school, and must also pass a written and practical examination approved or recognized by the Board of Cosmetology in accordance with OAR 817-030-0040:

- (a) Hair design — 1,450 hour course;
- (b) Barbering — 1,100 hour course;
- (c) Esthetics — 250 hour course;
- (d) Nail technology — 350 hour course;

(e) Mandatory completion of a 150 hour safety and infection control course and a 100 hour career development course in addition to any one or more of the approved programs listed in (a) through (d) of this rule. The Board recognizes a final practical examination, prescribed by the Department of Education, Private Career Schools in collaboration with the Board, which establishes standard examination criteria and testing protocols, as its qualifying practical certification examination. Authorized Oregon licensed career school personnel conduct the practical examination.

(2) Non-Credentialed Applicants from Another State or Country: Applicants who have completed schooling requirements established by a regulatory authority in another state or country must submit all required application documentation (OAR 817-030-0015) to the agency for evaluation and approval by the Oregon Department of Education, Private Career Schools (ORS 345.430). Approved applicants will be required to take the Oregon qualifying written and practical examination (OAR 817-030-0040) if the following criteria apply:

- (a) Certification or licensure in another state or country was not attained;
- (b) Reciprocity requirements listed in subsection (3) of this rule have not been met.

CERTIFICATION PATHWAY TWO

(3) Oregon Certification by Reciprocity: The Board recognizes other states', and at its discretion may recognize other countries', education, examination and licensing requirements. Applicants currently certified or licensed in one or more fields of practices in another state or country will qualify for Oregon certification without examination if requirements of OAR 817-030-0015(1) and (2)(c) and the following criteria have been met:

(a) The applicant shall arrange for the originating regulatory authority to forward directly to the agency a current and original "Affidavit of Licensure" document, signed by an authorized representative of the regulatory authority and affixed with an official seal or stamp to the document. The document may be electronically transmitted to the agency from the originating state. The applicant is responsible for payment of any service fee the originating state may assess for producing the affidavit.

(b) Completion of a state-approved board examination for certification/licensure and graduation from a licensed cosmetology school.

(4) Applicants holding current certification/licensure from out-of-state who do not qualify for Oregon certification by means of reciprocity as specified in subsection (3) of this rule must complete and pass the qualifying examination(s) required in OAR 817-030-0005(1) and 817-030-0040.

Stat. Auth.: ORS 690.035, 690.046 & 690.165

Stats. Implemented: ORS 690.035, 690.046 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1981, f. & ef. 10-1-81; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02, cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0015

Application Requirements

(1) Applicants must meet all of the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(2) Applicants must provide, or cause to be delivered to the agency, prescribed documentation verifying training and/or licensure, according to one of the following qualification pathways. Refer to OAR 817-030-0005:

(a) Official transcript/Oregon Career School: completed official transcript, issued by an Oregon licensed career school of barbering, hair design, esthetics or nail technology, and completed original official transcript of practical examination, signed by the authorized school personnel proctoring the Board sanctioned examination, certifying that criteria for the practical examination was met and that the applicant satisfactorily demonstrated

minimum competencies established by the Department of Education, Private Career Schools, in collaboration with the Board.

(b) Out-of-state non-credentialed: documentation of schooling and/or training experience, including official transcript from the licensed school mailed or transmitted directly to the agency from the originating state's regulatory authority, work study or apprenticeship records.

(c) Reciprocity: current and original signed and sealed or stamped Affidavit of Licensure document issued upon the request of applicant certified or licensed in another state and mailed directly to the agency by the originating state, and if applicable, verification of a Board-approved examination.

(3) Any Affidavit of Licensure document not mailed directly to the agency from the originating state will invalidate qualification for certification, scheduling and examination.

(4) Application documentation required for an examination and certification must be submitted to the Oregon Health Licensing Agency in English. If documents require translation, a copy of the official document(s), in the original language, must be submitted with the written translation in English.

Stat. Auth.: ORS 676.615, 690.035 & 690.165

Stats. Implemented: ORS 676.615, 690.035 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1981, f. & ef. 10-1-81; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; Renumbered from 817-030-0010; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2001(Temp), f. 1-31-01, cert. ef. 2-1-01 thru 7-29-01; BOC 3-2001, f. 3-30-01, cert. ef. 4-1-01; BOC 1-2002, f. 5-31-02, cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0018

Examination for Reinstatement of Certification

Pursuant to ORS 690.085(5), a certificate that has expired beyond two years, may be reinstated upon compliance with all of the following criteria and submission of required documentation:

(1) A signed and completed application form prescribed by the agency in accordance with requirements specified in OAR 331-030-0000 and 817-030-0015, which includes the applicant's expired certificate number(s);

(2) A completed official practical examination transcript issued by the appropriate Oregon licensed career showing attainment of a passing score on the practical examination conducted by the Oregon licensed career school within two years from the date of application;

(3) Attainment of a passing score on the Board approved written examination(s); and

(4) Payment of the required application, examination and certificate fees specified in OAR 817-040-0003.

Stat. Auth.: ORS 690.035, 690.046, 690.048 & 690.165

Stats. Implemented: ORS 690.035, 690.046, 690.048 & 690.165

Hist.: BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0020

Examination Requirements

(1) The agency will conduct examinations for certification. A schedule of examination dates and times shall be available upon request. The agency reserves the right to alter or adjust examination dates, times and locations as it deems necessary to meet emergency situations and will notify applicants and schools in advance whenever possible.

(2) Applicants may request special examination accommodation according to requirements of OAR 817-030-0080. Special examinations will be scheduled at a date and time determined by the Oregon Health Licensing Agency Director.

(3) Applicants will qualify for examination upon compliance with relevant provisions of OAR 817-030-0005 and 817-030-0015. Applicants will not be allowed to take the examination until all requirements for examination have been met. If documentation is incomplete or incorrect, applicants will not be allowed to sit for the examination.

(4) Applicants shall present photographic identification, such as a driver's license, and their original Social Security card to the examination proctor.

Stat. Auth.: ORS 676.615, 690.065 & 690.165

Stats. Implemented: ORS 676.615, 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02, cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

ADMINISTRATIVE RULES

817-030-0040

Type of Examination

(1) The written examination consists of the following sections: Oregon Laws and Rules, Barbering, Hair Design, Esthetics and Nail Technology. Examinations test the applicant's knowledge of the following subjects:

- (a) The basic principals of safety and infection control;
- (b) The safety and infection control rules of the Board of Cosmetology;
- (c) Chemical use and storage;
- (d) Diseases and disorders;
- (e) Equipment and tools/implements;
- (f) Licensure requirements and regulations;
- (g) Standards of practice;
- (h) Definitions; and
- (i) Practical applications and procedures.

(2) Each section will be scored individually. The passing score for each section is 75 percent or better.

(3) The Board will establish by policy a maximum examination time allowance for each examination section, listed in section (1) of this rule. Maximum examination time allowances shall be published and included in the application for certification packet, posted in the agency Web site and made available upon request.

(4) The examination may be administered using a computerized testing system with touch screen functionality for selecting the candidate's response to multiple-choice question. The examination is administered in English. Examination candidates may be electronically monitored during the course of testing.

(5) The practical examination is a final examination conducted at an Oregon licensed career school of barbering, hair design, esthetics or nail technology, administered at the direction of and in accordance with criteria established by the Department of Education, Private Career Schools. The examination must be documented according to provisions set forth by the Department of Education, Private Career Schools. The Board of Cosmetology recognizes and sanctions the practical examination conducted by licensed career schools in accordance with the Department of Education's criteria and protocols, as its practical competency examination.

(6) In collaboration with the Department of Education, Private Career Schools, the Board or designated staff may periodically review any career school's practical examination procedures and conduct to determine compliance with Department of Education's criteria and to maintain Board recognition of the practical examination.

Stat. Auth.: ORS 676.615, 690.065 & 690.165
Stats. Implemented: ORS 676.615, 690.065 & 690.165
Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1983(Temp), f. & ef. 10-4-83; BH 1-1984, f. & ef. 2-13-84; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-030-0060; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0045

Sections Which the Applicant Must Pass

(1) An applicant who is a graduate of an Oregon Licensed Career School or applying for certification based on equivalency according to OAR 817-030-0015(2)(a) and (b) must pass the Oregon Laws and Rules section of the examination and one or more of the following fields of practice:

- (a) Barbering;
- (b) Hair Design;
- (c) Esthetics;
- (d) Nail Technology.

(2) Applicants failing to successfully complete the examination process and thus failing to obtain a certificate within two years from the date of their most recent examination attempt, will be required to:

- (a) Reapply for examination according to OAR 817-030-0015;
- (b) Pay the application, examination and original certificate fees; and
- (c) Retake all written and practical examination sections qualified for, regardless of a previously passing score.

(3) Applicants for certification who fail any part of the examination may apply to retake the failed section(s) twice before being required to obtain recertification of training through an Oregon career school licensed under ORS 345.010 to 345.450

Stat. Auth.: ORS 676.615, 690.065 & 690.165
Stats. Implemented: ORS 676.615, 690.065 & 690.165
Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0100

Interpreter Assisted Examinations

(1) An applicant may submit a written request to the agency for a special examination to accommodate their inability to speak or read English.

(2) Following the receipt of an application, an examination date will be scheduled.

(3) The applicant must secure and arrange for an individual to provide translation services and must pay any costs involved.

(4) The applicant must agree to specific provisions concerning the requirements, administration and conduct of the examination before taking the scheduled examination.

(5) Interpreters must meet the following requirements before providing examination interpreting services:

- (a) Be registered by an agency or organization approved by the Board.
- (b) Be on Board approved list before examination date;
- (c) Not be personally affiliated with the test applicant;
- (d) Present picture identification at the time of examination.

(6) An agency or organization approved by the Agency must submit the prescribed "Notification for Scheduled Interpreter Assisted Examination" form at least 24 hours before a scheduled examination to confirm the date and time reserved for providing examination interpreting services at the agency office.

(7) Applicants or interpreters will be excluded from the examination if they do not present the proper identification and documentation at the time of scheduled examination.

(8) All interpreter-assisted examinations are conducted at the agency and may be mechanically recorded using an audio or video recording device.

(9) The Board may approve and establish by policy additional examination time beyond published maximum allowances, per examination section listed in OAR 817-030-0040, to accommodate language translation services. Examinations are scheduled in the order in which applications are received in the office and according to available testing dates.

Stat. Auth.: ORS 676.615 & 690.165
Stats. Implemented: ORS 676.615, 690.065 & 690.165
Hist.: BOC 1-2000(Temp), f. 1-31-01, cert. ef. 2-1-01 thru 7-29-01; BOC 3-2001, f. 3-30-01, cert. ef. 4-1-01; BOC 5-2001, f. 11-30-01, cert. ef. 12-1-01; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-035-0010

Issuance and Renewal of Certificates, Licenses and/or Registrations

(1) Individuals will be subject to the provisions of ORS 690.046, 690.055, 690.057, 690.085 and OAR 331-030-0010 for issuance and renewal of certificates, licenses and registrations.

(2) An applicant whose renewal payment is received by the agency, or is postmarked, after the expiration date will be assessed a late renewal fee, as specified in ORS 690.085(4). A late renewal fee of \$25 for each year in expired status will be required to renew a certificate, license or registration.

(3) Practitioners who fail to renew a certificate within two years from the expiration date must reapply and meet requirements of ORS 690.085(5) and OAR 331-030-0000.

(4) Independent contractors who fail to renew their registration within one year from the date of expiration must reapply and pay the application and registration fees.

(5) The agency may also request that applicants provide their Social Security number at the time of renewal.

(6) Practitioner Certificates. When renewing a certificate, applicants must provide the following information to the agency:

- (a) Name and current residential or mailing address;
- (b) Certificate number and expiration date;
- (c) Residence area code and telephone number;
- (d) Date of birth;
- (e) Selection of field(s) of practice for renewal to maintain active certification;

(f) The name, address, telephone number and facility license or independent contractor registration number where services are being performed, or other work location where service is performed;

(g) Social Security number.

(7) Independent Contractor Registration. When renewing an independent contractor registration, applicants must provide the following information to the agency:

- (a) Independent contractor registration number and expiration date;
- (b) Assumed Business Name if using name other than full legal name in business;
- (c) Name, address and license number of facility where working under lease agreement, or business mailing address;
- (d) Residential address;

ADMINISTRATIVE RULES

(e) Business area code and telephone number; and
(f) Information regarding whether actively engaged in performing services within a field(s) of practice.

(8) Facility Licenses. When renewing a facility license, applicants will be subject to requirements of ORS 690.085(2) and (4). Applicants must provide the following information to the agency at the time of renewal;

- (a) Facility license number and expiration date;
- (b) Name and place of business, or business mailing address;
- (c) Business area code and telephone number; and
- (d) Whether regulated services outside the scope of ORS 690.005 to

690.235 are being performed within the premises of the facility. Such services include but are not limited to electrolysis, tanning, ear and body piercing, or tattooing, i.e. permanent makeup.

Stat. Auth.: ORS 676.605, 676.615, 690.085 & 690.165

Stats. Implemented: ORS 676.605, 676.615, 690.085 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-040-0015, BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-035-0030

Document Issuance

(1) Pursuant to ORS 690.048, an individual will be issued a certificate authorizing the holder to practice barbering, hair design, esthetics or nail technology upon passage of the qualifying examination(s) required in OAR 817-030-0045 and payment of an initial certificate fee for each field of practice.

(2) Certificate, license and registration holders are subject to provisions of OAR 331-030-0010 regarding issuance and renewal of an authorization, and to provisions of OAR 331-030-0020 regarding authorization to practice and requirements for issuance of a duplicate authorization.

Stat. Auth.: ORS 676.615, 690.048, 690.123 & 690.165

Stats. Implemented: ORS 676.615, 690.048, 690.123 & 690.165

Hist.: BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; Renumbered from 817-030-0095; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-035-0110

Posting Requirements

Certificate, license, permit and registration holders are subject to the requirements of OAR 331-030-0020 in addition to the following posting requirements:

- (1) Facility licenses must be posted in public view.
- (2) Independent contractor registrations must be posted at the registration holder's workstation in public view.
- (3) Practitioner certificates must be posted in public view. The practitioner's address printed on the certificate may be blocked from public view.
- (4) Demonstration and temporary authorizations must be posted in public view.
- (5) Holders of a facility license or an independent contractor registration must maintain the most recent inspection certificate on the facility premises or at the designated work station and allow access to the record upon request by the agency's enforcement officer or representative.

Stat. Auth.: ORS 676.615, 690.095 & 690.165

Stats. Implemented: ORS 676.615, 690.095 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; Renumbered from 817-010-0120; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; Renumbered from 817-020-0013; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-040-0003

Fees

(1) Applicants and authorization holders are subject to provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges.

(2) Fees established by the Board are as follows:

(a) Application for a certificate, license, permit or registration (non-refundable): \$15.

(b) Original practitioner certificate (two-year) for each field of practice:

- (A) Barbering: \$33;
- (B) Hair Design: \$33;
- (C) Esthetics: \$33;
- (D) Nail Technology: \$33;

(c) Renewal of practitioner certificate (two-year) for each field of practice:

- (A) Barbering: \$33;

(B) Hair Design: \$33;

(C) Esthetics: \$33;

(D) Nail Technology: \$33;

(d) Examination for certification (each attempt):

(A) Oregon Laws and Rules: \$25;

(B) Barbering: \$25;

(C) Hair Design: \$25;

(D) Esthetics: \$25;

(E) Nail Technology: \$25.

(F) Certificate of identification (exam): \$15

(e) Original facility license: \$50.

(f) Renewal of facility license: \$50.

(g) Original independent contractor registration: \$50.

(h) Renewal of independent contractor registration: \$50.

(i) Annual Certificate of identification (authorization): \$50.

(j) Duplicate or replacement of a certificate, license, registration or permit: \$5.

(k) Late fees:

(A) Late practitioner certificate renewal fee: \$25 per year in expired status;

(B) Late facility license renewal fee: \$25;

(C) Late independent contract registration renewal fee: \$25;

(L) Demonstration permit: \$15.

(m) Reciprocity fee: \$50.

(n) Temporary facility permit: \$35.

Stat. Auth.: ORS 676.605, 676.615 & 690.235

Stats. Implemented: ORS 676.605, 676.615, 690.235 & 30.701

Hist.: BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 1-1990(Temp), f. 4-20-90 & cert. ef. 6-1-90; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-080-0005

Investigative Authority

The Oregon Health Licensing Agency may initiate and conduct investigations of matters relating to the practice of cosmetology, pursuant to ORS 676.608 and 676.618, and may take appropriate disciplinary action in accordance with the provisions of ORS 676.612 and 690.167.

Stat. Auth.: ORS 676.608, 676.618, 690.165 & 690.167

Stats. Implemented: ORS 676.608, 676.618, 690.165 & 690.167

Hist.: BH 4-1984, f. & ef. 1-27-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0025

Schedule of Penalties for Facility and Independent Contractor Registration Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following facility license and independent contractor registration rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Operating a facility without first filing a facility application, paying the fees, and receiving a license is a violation of ORS 690.015(2)(b) and (2)(e) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The facility owner/operator shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate and/or a facility license.

(2) Operating as an independent contractor without first filing an independent contractor registration application, paying the fees, and receiving a registration is a violation of ORS 690.015 (2)(d) and (2)(e) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The independent contractor shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license, registration and/or permit.

(3) Operating a facility or as an independent contractor with an expired license or registration is a violation of ORS 690.015(2)(b) or (2)(d) and OAR 331-030-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

ADMINISTRATIVE RULES

(c) For 3rd offense: The independent contractor shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license registration and/or permit.

(4) Allowing an uncertified person to practice as an employee is a violation of ORS 690.015(2)(g) and shall incur the following penalties:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: The person shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue a license.

(5) Failing to notify the Agency of a work location change as an independent contractor as required by OAR 331-010-0040(3) shall incur the following penalties:

- (a) For 1st offense: \$200;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: The independent contractor shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue an independent contractor registration.

(6) Failing to allow the Agency to inspect the premises when the facility is open or obstructing or hindering the normal progress of the inspection, threatening or exerting physical harm, or enabling another individual to impede the inspection progress is a violation of OAR 817-020-0012(1) and (2) and shall incur the following penalties:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: The facility owner/operator or practitioner shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue a certificate, license, registration and/or permit.

(7) Allowing an employee to practice with an expired practitioner certificate is a violation of ORS 690.015(7) and shall incur the following penalties:

- (a) For 1st offense: \$200;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: The facility owner shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a facility license.

(8) Failing to meet the specifications and standards required under OAR 817-010-0007 in a facility is a violation of OAR 817-020-0011(1)(b) and shall incur the following penalty for any offense: Immediate suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0035

Schedule of Penalties for Practitioner Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following practitioner licensing rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Operating with an expired practitioner certificate is a violation of ORS 690.015(2)(a) and OAR 331-030-0010(4) and shall incur the following penalties:

- (a) For 1st offense: \$200;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license, registration and/or permit.

(2) Practicing barbering, hair design, esthetics or nail technology without a certificate, with a certificate issued to another person, or a suspended certificate is a violation of ORS 690.015(2)(a), 676.612(4) and/or 676.612(1)(d) and shall incur the following penalties:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: The person shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license, registration and/or permit.

(3) Performing services as a practitioner while working as an employee in an unlicensed facility is a violation of ORS 690.015(2)(e) and shall incur the following penalties:

- (a) For 1st offense: \$200;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

(4) Failing as a practitioner to inform the Agency within 30 calendar days of a change of employment with a facility is a violation of OAR 331-010-0040 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(5) Failing to notify the Agency of a move or a change of home address within 30 calendar days of the change is a violation of OAR 331-010-0040 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(6) Performing barbering, hair design, esthetics and/or nail technology services by a student when not on the premises of the career school in which he or she is enrolled is a violation of OAR 817-100-0005(3) and shall incur the following penalties:

- (a) For 1st offense: \$150;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0045

Schedule of Penalties for Certificate/License/Registration/ Permit Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following certificate/license/registration/permit rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply:

(1) Altering a license, certificate, registration or permit authorization issued by the agency is a violation of ORS 690.015(2)(j) and shall incur the following penalties:

- (a) For 1st offense: \$500;
- (b) For 2nd offense: \$1,000;

(c) For 3rd offense: The person shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue a certificate, license, registration, permit or authorization.

(2) Failing to post a facility license, independent contractor registration, practitioner certificate and/or permit in a publicly visible place within a facility or at the independent contractor's work station is a violation of ORS 690.095 and OAR 817-035-0110 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner and/or facility owner/independent contractor shall be subject to the assessment of a penalty and/or probation, revocation, suspension or refusal to issue a certificate, facility license and/or independent contractor registration. Posting of photocopies, reproductions, and pocket identification cards will be cited as failure to post.

(3) Failing to maintain the most recent inspection certificate on the facility premises or at the work station of an independent contractor, or to make the document available upon request is a violation of OAR 817-035-0110(5) and shall incur the following penalties:

- (a) For 1st offense: \$50.
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to return or surrender a certificate, license, registration and/or permit upon demand by the Agency is a violation of OAR 331-030-0020(5) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

ADMINISTRATIVE RULES

(4) Failing to provide appropriate photographic identification upon request by the Agency is violation of OAR 331-030-0020(4) and shall incur the following penalties:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: \$1,000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Hist.: BH 3-1984(Temp), f. & cf. 6-27-84; BH 4-1984, f. & cf. 12-7-84; BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0050

Schedule of Penalties for Certificate of Identification Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following certificate of identification licensing rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Working with an expired certificate of identification is a violation of ORS 690.015(2)(a) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate.

(2) Failing to display the practitioner certificate number when advertising or soliciting business; and/or, failing to provide required card under a certificate of identification is a violation of OAR 817-035-0050(7)(a) and/or (b) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Practicing outside a licensed facility without Agency authorization to do so is a violation of ORS 690.123 and shall incur the following penalties:

- (a) For 1st offense: \$300;
- (b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner shall be subject to the assessment of a penalty and/or the proposed suspension or refusal to issue a certificate.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Hist.: BH 3-1984(Temp), f. & cf. 6-27-84; BH 4-1984, f. & cf. 12-7-84; BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0055

Schedule of Penalties for Home Facility Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following home facility licensing rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to identify a facility located in a residence by means of a house number or a sign easily visible from the street is a violation of OAR 817-020-0011(2)(a) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to have a separate entry to the living area of the residence for a facility located in a residence or to properly separate the facility from the living area of the residence is a violation of OAR 817-020-0011(2)(d), (e) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167
Hist.: BH 3-1984(Temp), f. & cf. 6-27-84; BH 4-1984, f. & cf. 12-7-84; BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0065

Schedule of Penalties for Water Supply and Disposal Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to have immediate access to both hot and cold running water in the working area of a facility or as a practitioner working under a certificate of identification is a violation of OAR 817-010-0014(4) and 817-035-0050(7)(c) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing to have a facility water supply which meets state pressure and purity requirements is a violation of OAR 817-010-0014(1) and (2) and shall incur the following penalty for any offense: Referral of the violation to the State Plumbing Board and immediate suspension of the facility license until the violation is corrected.

(3) Improperly disposing of liquid waste from a facility is a violation of OAR 817-010-0021(3) and shall incur the following penalty for any offense: Referral of the violation to the State Plumbing Board and immediate suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Hist.: BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0070

Schedule of Penalties for Towels and Linens Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to use clean towels or linens for each client is a violation of OAR 817-010-0035(1) and failing to launder towels and linens as required is a violation of OAR 817-010-0035(5), and shall incur the following penalties for each violation:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to store clean towels and linens in a clean area is a violation of OAR 817-010-0035(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to immediately deposit all used towels with chemical residue in a closed, fire retardant container is a violation of OAR 817-010-0035(4) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Failing to deposit soiled towels in a covered container is a violation of OAR 817-010-0035(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Hist.: BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0075

Schedule of Penalties for Waste Disposal Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

ADMINISTRATIVE RULES

(1) Failing to immediately deposit all chemical waste materials in a closed container at the conclusion of each service, or a fire-retardant container at the close of each business day is a violation of OAR 817-010-0060(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing to immediately deposit all waste and refuse in covered containers is a violation of OAR 817-010-0060(2) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to store cigarette ashes, butts, etc. in a fire-retardant container is a violation of OAR 817-010-0060(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to keep the outer surface of a waste disposal container clean is a violation of OAR 817-010-0060(5) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(5) Failing to dispose of disposable material coming into contact with blood or other bodily fluids in a sealable plastic bag is a violation of OAR 817-010-0060(6) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(6) Failing to dispose of disposable sharp-edged material coming into contact with blood or other bodily fluids in a sealable rigid container is a violation of OAR 817-010-0060(7) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(7) Failing to have sealable plastic bags and sealable rigid containers available for use at all times services are being performed is a violation of OAR 817-010-0060(8) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0080

Schedule of Fines for Dispensing of Cosmetic Preparations Violations

(1) In accordance with OAR 817-090-0015, the Agency has adopted the following fine schedule for the 1st, 2nd, and 3rd violations of the following safety and sanitation rules. For the 4th and subsequent offenses, the provisions of OAR 817-090-0005 will apply:

(2) Failing to properly dispense powders, liquids, wave solutions, creams, semi-solid substances or other materials which come in contact with a client is a violation of OAR 817-010-0055 and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 690.165, 690.205 & 690.995
Stats. Implemented: ORS 690.165, 690.205 & 690.995
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0085

Schedule of Penalties for Sanitation or Disinfectant Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to use a high-level disinfectant or failing to totally immerse all tools and implements with sharp edges or points, according to disinfectant manufacturers instructions is a violation of either OAR 817-010-0068(3) or 817-010-0101(5) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing to keep disinfecting solutions at adequate strength, free of foreign material and/or available for immediate use at all times the facility is open for business is a violation of OAR 817-010-0065(6) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(3) Failing as a facility license holder, an independent contractor or a practitioner working under a certificate of identification to provide and maintain adequate disinfecting and sterilizing equipment to the number of practitioners, usage requirements or volume of business is a violation of OAR 817-010-0065(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Failing to use a low-level disinfectant or failing to totally immerse all tools and implements, without sharp edges or points according to disinfectant manufacturers instructions is a violation of OAR 817-010-0068(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0090

Schedule of Penalties for Disinfecting Requirements of Tools and Implements Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to cleanse and disinfect electrical or mechanical hair clipper blades after use on each client is a violation of OAR 817-010-0069(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing as a facility license holder, independent contractor, or practitioner working under a certificate of identification to disinfect tools and implements in a sanitizing pan or, alternatively, to use pre-disinfected packets or containers of tools and implements, prepared in advance for each client, is a violation of OAR 817-010-0065(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(3) Failing to store new, disinfected or cleaned tools and implements separately from all others is a violation of OAR 817-010-0075(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Failing to ensure that all articles which come in contact with a client are disinfected, cleaned or disposed of is a violation of OAR 817-010-0040(2) and/or 817-010-0040(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(5) Failing to discard a disposable nail file, cosmetic sponge, buffer block, sanding band or sleeve, orangewood stick, or nail bits designed for single use after use on a client, or to give the nail file, cosmetic sponge,

ADMINISTRATIVE RULES

buffer block, sanding band or sleeve, orangewood stick or nail bit to the client is a violation of OAR 817-010-0065(7) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0095

Schedule of Penalties for Cleanable/Non-Absorbent Surfaces Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to have cleanable, non-absorbent surfaces on all equipment in all areas of a facility where services are performed is a violation of OAR 817-010-0101(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to keep equipment in a facility, including upholstery fabrics, clean and in good repair is a violation of OAR 817-010-0101(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to have cleanable, non-absorbent floor surfaces in good repair in the area(s) of a facility where services are performed is a violation of OAR 817-010-0106(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0100

Schedule of Penalties for Clean Conditions Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to keep a restroom located on the premises of a facility clean and sanitary is a violation of OAR 817-010-0021(2) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to keep a facility shampoo bowl or sink clean is a violation of OAR 817-010-0101(2) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to keep roller-storage receptacles and their contents clean and free of foreign material is a violation of OAR 817-010-0075(2) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to keep storage drawers for clean tools and implements clean and to use such drawers only for clean tools and implements is a violation of OAR 817-010-0075(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(5) Failing to keep storage cabinets, work stations, vanities and back-bars or other such equipment clean is a violation of OAR 817-010-0075(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(6) Allowing hair clippings to accumulate on a facility floor or failing to dispose of hair clippings in a covered container is a violation of OAR 817-010-0106(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(7) Failing to keep facility walls and ceiling clean and free of excessive spots, mildew, condensation or peeling paint is a violation of OAR 817-010-0110 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(8) Failing to properly clean and disinfect foot spa equipment as required is a violation of OAR 817-010-0101(5) and shall incur the following penalty:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0105

Schedule of Penalties for Client Health and Safety Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to use a neck strip or a towel to prevent contact between the skin of a client's neck and a hair cloth or cape is a violation of OAR 817-010-0040(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to use a disposable cover on the head of a client who is trying on a hairpiece or to clean and label used hair goods as "used" prior to resale is a violation of OAR 817-010-0085 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to provide disposable drinking cups when beverages are served in a facility is a violation of OAR 817-010-0090 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to wear single-use disposable protective gloves while having open sores or skin lesions during any performance of service on a client is a violation of OAR 817-015-0030(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(5) Performing services while diagnosed with a communicable disease or condition in a transmittable form is a violation of OAR 817-120-0005(4) and (5) and shall incur the following penalty for any violation: Immediate suspension until the disease or condition is no longer communicable.

(6) Treating any disease or knowingly serving any client having a communicable disease or condition except head lice is a violation of OAR 817-120-0005(4) and (5) and shall incur the following penalties:

- (a) For 1st offense: \$250;
- (b) For 2nd offense: \$500;

ADMINISTRATIVE RULES

(c) For 3rd offense: Suspension or revocation of practitioner certificate.

(7) Performing services without washing one's hands immediately before and after serving each client is a violation of OAR 817-015-0030(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(8) Failing to maintain client records for each client receiving esthetics or nail technology services, maintain client records on the premises of the facility or allow an enforcement officer access to review client records upon request is a violation of OAR 817-015-0065 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(9) Failing to maintain required documentation of an FDA Class I or Class II manual or mechanical device or equipment, or to provide required documentation upon request is a violation of OAR 817-010-0065(10) or (14) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0110

Schedule of Penalties for Safe Working Conditions Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to meet the requirements of the Oregon Indoor Clean Air Act is a violation of OAR 817-010-0009 and will be referred to the Department of Human Services, Health Services.

(2) Having frayed electrical wiring or overloading the electrical circuits in a facility is a violation of ORS 690.055(1)(C), 690.055(4)(F) and OAR 817-010-0007(1) and shall be referred to the appropriate authority.

(3) Having pets in facilities, other than fish in an aquarium, is a violation of OAR 817-010-0095 and shall incur the following penalties.

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to wear single-use disposable protective gloves while performing a service on a client whose skin shows signs of excretion of any body fluids is a violation of OAR 817-015-0030(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(5) Failing to wear eye goggles, shields or mask in performing services on a client where the likelihood of splattering is present is a violation of OAR 817-015-0030(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(6) Failing to have a restroom available which is "reasonably accessible" for facility employees is a violation of OAR 817-010-0021(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0115

Schedule of Penalties for Chemical Use and Storage Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following chemical use and storage rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to store chemicals safely to avoid fire, explosion and/or bodily harm to clients and practitioners is a violation of OAR 817-060-0020(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing to mix chemicals in a dispensing area is a violation of OAR 817-060-0030(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(3) Mixing or using chemicals near an open flame or other potential source of ignition is a violation of OAR 817-060-0030(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Smoking, or allowing a client to smoke, or having an open flame at the workstation, during any phase of chemical service, i.e. mixing, application, processing, or use of any potentially explosive or flammable chemical, in relation to performing services is a violation of OAR 817-060-0030(7) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0040; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-100-0005

Exemptions

(1) ORS 690.025(5) applies only while persons are on the premises of a business.

(2) Merchants or other individuals must have a certificate, license and/or registration under this Chapter to demonstrate supplies or apparatuses for purposes of sale when:

- (a) They receive any form of compensation for the product/apparatus before conducting or presenting a "free" demonstration;
- (b) They require any form of compensation to reserve a place at a "free" demonstration; or
- (c) They make any stipulation, which requires a fee, or any remunerative action on the part of the client before or after receiving a "free" demonstration.

(3) A student of barbering, hair design, esthetics or nail technology is exempted only when on the premises of the career school in which the student is enrolled, and only while pursuing the prescribed curriculum.

(4) Persons working within a licensed health care facility providing services exclusively to facility residents without specific compensation from the resident for the service shall be exempt under ORS 690.025(3) and OAR 817-020-0305.

(5) Persons who work in photography studios, applying temporary makeup, combing hair or applying hair spray, without receiving specific compensation for service when provided to a photography client solely for preparing the client for a professional photograph shall be exempt under the provisions of ORS 690.025(7).

(6) Persons applying temporary makeup, combing hair or applying hair spray, without specific compensation for services, provided for the sole purpose of preparing any individual for a theatrical performance shall be exempt under ORS 690.025(7).

(7) Practitioners may provide services outside the premises of a licensed facility, on persons confined to their residence through medical disability or restriction without requirement of working under a certification of identification, provided they carry and display their practitioner certificate while working on the person or performing services.

ADMINISTRATIVE RULES

(8) Domestic Administration refers to a person providing services in a location where the client or person resides and the services are provided only to persons who are related by blood, marriage, or domestic partnership.

(9) Emergency Services as described in ORS 690.025(1) means situations where failure to act is likely to result in greater injury or personal harm.

Stat. Auth.: ORS 690.025 & 690.165
Stats. Implemented: ORS 690.025 & 690.165
Hist.: BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, f. & cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-120-0005

Practice Standards

(1) Practitioners must be guided by the highest standards of professional conduct.

(2) Practitioners shall act and practice in a manner which safeguards the public's health, safety, and welfare.

(3) All practitioners shall be appropriately clothed while providing services and shall be subject to public decency laws.

(4) Practitioners shall not perform services while diagnosed with a communicable disease or condition in a transmittable form.

(5) Practitioners shall not treat any disease or knowingly serve any client having a communicable disease or condition, except head lice.

Stat. Auth.: ORS 676.605, 676.615 & 690.165
Stats. Implemented: ORS 676.605, 676.615 & 690.165
Hist.: BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-95, cert. ef. 7-1-96; Renumbered from 817-120-0010, BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amend rule to allow use of progressive rebate coupons for distilled spirits purchases.

Adm. Order No.: OLCC 3-2006

Filed with Sec. of State: 2-22-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 11-1-05

Rules Amended: 845-015-0165

Subject: This new rule describes the sorts of rebate coupons which are allowed for distilled spirits purchases in Oregon's retail sales agencies, and regulates how rebate coupons are to be redeemed. The rule has been amended by removing language prohibiting rebate coupons which offer a progressively larger discount when more bottles are purchased. New language has been added which specifically allows use of progressive rebate coupons in Oregon for purchase of distilled spirits. The new rule language includes a "sunset clause" permitting use of progressive coupons until March 1, 2008.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-015-0165

Supplier Rebates on Distilled Spirits

(1) The Commission allows suppliers to give consumer rebates on distilled spirits only that identify price reductions which offer consumers the opportunity to switch brands or try new products. From March 1, 2006 to March 1, 2008, rebate coupons that encourage consumers to purchase distilled spirits in quantity are permitted. An example of this would be a rebate that offers \$5 for the purchase of one bottle but \$12 for two. After March 1, 2008, rebate coupons that encourage consumers to purchase distilled spirits in quantity are not allowed.

(2) Suppliers will distribute distilled spirits rebate coupons only through retail liquor stores or by publishing them in newspapers or magazines. Any newspaper or magazine advertising associated with rebate coupons must comply with OAR 845-015-0175, 845-015-0177, and any other applicable state and federal regulations.

(3) All rebate coupons offered in the State of Oregon must meet the following requirements:

- Rebate coupons must be redeemable only by mail;
- Rebate coupon offers must bear an expiration date;
- The supplier must require proof of purchase;
- Rebate coupons must be valid only for adults of legal drinking age.

The Commission may require withdrawal of the rebate coupon if the supplier does not comply with the conditions of the rebate coupon or Commission rules.

(4) The supplier must furnish rebate coupons to all retail liquor stores carrying the product. Any advertising materials such as posters, signs, banners, or display racks the supplier provides to promote rebate coupons in a retail liquor store must comply with OAR 845-015-0175, 845-015-0177, and any other applicable state and federal regulations.

(5) The supplier is responsible for the redemption of rebate coupons. The supplier and the retail customer are responsible for settling any disagreement about the supplier's coupon.

Stat. Auth.: ORS 471, 472, 471.030, 471.730(1) & 471.730(5)
Stats. Implemented: ORS 471.750(1)
Hist.: LCC 2-1983, f. 3-8-83, ef. 7-1-83; LCC 2-1985, f. 2-28-85, ef. 4-1-85; OLCC 19-1991, f. 10-31-91, cert. ef. 11-1-91; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0055; OLCC 10-2003, f. 7-22-03, cert. ef. 9-1-03; OLCC 3-2006, f. 2-22-06, cert. ef. 3-1-06

Rule Caption: Adopt rule to allow purchase of high proof alcohol from Oregon vendors.

Adm. Order No.: OLCC 4-2006

Filed with Sec. of State: 2-22-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 11-1-05

Rules Adopted: 845-004-0105

Subject: This new rule describes the Commission's practices for those who purchase high proof grain and ethyl alcohol from Oregon manufacturers/vendors. The rule describes the Open Purchase Order process which has been developed to track purchases of high proof alcohol used for manufacturing, industrial, pharmaceutical, scientific and mechanical purposes.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-004-0105

Domestic Purchase of Grain and Ethyl Alcohol for Scientific, Pharmaceutical, Manufacturing, Mechanical and Industrial Purposes

(1) ORS 471.730(8) allows the Commission to license, regulate and control the use of alcohol for scientific, pharmaceutical, manufacturing, mechanical and industrial purposes.

(2) The Commission requires those who use grain and ethyl alcohol for scientific, pharmaceutical, manufacturing, mechanical and industrial purposes, and who purchase such grain and ethyl alcohol from Oregon vendors, to secure an Open Purchase Order. For purposes of this rule, the Commission considers agricultural use of this product to be an industrial use. Open Purchase Orders as described in this rule may be issued for domestic ethyl alcohol purchases to a person who is not a Brewery, Winery, Distillery, or wholesale licensee of the Commission.

(3) Open Purchase Order for Domestic Purchase of Grain and Ethyl Alcohol:

(a) The Commission may issue an Open Purchase Order that allows a person to purchase 190 proof through 200 proof alcohol for scientific, pharmaceutical, manufacturing, mechanical and industrial purposes from an Oregon vendor of ethyl alcohol to a person who:

- Is at least 21 years old;
- Completes a request for an Open Purchase Order with the Commission; and
- Sends the completed application to the Commission at least 30 days prior to the first purchase of alcohol for scientific, pharmaceutical, manufacturing, mechanical and industrial purposes.

(b) If the person is eligible for an Open Purchase Order, the Commission will establish an Open Purchase Order for that person. The person may then order grain and ethyl alcohol from an Oregon alcohol vendor and must include a copy of the Open Purchase Order with their order to each vendor from whom they purchase.

(c) The Commission may refuse to issue an Open Purchase Order if the person does not complete the application, proposes an unacceptable use for the alcohol or makes a false statement on the application. If the person uses the alcohol other than described in the application, or the Commission discovers after issuing the Open Purchase Order that the person made a false statement on the application, the Commission may withdraw any existing Open Purchase Order previously issued to the person.

(d) Before the end of each calendar year, each holder of an Open Purchase Order as described by this rule must send the Commission a listing of the 190 proof through 200 proof alcohol which the Open Purchase Order holder purchased from an Oregon vendor during that calendar year.

(4) The Commission retains the right to audit the records of alcohol vendors and holders of Open Purchase Orders as described by this rule at

ADMINISTRATIVE RULES

any time to determine compliance with this rule and other regulations of the Oregon Liquor Control Commission.

(5) Open Purchase Orders for domestic purchase of grain and ethyl alcohol below 190 proof will be reviewed by the Director of the Distilled Spirits Program, and approved if uses are consistent with this rule.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.730(8)
Hist.: OLCC 4-2006, f. 2-22-06, cert. ef. 3-1-06

.....

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Amend the PERS reemployment of retired members rule.

Adm. Order No.: PERS 3-2006

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 12-1-05

Rules Amended: 459-017-0060

Subject: The current rule has been amended to correct statutory citations, reflect the most recent Social Security annual compensation limitations, and include existing policy regarding reemployment restrictions for retirees who elected the total lump sum option. The rule now provides comprehensive guidance on the reemployment of retirees under ORS 238.078, including such issues as reestablishing active membership, rebuilding of the member account, earnings crediting, and the actuarial equivalency factors to be used for calculating the subsequent retirement benefit.

Rules Coordinator: David K. Martin—(503) 603-7713

459-017-0060

Reemployment of Retired Members

(1) **Reemployment under ORS 238.082.** A retired member of the system receiving a service retirement allowance, who has elected an option other than the total lump sum option under ORS 238.305(3), including those who have retired at a reduced benefit under ORS 238.280(1) or (2), may be employed under ORS 238.082 by a participating employer without loss of retirement benefits provided:

(a) The period or periods of employment with one or more public employers participating in the system do not exceed 1039 hours in a calendar year; or

(b) If the retired member is receiving retirement, survivors, or disability benefits under the federal Social Security Act, the period or periods of employment do not exceed the greater of 1039 hours in a calendar year or the total number of hours in a calendar year that, at the retired member's specified hourly rate of pay, limits the annual compensation of the retired member to an amount that does not exceed the following Social Security annual compensation limits:

(A) For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$12,480; or

(B) For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months prior to reaching full retirement age, the annual compensation limit is \$33,240.

(2) A retired member described in section (1) of this rule who has reached full retirement age under the Social Security Act may work an unlimited number of hours without loss of retirement benefits.

(3) The limitations on employment in section (1) of this rule do not apply if:

(a) The retired member meets the requirements under ORS 238.082(3), (4), (5), or (6), and did not retire at a reduced benefit under the provisions of ORS 238.280(1) or (2); or

(b) The retired member is on active state duty in the organized militia and meets the requirements under ORS 399.075(8).

(4) If a retired member is reemployed subject to the limitations of ORS 238.082 and section (1) of this rule, but the period or periods of employment subsequently exceed those limitations, the following will occur if employment continues into the month following the date the limitations are exceeded:

(a) PERS will cancel the member's retirement. The last monthly service retirement allowance payment the member is entitled to will be for the month in which the limitations were exceeded. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(b) The member will reestablish active membership as required by ORS 238.078 the first of the calendar month following the date the limitations were exceeded.

(c) The member's account shall be rebuilt in accordance with the provisions of section (9) of this rule.

(5) **Reemployment of retired member who elected the total lump sum option.** A retired member who has elected the total lump sum option under ORS 238.305(3) may return to work with a participating employer in the six month period following the member's effective retirement date without having to repay the retirement benefits paid to them provided:

(a) The retired member is designated by the employer(s) as a casual, emergency, or seasonal worker as defined in OAR 459-005-0001; and

(b) The period or periods of employment with one or more public employers participating in the system do not exceed 599 hours.

(6) The return to work in a qualifying or other position after six months following the retirement date of a member who elected the total lump sum option has no effect on the retirement status of that member and, upon such reemployment, the member is not required to repay retirement benefits.

(7) If a retired member described in section (5) of this rule, is working subject to the limitation of subsection (5)(b) of this rule and the member exceeds that limitation, the member's retirement will be cancelled. The member will be required to repay to PERS in a single payment the total amount of all retirement benefits received. The member will reestablish active membership as required by ORS 238.078 effective the first of the calendar month following the date the member exceeded that limitation. The member's account shall be rebuilt in accordance with ORS 238.078(2) and subsection (10)(d) of this rule. Upon subsequent retirement, the member may choose a different retirement payment option.

(8) Limitations on hours of employment in sections (1) and (5) of this rule will be based on the number of hours employed on and after the retired member's effective retirement date.

(9) **Reemployment under ORS 238.078(1).** If a member has been retired for service for more than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of ORS 238.078(1), the following will occur:

(a) PERS will cancel the member's retirement effective the date of the member's reemployment.

(b) The member will reestablish active membership as required by ORS 238.078 on the date the member is reemployed.

(c) If the member elected an option other than a lump sum option under ORS 238.305(2) or (3), the member need not repay any service retirement allowance payment received that is attributable to the period the member was separated from service. The last monthly service retirement allowance payment to which the member is entitled will be for the month prior to the calendar month in which the member is reemployed. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS. Upon subsequent retirement, the member may choose a different retirement option.

(A) The member's account shall be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts distributed from the BIF under the provisions of subsection (A) shall be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(d) If the member elected a partial lump sum option under ORS 238.305(2), the member need not repay any service retirement allowance payment received that is attributable to the period the member was separated from service. The last monthly service retirement allowance payment to which the member is entitled will be for the month prior to the calendar month in which the member is reemployed. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS. No repayment of lump sum payment(s) received during the period the member was separated from service is required. Upon subsequent retirement, the member may not choose a different retirement option unless the member has repaid to PERS an amount equal to the lump sum payment(s) received and the interest that would have accumulated on that amount.

(A) The member's account shall be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts distributed from the BIF under the provisions of subsection (A), excluding any amounts attributable to any lump sum repayment(s) by the member, shall be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

ADMINISTRATIVE RULES

(e) If the member elected the total lump sum option under ORS 238.305(3), no repayment of the total lump sum payment received is required. Upon subsequent retirement, the member may not choose a different retirement option unless the member has repaid to PERS in a single payment an amount equal to the total lump sum payment received and the interest that would have accumulated on that amount.

(A) If the member repays PERS as described in subsection (e) the member's account shall be rebuilt as required by ORS 238.078 effective the date that PERS receives the single payment.

(B) Amounts distributed from the BIF under the provisions of subsection (A) shall not be credited with earnings for the period from the date of retirement to the date of active membership.

(10) **Reemployment under ORS 238.078(2).** If a member has been retired for service for less than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of ORS 238.078(2), the following will occur:

(a) PERS will cancel the member's retirement effective the date of the member's reemployment.

(b) All retirement benefits received by the member must be repaid to PERS in a single payment before the member can be reemployed.

(c) The member will reestablish active membership as required by ORS 238.078 effective the date the member is reemployed.

(d) The member account shall be rebuilt effective the date that PERS receives the single payment. The amount in the member account shall be the same as the amount in the member account at the time of the member's retirement.

(e) Upon subsequent retirement, the member may choose a different retirement payment option.

(11) Upon the subsequent retirement of any member who reestablished active membership under ORS 238.078, the retirement benefit of the member shall be calculated using the actuarial equivalency factors in effect on the effective date of the subsequent retirement.

(12) The provisions of subsections (9)(c)(B), (9)(d)(B), and (9)(e)(B) of this rule are applicable to members who reestablish active membership under ORS 238.078 whose initial effective retirement date is on or after the effective date of this rule.

(13) **Reporting requirement.** The employer shall notify PERS under which statute a retiree is reemployed in a format acceptable to PERS.

(a) Upon request by PERS, a participating employer shall certify to PERS that a retired member has not exceeded the number of hours allowed in ORS 238.082 and sections (1) and (5) of this rule.

(b) Upon request by PERS a participating employer shall provide PERS with business and employment records to substantiate the actual number of hours a retired member was employed.

(c) Participating employers shall provide the information requested in this section within 30 days of the date of the request.

(14) **Sick leave.** Accumulated unused sick leave reported by the employer to PERS upon a member's retirement, as provided in ORS 238.350, shall not be made available to a retired member returning to employment under sections (1) or (9) of this rule.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.078 & 238.082

Hist.: PERS 1-1994, f. 3-29-94, cert. ef. 4-1-94; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0182; PERS 13-1998, f. & cert. ef. 12-17-98; PERS 7-2001, f. & cert. ef. 12-7-01; PERS 18-2003(Temp), f. & cert. ef. 12-15-03 thru 5-31-04; PERS 19-2004, f. & cert. ef. 6-15-04; PERS 3-2006, f. & cert. ef. 3-1-06

Oregon State Lottery Chapter 177

Rule Caption: Amend Lottery's public records request rule in compliance with HB 2545.

Adm. Order No.: LOTT 2-2006

Filed with Sec. of State: 2-16-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 1-1-06

Rules Amended: 177-010-0100

Subject: This rule is being amended to comply with the provisions of Oregon Laws 2005, Chapter 272 (HB 2545) relating to notice of fees charged for the production of public records to a requester; to limit the fees of the Attorney General that may be charged to a requester; and to update, clarify, and expand the remaining provisions of this rule.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-010-0100

Requests and Fees for Copies of Public Records

(1) **Procedure:** Any person may request to inspect or obtain a copy of a public record, as defined in ORS 192.410(4), which is in the custody of the Lottery.

(2) **Reasonable Access:** The Lottery will allow reasonable access to any public record in the custody of the Lottery, during the Lottery's regular business hours, unless the record is exempt from disclosure. The Lottery may determine the time and manner of inspection or copying to protect the public record and to prevent interference with the regular activities of the Lottery and its employees. The Lottery will determine reasonable access by taking into account the necessity to maintain the fairness, integrity, security, and honesty of the Lottery.

(3) **Written Requests:** Unless otherwise provided herein, a request for a public record must be made in writing and delivered in person, by mail, facsimile transmission, or electronic mail to the Oregon State Lottery, P.O. Box 12649, 500 Airport Road S.E., Salem, Oregon 97309. At its discretion, the Lottery may accept oral requests. Each request must include:

(a) The name, address, (if needed for mailing), and telephone number, if any, of the requestor.

(b) The identification, description, or type of the public record requested, and the format of the public record, if known to the requestor.

(c) The number of copies and format requested if a copy of the public record is requested.

(4) **Processing Requests:** The Lottery will respond to a public records request within a reasonable period of time. Inspection or copying of a public record is contingent upon the number of pending requests and staff availability. Requests normally will be processed in the order they are received. The Director or designee may advise the requestor, if necessary, whether the record may be disclosed, the date, time, and place the requestor may inspect the record or obtain a copy, and the estimated cost of inspection, copying, and other fees as described in this rule. If the requested record contains information exempt from disclosure, the requestor will be furnished a copy of the record with the exempt information redacted, if it is reasonably possible to do so. If it is not reasonably possible to redact the exempt information, the record will not be made available for inspection or copying.

(5) **Payment of Costs:** The requestor must pay the costs for making the public record available for inspection or for copying as follows:

(a) **Notification of Costs:** The Lottery will provide the requestor with a written notification of the actual or estimated costs to make the requested public records available for inspection or for providing copies, if the estimated or actual costs exceed \$25. The Lottery will not provide the public records until the requestor confirms that the requestor wants the Lottery to proceed with making the requested public records available. The Lottery may also provide the requestor with a written notification if the costs are \$25 or less. The Lottery may require that all fees and charges, whether estimated or actual, be paid before the public record is made available for inspection or copies provided.

(b) **Estimates:** If the Lottery must estimate the costs of making a public record available either for inspection or copying, the estimated costs must be paid before a public record will be made available for inspection or a copy made. The Lottery does not guarantee the accuracy of any estimate provided. If the total actual costs exceed the estimate, the total actual costs must be paid before the records are made available for inspection or copies are made and provided to the requestor. If the total actual cost is less than the estimate, the Lottery will refund the overcharge to the requestor. The Lottery will not refund amounts less than \$1.

(c) **Requests by Current Lottery Retailers:** With the written or electronic authorization of a Lottery retailer, the Lottery may bill a retailer the cost of fulfilling a public records request made by the retailer through the retailer's electronic funds transfer bank account established for Lottery funds. Such amounts will be deducted from the account during the next regularly scheduled electronic debit of the retailer's account or anytime thereafter.

(6) **Fees — General:** Unless otherwise provided herein or by law, the Lottery shall charge a fee, in accordance with ORS 192.440, reasonably calculated to reimburse the Lottery for its actual costs of providing a copy of a public record or furnishing a reasonable opportunity to inspect the record.

(7) **Fees — Paper Records:** For paper records, the Lottery's charge is 25¢ per page for the first 20 pages and 15¢ per page thereafter to recover the costs of photocopying, or printing from laserfiche, and normal and reasonable staff time to locate, separate, review, redact exempt information,

ADMINISTRATIVE RULES

copy, return documents to file, and to otherwise prepare and deliver a public record to a requestor.

(a) **“Page”** refers to the number of copies produced, either on 8 1/2 x 11 or 8 1/2 x 14 or 8 1/2 x 17 inch paper. Lottery staff will not reduce the copy size or otherwise manipulate a record in order to fit additional records on a page, unless staff concludes that it would be the most effective use of staff time. Consistent with ORS 192.240, all copies will be produced on recycled paper in double-sided print format whenever feasible. A double-sided copy constitutes two pages. Because of the increased staff time involved in double-sided copying, there is no reduction in the fee per page.

(b) A **“normal and reasonable”** amount of staff time is fifteen minutes or less for each request.

(8) **Additional Staff Time Charges:** Additional charges for staff time may be made when responding to a public records request that requires more than a “normal and reasonable” amount of staff time for responding to a records request as set forth in this rule.

(a) **Lottery Staff:** Staff time over fifteen minutes will be charged at the hourly rate of the staff member, who responds to the request, as follows:

(A) **Hourly Employees:** The Lottery shall charge the actual hourly rate of the employee including benefits.

(B) **Salaried Employees:** The Lottery shall charge an hourly rate determined by the monthly salary including benefits of the employee divided by the number of hours of work that month based upon an eight hour day.

(b) **Oregon Attorney General Staff:** If the Lottery uses the services of the Oregon Attorney General’s Office in reviewing the public records, redacting material from the public records, or segregating the public records into exempt and non-exempt records, the costs billed to the Lottery by the Attorney General’s Office shall be charged to the requestor. The Lottery will not include, in a fee charged under this section, the costs for time spent by the Attorney General’s staff in determining the application of the provisions of ORS 192.410 to 192.505 to a request for public records.

(c) **Outside Contractors:** If the Lottery uses the services of an outside facility or contractor to respond to a public records request, the actual costs incurred by the Lottery shall be billed to the requestor.

(d) **Miscellaneous:** Unless otherwise provided herein, charges incurred in responding to a public records request include, but are not limited to:

(A) All time spent locating, compiling, sorting, and reviewing records to prepare them for inspection or copying;

(B) All time required to segregate or redact exempt information;

(C) All time required to supervise the inspection of records, including time spent with the requestor while the requestor reviews the public records; and

(D) All time required to copy or format the records.

(9) **Fees — Electronic Reproduction of Records:** In addition to the staff time required to respond to a public records request where electronic reproduction is required or if requested is available, the Lottery may provide reproduction media at the following rates:

(a) **Diskette, 5 1/4 or 3 1/2:** \$1 each.

(b) **CD:** \$1 each.

(c) **DVD:** \$1 each.

(d) **Video Cassette, 2 hours:** \$6 each.

(e) **Audio Cassette, 60 minutes:** \$2 each.

(f) The Lottery will not permit a requestor to provide a diskette, CD, or DVD for electronic reproduction of a computer record.

(10) **Mailing or Shipping Costs:** The Lottery may charge a requestor the actual postage or freight costs for mailing or shipping a copy of a record to the requestor, including, but not limited to, any special charges such as certified mail, express mail, or restricted delivery. Lottery shall determine the manner of shipment.

(11) **Faxing Costs:** In addition to other fees related to the request, the Lottery shall charge the requestor \$1 per public records page when a record is faxed locally or within the state of Oregon. The Lottery shall charge a requestor \$5 for the first public records page for out-of-state faxes and \$1 per page thereafter. The Lottery will not fax more than 30 pages in response to a public records request.

(12) **Certification Costs:** When requested, the Lottery shall provide a certified copy of a public record at an additional cost of \$5.00 for each certification. Certified copy means a copy which is certified to be a true and accurate copy of the public record requested.

(13) **Payment:** Unless otherwise provided herein or as directed by the Director, a requestor must pay all fees in advance before the Lottery will release a requested record for inspection or before a copy is made and provided. The requestor may make payment by cash, check, or money order.

The check or money order must be made payable to the Oregon State Lottery.

(14) **No Charge:** The Lottery may provide a single copy of the following items at no charge to a requestor once every 30 days. The Lottery will charge the requestor for an item requested more often than once every 30 days, unless the item has been updated or modified within that time-frame.

(a) **Press Release:** A single copy of any Lottery press release issued within the 30 days immediately preceding the request.

(b) **Minutes and Reports:** A single copy of approved Commission minutes for a Commission meeting that occurred within the previous twelve months, including monthly financial, marketing, and sales reports made to the Commission during that meeting.

(c) **Rules:** A single copy of the Lottery’s current administrative rules.

(d) **ORS Chapter 461:** A single copy of the current Oregon Revised Statutes, Chapter 461.

(e) **Lottery Publications:** A single copy of a current Lottery publication, unless a price is set for the publication, including, but not limited to, winning numbers, frequency or odds charts, job announcements, problem gambling informational materials and brochures, and newsletters.

(f) **Electronic Copies:** At the Lottery’s discretion, any single record or report readily available electronically from the Lottery which can be provided to the requestor electronically through electronic mail. If a hard copy of such materials is requested, the Lottery shall charge the requestor in accordance with the provisions of this rule. If the request entails preparation of an electronic report using Lottery software which requires more than a normal and reasonable amount of time to prepare, the charges for staff time specified herein apply.

(g) **Marketing Materials:** A single copy of a currently stocked marketing brochure, pamphlet, flyer, or any similar item, which is normally distributed freely to the public, or to retailers to distribute to the public. This includes, but is not limited to, any item that is intended or used by the Lottery to promote the sale of Lottery tickets or shares; advertise or promote the Lottery or its games; foster good public relations; act as an incentive to purchasers, players, or retailers; publicly disclose odds or numbers of winners in Lottery games; or communicate with the general public or specific market segments.

(h) **ADA Format:** The Lottery will not charge any extra fee for providing records in an alternative format when required under the Americans with Disabilities Act.

(i) **Nominal Expense:** The Lottery will not charge a fee if a record can be provided at nominal expense or if the cost to collect the fee would be more than the cost to provide the copy of the record.

(15) **Limitation on Waiver:** Except as provided in this rule, the Lottery may not reduce or waive fees and must charge the actual costs for making a public record available for inspection or copying, and any related services.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 192.440

Hist.: LC 6-1994, f. 7-22-94, cert. ef. 8-1-94; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 2-2006, f. 2-16-06, cert. ef. 3-1-06

.....

Rule Caption: Adoption of alternative dispute resolution rules for contract disputes with lottery retailers.

Adm. Order No.: LOTT 3-2006

Filed with Sec. of State: 2-16-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 1-1-06

Rules Adopted: 177-040-0300, 177-040-0310, 177-040-0320

Rules Amended: 177-040-0000

Subject: These rules are amended and adopted in accordance with Oregon Laws 2005, Chapter 267 (HB 2237) which amends ORS 461.300 and provides that the Lottery shall adopt alternative dispute resolution rules for the resolution of contract disputes with Lottery game retailers.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-040-0000

Definitions

For purposes of OAR chapter 177 division 40, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

ADMINISTRATIVE RULES

(1) "Age-controlled area" means an area where natural persons who are under 21 years of age are prohibited from entering or remaining as posted by either the Lottery or the Oregon Liquor Control Commission.

(2) "Applicant" means a person applying for a contract with the Lottery for the purpose of selling Lottery tickets or shares to the public, and any key person.

(3) "Application" means the forms, documents, or other information that the Lottery requires an applicant to submit to the Lottery in order to apply for or maintain a retailer contract.

(4) "Business" includes:

- (a) A commercial activity engaged in for profit or gain; or
- (b) The activity engaged in by a nonprofit organization; or

(c) The activity engaged in by a private club as defined in ORS 471.175(8).

(5) "Complete application" means an application that is completely filled out, and when required, is signed by the applicant, and includes all the documentation and information requested by the Lottery.

(6) "Premises" means the building and grounds occupied by a business (including those areas not normally open to the public), where traditional lottery game tickets and shares, video lottery game shares, or both, are sold. Premises includes an area designated by the Lottery at any single location identified in an application as a proposed site for Oregon video lottery terminals.

(7) "Key person" means:

(a) All officers, directors and stockholders of a privately held corporation including the officers, directors and stockholders of any parent company;

(b) All officers, directors and those stockholders who own 5% or more of a publicly traded corporation including the officers, directors and those stockholders who own five percent or more of any parent company;

(c) For a private club as defined in ORS 471.175(8), the president or equivalent position, the treasurer or equivalent position, and officers, directors, trustees, and managers who oversee or direct the operation of the food, beverage, lottery, or other gambling related activities of the private club. The definitions in subsection (7)(a) and (b) do not apply to private clubs.

(d) In a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(e) In an association, the members, officers, and directors;

(f) In a partnership or joint venture, the general partners, limited partners, or joint venturers;

(g) In a limited liability company all the members and managers;

(h) If any parent company, partner, member, manager of a limited liability company, shareholder or joint venturer is itself a corporation, association, trust, limited liability company, partnership, or joint venture, then the applicant shall provide disclosure for such entity as if it were a key person;

(i) Immediate family members as required in ORS 461.300;

(j) The sole proprietor, if the retailer is a sole proprietor;

(k) Any person who acts or who has the authority to act on behalf of the owner in all matters concerning the operation of the owner's business during all business hours. This definition does not include a "shift manager" or a "store manager" unless qualified under this rule. The following are examples of managers who are key persons under this definition:

(A) A person who operates the business for a corporation or absentee owner, such as a general manager;

(B) A person who operates multiple locations or supervises multiple store managers, such as an area manager; or

(C) Any person who, acting on behalf of the owner, performs duties that amount to full responsibility for the daily operation of the business. Full responsibility means the person has the authority to perform and routinely performs all of the following duties: the hiring and firing of employees, making purchasing decisions relating to the buying of supplies and inventory; and conducting banking functions for the business;

(l) A landlord who receives 40% or more of the retailer's Lottery commissions as a part of lease payments and/or rent, or any landlord who the Director finds, based on reasonably reliable information, exerts influence over the operation of the retailer's business;

(m) Any person who has a lease, contract, or other agreement with the applicant or retailer or anyone else, to provide food service or to manage or operate any part of the business in a video lottery retailer's premises other than as an employee.

(n) Any reference to a "control person" of a retailer in OAR chapter 177, a Lottery retailer contract, or Lottery form in effect or in use on the effective date of this rule shall be deemed to refer to a "key person" as defined in this section.

(8) "Personal disclosure" means that part of the application which relates to a natural person's personal, criminal, and financial background.

(9) "Mediation" has the meaning as defined in ORS 36.110(4).

(10) "Mediator" means a person who performs mediation.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.300

Hist.: SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 11-1987, f. 6-22-87, ef. 7-1-87; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06

177-040-0300

Request for Reconsideration for Contract Denials, Key Person Denials, and Contract Terminations

(1) General: When the Lottery issues a contract denial, a key person denial, or a contract termination order, the denied contract applicant, the retailer who submitted the denied key person application, or the terminated Lottery retailer may request that the Lottery reconsider the denial or contract termination order.

(2) Form of Request: Each denial or contract termination order issued by the Lottery will inform the applicant or the retailer of the right to request reconsideration of the denial or contract termination order. Each request for reconsideration must meet the following requirements:

(a) The request for reconsideration must be submitted in writing within 60 days of the date of the denial or termination;

(b) The request for reconsideration must allege either a change in circumstances or it must provide additional information sufficient to show that the circumstances which are the basis for the order should not result in denial or termination or are fully corrected or resolved.

(3) Lottery's Response: The Lottery will take one of the following actions on a request for reconsideration:

(a) Approval of the Request: If the Director determines the change in circumstances or information submitted in the request for reconsideration adequately addresses, corrects, or resolves the issues which were the basis for the denial or termination order, the request for reconsideration will be granted, and the denial or termination order will be rescinded.

(b) Denial of the Request: If the Director determines that the change in circumstances or information submitted in the request for reconsideration does not adequately address, correct, or resolve the issues which were the basis for the denial or termination order, the Director will deny the request for reconsideration.

(c) Order on Reconsideration:

(A) If the Director determines that the information submitted only partially addresses, corrects, or resolves the issues which were the basis for the denial or termination order, the Director will issue a new order denying the application or terminating the contract. The new order, as appropriate, will delete from or add to the bases for denial or termination in the original order.

(B) If, at any time, the Director determines that there is an additional basis for denial of a contract or key person application, or termination of the contract, the Director may issue a new or amended denial or termination order.

(d) Director's Determinations: The Director's determinations are final for purposes of responding to requests for reconsideration.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4), HB 2237 (2005)

Stats. Implemented: ORS 461.300

Hist.: LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06

177-040-0310

Alternative Dispute Resolution Policy

The Lottery encourages the use of an alternative dispute resolution process, such as mediation, in disputes arising between a retailer and the Lottery, when such process is appropriate and provides for a more efficient and effective dispute resolution.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4), HB 2237 (2005)

Stats. Implemented: ORS 461.300

Hist.: LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06

177-040-0320

Alternative Dispute Resolution Process

(1) Application and Limitations: The Lottery, in its discretion, may agree to an alternative dispute resolution process to resolve a dispute between a retailer and the Lottery subject to the following limitations:

(a) No Surrender of Authority: The Lottery will not agree to any process in which its ultimate settlement or decision making authority is given to a third party.

(b) Voluntary Process: All participants must voluntarily agree to the use of an alternative dispute resolution process. The process is voluntary

ADMINISTRATIVE RULES

and the Lottery and any other participant may withdraw from the process at any time and for any reason.

(c) Mediator: A mediator does not represent the interests of any of the participants including the Lottery, may not offer legal advice, and has no decision making power to determine facts or impose a resolution, settlement, or other decision on the participants.

(d) Settlement: Nothing in this rule obligates the Lottery to agree to an alternative dispute resolution process to resolve a dispute, to offer funds to settle any dispute or controversy, to accept a particular settlement or resolution, to alter its standards for accepting settlements, to submit to binding arbitration, or to alter any existing delegation of settlement or litigation authority.

(e) Alternative Dispute Resolution Precluded: An alternative dispute resolution process may not be used if a contract termination is issued under the circumstances described in section (3)(b) of this rule.

(f) Legal Action Filed: An alternative dispute resolution process as described in this rule may not be used if a legal action has been filed in court covering the same subject matter.

(2) Prerequisites: Before Lottery will consider the use of an alternative dispute resolution process as described in this rule for a dispute resulting from a contract denial, a key person denial, or a contract termination, the contract applicant or the retailer must first have requested reconsideration under the process provided in OAR 177-040-0300. If the Lottery agrees to an alternative dispute resolution process, the Lottery, in its sole and absolute discretion, may stay the denial or the termination order pending completion of the process.

(3) Mediation: When a retailer has complied with section (2) of this rule, a retailer may request mediation. The request is subject to section (1) of this rule and the following:

(a) Factors to Consider: The Lottery may consider the factors set forth in OAR 137-005-0020 before agreeing to mediation.

(b) Contract Termination Actions Where Mediation Precluded: The Lottery will not agree to mediation if a contract termination is issued under the following circumstances:

(A) Third NSF: When a Lottery retailer's EFT payment is not made to the Lottery due to non-sufficient funds in the retailer's EFT account for a third time within one year of the retailer's first NSF.

(B) OLCC Suspension or Termination: The OLCC has terminated a video lottery retailer's liquor license.

(c) Written Agreement: If the Lottery agrees to mediation, the Lottery and the retailer must enter into a written agreement to mediate as described in OAR 137-005-0030.

(d) Time Limit: For a dispute resulting from a contract denial, a key person denial, or a contract termination, a request for mediation must be made within 10 days of issuance of the order upon reconsideration or a denial of reconsideration under OAR 177-040-0300. The Lottery will respond to the request within 7 business days. A request for mediation does not toll the 60 day period for requesting judicial review under ORS 183.484, unless the Lottery agrees to mediation and the contract termination order is withdrawn. The mediation process must be concluded within 60 days of the request.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4), HB 2237 (2005)
Stats. Implemented: ORS 461.300
Hist.: LOTT 3-2006, f. 2-16-06, cert. ef. 3-1-06

Oregon Student Assistance Commission Chapter 575

Rule Caption: Establishes the implementation and administration of the Troops to Teachers Program.

Adm. Order No.: OSAC 2-2006

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 1-1-06

Rules Adopted: 575-074-0000, 575-074-0005, 575-074-0010, 575-074-0015, 575-074-0020, 575-074-0025, 575-074-0030

Subject: HB 3504, enacted by the 2005 Legislative Assembly, established the Oregon Troops to Teachers program within the Oregon Student Assistance Commission. The program shall pay resident tuition costs of veterans, provided they agree to teach in a high poverty area for three years or teach the subject of mathematics, science or special education for four years. The Commission proposes a set of rules for purpose of implementation and administration of the program.

Rules Coordinator: Peggy D. Cooksey—(541) 687-7443

575-074-0000

Definitions

For the purposes of the Oregon Troops to Teachers Program the following definitions shall be used:

(1) "Commission" means the Oregon Student Assistance Commission.

(2) "Oregon Resident" means resident of the State of Oregon as defined in OAR 575-031-0005.

(3) "Armed Forces of the United States" means:

(a) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(b) Reserve components of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(c) The Oregon National Guard and a National Guard of any other state or territory.

(4) "Veteran" means a person who served with the Armed Forces of the United States and was discharged or released with other than a dishonorable discharge.

(5) "Public postsecondary institution" means:

(a) A state institution under the direction of the State Board of Higher Education; and

(b) A community college operated under ORS Chapter 341.

(6) "Satisfactory Performance" means satisfactory academic progress as determined by the institution attended.

(7) "Resident In-state Tuition" means tuition cost of an Oregon public postsecondary institution.

(8) "Troops to Teachers Agreement" is the agreement signed by a student requiring completion of the years and conditions of service pursuant to Ch. 831 (2005 Laws). The agreement will indicate the student's educational status and area of intended service.

(9) "Financial need" means the difference between the family contribution, derived from a system of need analysis annually approved by the Commission, and the cost of education.

(10) "Student" means an individual who is a resident of Oregon and enrolled at an eligible public postsecondary institution.

Stat. Auth.: ORS 348, HB 3504, 5163-A & Ch. 831, 2005 OL
Stats. Implemented: ORS 348.180, 348.205, 348.250 & 348.260
Hist.: OSAC 2-2006, f. & cert. ef. 3-1-06

575-074-0005

Administration

The Commission shall administer the Oregon Troops to Teachers Program and shall make such rules as are required for the administration of the program.

Stat. Auth.: ORS 348, HB 3504, 5163-A & Ch. 831, 2005 OL
Stats. Implemented: ORS 348.180, 348.205, 348.250 & 348.260
Hist.: OSAC 2-2006, f. & cert. ef. 3-1-06

575-074-0010

Purpose

The Oregon Troops to Teachers program will pay resident tuition charges of a veteran imposed by an Oregon public postsecondary institution, providing the veteran agrees to teach in accordance with the Troops to Teachers Agreement:

(1) In an Oregon school district or public charter school classified as serving a high poverty area for not less than three years; or

(2) In the area of mathematics, science, or special education for not less than four years.

Stat. Auth.: ORS 348, HB 3504, 5163-A & Ch. 831, 2005 OL
Stats. Implemented: ORS 348.180, 348.205, 348.250 & 348.260
Hist.: OSAC 2-2006, f. & cert. ef. 3-1-06

575-074-0015

Student Eligibility Criteria

To receive financial aid from this program an applicant must:

(1) Be an Oregon resident and a veteran as defined by the Commission in OAR 575-080-0000;

(2) Be enrolled or accepted for enrollment at an Oregon public postsecondary institution; and

(3) Demonstrate academic achievement, ability, and motivation related to the practice of teaching in the designated areas.

Stat. Auth.: ORS 348, HB 3504, 5163-A & Ch. 831, 2005 OL
Stats. Implemented: ORS 348.180, 348.205, 348.250 & 348.260
Hist.: OSAC 2-2006, f. & cert. ef. 3-1-06

ADMINISTRATIVE RULES

575-074-0020

Priority in Awarding

Among applicants who meet the basic eligibility criteria of this program priority in the selection process shall be given in the following rank order:

- (1) Students enrolled full-time who intend to pursue a career in teaching; and
 - (a) Have a Bachelor of Science or Bachelor of Arts degree who are pursuing a teaching credential; or
 - (b) Have been accepted into an undergraduate teaching program.
- (2) Students enrolled part-time who intend to pursue a career in teaching; and
 - (a) Have a Bachelor of Science or Bachelor of Arts degree who are pursuing a teaching credential; or
 - (b) Have been accepted into an undergraduate teaching program.
- (3) The following criteria will also be considered in the awarding process:

- (a) Record of academic achievement; and
- (b) Financial need.

Stat. Auth.: ORS 348, HB 3504, 5163-A & Ch. 831, 2005 OL
Stats. Implemented: ORS 348.180, 348.205, 348.250 & 348.260
Hist.: OSAC 2-2006, f. & cert. ef. 3-1-06

575-074-0025

Renewal of Awards

Subject to available funding, awards made under this program are renewable in subsequent academic years provided that the awardee:

- (1) Makes timely renewal application in the manner specified annually by the Commission;
 - (2) Continues to be enrolled in an eligible program at an eligible institution;
 - (3) Maintains satisfactory academic progress in his or her program of study; and
 - (4) Continues to demonstrate financial need.
- Stat. Auth.: ORS 348, HB 3504, 5163-A & Ch. 831, 2005 OL
Stats. Implemented: ORS 348.180, 348.205, 348.250 & 348.260
Hist.: OSAC 2-2006, f. & cert. ef. 3-1-06

575-074-0030

Conditions of Award

- (1) To receive disbursements of an award made under the Oregon Troops to Teachers Program, a student must meet all of the following criteria:
 - (a) Be enrolled or accepted for enrollment at an Oregon public post-secondary institution;
 - (b) Sign a Troops to Teachers Agreement;
 - (c) Be making satisfactory academic progress as defined by the institution attended;
 - (d) Not be in default on any federal Title IV loan or owing a refund on federal Title IV funds previously disbursed; and
 - (e) Submit a copy of a DD214 or other official document of discharge, service, or separation issued upon the termination of the veteran's service with the Armed Forces with a discharge status of other than a dishonorable discharge.
 - (2) Students enrolled part-time will receive a prorated award.
- Stat. Auth.: ORS 348, HB 3504, 5163-A & Ch. 831, 2005 OL
Stats. Implemented: ORS 348.180, 348.205, 348.250 & 348.260
Hist.: OSAC 2-2006, f. & cert. ef. 3-1-06

.....

Rule Caption: Rural Health Service Program modification of the criteria for participation.

Adm. Order No.: OSAC 3-2006

Filed with Sec. of State: 3-1-2006

Certified to be Effective: 3-1-06

Notice Publication Date: 1-1-06

Rules Amended: 575-071-0000, 575-071-0010, 575-071-0020, 575-071-0030, 575-071-0035, 575-071-0040, 575-071-0050, 575-071-0060, 575-071-0070

Subject: SB 404 adds criteria for participation to include:

- Pharmacists
- Practitioners who agree to practice in a rural hospital as defined in ORS 442.470 or a rural health clinic
- Pharmacies that are located in a medically underserved rural community in Oregon or a federally designated health professional

shortage area and that is not part of a group of six or more pharmacies under common ownership

Rules Coordinator: Peggy D. Cooksey—(541) 687-7443

575-071-0000

Definitions

For the purposes of the Rural Health Services Program the following definitions shall be used:

- (1) "Commission" means the Oregon State Scholarship Commission.
- (2) "Nurse Practitioner" means any person licensed under ORS 678.375.
- (3) "Physician Assistant" means any person licensed under ORS 677.495.
- (4) "Physician" means any person licensed under ORS Chapter 677.
- (5) "Pharmacist" means an individual licensed under ORS 689.005.
- (6) "Qualifying Loan" means any loan made to a medical student, physician assistant student or nursing student under:
 - (a) The Common School Fund Loan Program administered under ORS 348.040 to 348.090;
 - (b) Programs under Title IV, Parts B, D, and E, of the Higher Education Act of 1965, as amended; and
 - (c) The Health Profession's Student Loan Program, Nursing Student Loan Program and Health Education Assistance Loan Program administered by the U.S. Department of Health and Human Services.
- (7) "Medically Underserved Communities," "Rural Hospitals," and "Rural Health Clinics" in Oregon are those identified annually by the Office of Rural Health.
- (8) "Practice Full-Time" means professional employment in a relevant health care discipline for no less than 32 working hours per week during no less than 48 weeks in a year.

Stat. Auth.: ORS 442.555 & SB 404
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; SSC 5-1994, f. & cert. ef. 1-25-94; OSAC 1-2002, f. & cert. ef. 2-4-02; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0010

Administration

- (1) The Commission shall be responsible for the administration of this program.
 - (2) The Commission shall be responsible for making such rules as are required for the administration of the program.
 - (3) The Commission, in consultation with the Office of Rural Health, shall develop criteria to select program participants from the pool of eligible applicants.
 - (4) The Office of Rural Health shall adopt criteria to determine the Oregon communities, which are "medically underserved," and determine which rural hospitals and rural health clinics qualify as participating employment sites for the purposes of this program.
- Stat. Auth.: ORS 442.555 & SB 404
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; SSC 5-1994, f. & cert. ef. 1-25-94; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0020

Purpose of the Program

The purpose of this program is to provide student loan repayments on behalf of physicians, pharmacists, physician assistants, and nurse practitioners who enter into agreements to practice in "medically underserved" rural communities, "rural hospitals," and "rural health clinics" in Oregon; and who fulfill minimum terms of such practice specified in OAR 575-071-0040(2) and (4).

Stat. Auth.: ORS 442.550 - 442.565 & SB 404
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0030

Application and Selection

- (1) To be eligible to participate in this program a prospective physician, pharmacist, physician assistant, or nurse practitioner shall contact the Commission.
- (2) When funds are available, the Commission will provide application materials and information about the selection process to qualified individuals who have contacted the Commission.
- (3) Applicants selected for participation in this program shall sign an agreement with the Commission, which sets forth the terms that the applicant must meet in order to qualify for benefits under this program.
- (4) Subject to available resources, the Commission may enter into agreements with no more than ten prospective physicians, ten prospective

ADMINISTRATIVE RULES

pharmacists, ten prospective physician assistants, and ten prospective nurse practitioners each year.

Stat. Auth.: ORS 442.555, SB 81, Sec. 52 & SB 404
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; SSC 5-1994, f. & cert. ef. 1-25-94; OSAC 1-2002, f. & cert. ef. 2-4-02; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0035

Selection Criteria

(1) Priority in selection of participants will be given to eligible applicants who:

- (a) Have prepared by education and experience to function in a primary care capacity;
- (b) Have demonstrated a commitment to rural practice.
- (c) Have an employment agreement to practice on site in a qualifying rural hospital, rural health clinic, or medically underserved community.

(2) When eligible applicants seek to practice in specific communities, rural hospitals, or rural clinics, relative degrees of medical under service among those communities and those facilities will be considered in the selection process.

Stat. Auth.: ORS 442.555, SB 81, Sec. 52 & SB 404
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 5-1994, f. & cert. ef. 1-25-94; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0040

Terms of Agreement

Prospective physicians, pharmacists, physician assistants, and nurse practitioners who wish to participate in the Rural Health Services Program shall agree that:

(1) For each year of medical, pharmacy, physician assistant, or graduate school, the applicant shall designate an amount from the student loans borrowed by him or her, not to exceed \$25,000 as a qualifying loan subject to repayment through this program.

(2) In the five years following the completion of all residency requirements or the five years following the execution of a Rural Health Services Agreement, whichever comes later, a physician applying to participate in the Rural Health Services Program agrees to practice full-time in a medically underserved rural community in Oregon for at least three full years.

(3) For not less than three years, nor more than five years, that a physician participating in the Rural Health Services Program serves in a medically underserved rural area in Oregon, the Commission shall annually pay to the participant an amount equal to 20 percent of the total of all qualifying loans.

(4) In the five years following the completion of all pharmacy residency requirements or the five years following the execution of a Rural Health Services agreement with the commission, whichever comes later, a pharmacist agrees to practice for at least three full years in a rural hospital as defined in ORS 442.470, in a rural health clinic, in a medically underserved rural community in Oregon or in a pharmacy that is located in a medically underserved rural community in Oregon or a federally designated health professional shortage area and that is not part of a group of six or more pharmacies under common ownership.

(5) For not less than three nor more than five years that a pharmacist serves in a rural hospital as defined in ORS 442.470, in a rural health clinic, in a medically underserved rural community or in a pharmacy that is located in a medically underserved rural community or a federally designated health professional shortage area and that is not part of a group of six or more pharmacies under common ownership, the commission shall annually pay an amount equal to 20 percent of the total of all qualifying loans made to the pharmacist through the programs described in ORS 442.550.

(6) In the four years following the completion of physician assistant or graduate school or the four years following the execution of a Rural Health Services Agreement, whichever comes later, a physician assistant or nurse practitioner applying to participate in the Rural Health Services Program agrees to practice full-time in a medically underserved rural community in Oregon for at least two full years.

(7) For not less than two nor more than four years that a physician assistant or nurse practitioner practices in a medically underserved rural area in Oregon, the Commission shall annually pay to the participant an amount equal to 25 percent of the total of all qualifying loans.

(8) If the participant does not complete the full service obligation set forth in section (2) or (4) of this rule, the Commission shall collect 100 percent of any payments made by the Commission to the participant under this program. In addition, a penalty equal to 50 percent of the qualifying loans and interest paid by the Commission shall be assessed by the Commission, to be credited to and deposited in the Rural Health Services Fund.

Stat. Auth.: ORS 442.560, SB 81, Sec. 53 & SB 404
Stats. Implemented: ORS 442.470 & 442.550 - 442.570

Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; SSC 5-1994, f. & cert. ef. 1-25-94; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0050

Waiver of Minimum Service Obligation

The Commission may waive all or part of the fees and penalties owed to the Commission under the following circumstances:

- (1) Upon receiving written documentation acceptable to the Commission of the death of the participant; or
- (2) Upon receiving written documentation acceptable to the Commission of the total and permanent disability of the participant; or
- (3) After consideration by the Commission and the Office of Rural Health of a written appeal from the participant for a waiver of the minimum service obligation.

Stat. Auth.: ORS 442.550 - 442.570
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; SSC 6-1992, f. & cert. ef. 9-28-92; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0060

Availability of Tax Credit

The tax credit available to certain health practitioners under ORS 316.143 to 316.146 and 317.142 is available to participants in the Rural Services Program.

Stat. Auth.: ORS 442.560 & HB 2443, Sec. 13(8)
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; SSC 5-1994, f. & cert. ef. 1-25-94; OSAC 3-2006, f. & cert. ef. 3-1-06

575-071-0070

Rural Health Services Fund

There is established in the State Treasury a fund, separate and distinct from the General Fund, to be known as the Rural Health Services Fund, for investments as provided by ORS 293.701 to 293.776 and 293.820, for the payment of expenses of the Commission in carrying out the purposes of ORS 316.143 to 316.144, 317.142, 352.095, 442.470, 442.503 and 442.550 to 442.570. Interest earned by the account shall be credited to the account.

Stat. Auth.: ORS 442.550 - 442.570
Stats. Implemented: ORS 442.550 - 442.570
Hist.: SSC 2-1992, f. & cert. ef. 2-28-92; OSAC 3-2006, f. & cert. ef. 3-1-06

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

Rule Caption: Amendment to allow Student Code of Conduct proceedings to extend beyond six months when necessary.

Adm. Order No.: PSU 1-2006

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 3-10-06

Notice Publication Date: 2-1-06

Rules Amended: 577-031-0131

Subject: Amends the Student Conduct Code definition provisions to provide that where a student conduct proceeding has been initiated by notice or by interim suspension prior to the expiration of the six month period after date of last enrollment, registration or recognition, those proceedings may be noticed and may proceed until concluded. Applies retroactively.

Rules Coordinator: Jeremy Randall Dalton—(503) 725-3443

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

ADMINISTRATIVE RULES

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 December 15, 2005 amendment to this definition applies retroactively to all matters that are pending or incomplete, or for which notice has not been sent as required by OAR 577-031-0140.

(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.

(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

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 1-2006, f. & cert. ef. 3-10-06

Oregon University System, Western Oregon University Chapter 574

Rule Caption: Revisions to special course fees, general services fees and procedural rules.

Adm. Order No.: WOU 1-2006

Filed with Sec. of State: 3-2-2006

Certified to be Effective: 3-2-06

Notice Publication Date: 2-1-06

Rules Amended: 574-001-0000, 574-050-0005

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees and include notification to Western Oregon University's Staff Senate President.

Rules Coordinator: Debra L. Charlton—(503) 838-8175

574-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment or repeal of any permanent rule, the agency shall give notice of its intended action:

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

(2) By mailing a copy of the notice to persons on the Western Oregon University mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

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

- (a) Chancellor of the Board of Higher Education;
- (b) Western Oregon University's Faculty Senate President;
- (c) Western Oregon University's Staff Senate President;
- (d) Western Oregon University's Student Body President;
- (e) Western Oregon Journal student publication;
- (f) The Associated Press;
- (g) Statesman Journal — Salem;
- (h) Itemizer Observer — Dallas;
- (i) WOU Bulletin.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist: OCE 2, f. & cert. ef. 8-2-77; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2006, f. & cert. ef. 3-2-06

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 Office of the Vice President for Finance and Administration at Western Oregon University.]

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: OCE 1, f. & cert. ef. 7-12-76; OCE 1-1978, f. & cert. ef. 10-27-78; OCE 2-1980, f. & cert. ef. 11-5-80; OCE 1-1981, f. & cert. ef. 1-7-81; OCE 3-1981, f. & cert. ef. 8-7-81; OCE 4-1981, f. & cert. ef. 11-2-81; WOSC 2-1982, f. & cert. ef. 9-17-82; WOSC 1-1983, f. & cert. ef. 10-11-83; WOSC 1-1985, f. & cert. ef. 10-4-85; WOSC 1-1986, f. & cert. ef. 10-15-86; WOSC 1-1987, f. & cert. 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. & cert. ef. 9-5-89; 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. & cert. ef. 3-12-02; WOU 2-2002, f. & cert. ef. 8-2-02; WOU 3-2002, f. & cert. ef. 10-7-02; 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

Oregon Youth Authority Chapter 416

Rule Caption: Amend rules to change division name; update and clarify language per statute.

Adm. Order No.: OYA 3-2006

Filed with Sec. of State: 2-17-2006

Certified to be Effective: 2-17-06

Notice Publication Date: 12-1-05

Rules Amended: 416-600-0000, 416-600-0010, 416-600-0020, 416-600-0030, 416-600-0040, 416-600-0050

Subject: OAR Division 600 will have the title changed to HIV Testing of OYA Offenders in Close Custody. OAR 416-600-0000 will have a new purpose statement; OAR 416-600-0010 will have definitions reformatted; OAR 416-600-0020 HIV Antibody Testing, 0030 Informed Consent, 0040 Counseling, and 0050 Confidentiality language has been clarified in accordance with statute.

Rules Coordinator: Mike Riggan—(503) 378-3864

ADMINISTRATIVE RULES

416-600-0000

Purpose

The purpose of these rules is to set forth procedures and criteria that the Oregon Youth Authority (OYA) will use when testing offenders held in close custody facilities for HIV. HIV testing is an intrusive medical procedure which can have serious social consequences and OYA will subject offenders in its custody to this procedure only if it is requested by the offender or as a result of a court order. When an offender in OYA custody is tested for HIV, informed consent procedures will be followed and the results of the test held in strictest confidence.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 433.045 – 433.085, 420A.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2006, f. & cert. ef. 2-17-06

416-600-0010

Definitions

(1) Acquired Immune Deficiency Syndrome (AIDS): A disorder in which a person's immune system is severely suppressed. It is caused by the human immunodeficiency virus (HIV). In order for a person to be diagnosed as having AIDS the virus, immune system suppression, and an opportunistic infection or other condition stipulated by the U.S. Centers for Disease Control must all be present.

(2) HIV: The acronym for human immunodeficiency virus. This is the current name for the virus that causes AIDS.

(3) HIV Positive: A blood test has indicated the presence of antibodies to HIV. This indicates that the person has been infected by the virus and the immune system has responded by producing antibodies. An exception is infants of HIV-infected mothers. They have been exposed to the mother's antibodies in utero and carry these antibodies in their blood for a number of months after birth. A series of tests is necessary to determine if these infants are themselves infected with HIV.

(4) HIV Infection: People who have been tested and found to have the antibody are referred to as having HIV infection. At this writing, persons with HIV infection have a very high (greater than 50%) chance of developing AIDS within the next 10 years following the positive test result. These people are capable of transmitting the virus through risk behaviors, as described below.

(5) High Risk Behaviors/Group: includes the following:

(a) Having shared a needle with an intravenous drug abuser since 1977;

(b) A male having had sex with another male or males since 1977;

(c) Having been sexually active in an area where heterosexual transmission is believed to be high — notably central Africa;

(d) Persons with hemophilia;

(e) Having been the sexual partner of a person in one of the previous categories;

(f) Being born to a woman whose history has put her in one of these other categories.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 433.045 – 433.085, 420A.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2006, f. & cert. ef. 2-17-06

416-600-0020

HIV Antibody Testing

(1) For offenders in OYA close custody, the HIV antibody test will be done only at offender request or by court order. The test will not be used to screen offenders in high risk behavior or any other groups, nor to satisfy the curiosity of OYA staff or contracted providers.

(2) The OYA will carry out a test for HIV antibodies when an offender is ordered by a court order under ORS 419C.475 and 135.139 to submit to an HIV test.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.475, 135.139

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2006, f. & cert. ef. 2-17-06

416-600-0030

Informed Consent

(1) No person will submit the blood of an offender in the custody of the OYA to an HIV test without first obtaining informed consent from the offender or obtaining a copy of the court order requiring an HIV test under ORS 419C.475 or 135.139.

(2) A minor of any age may consent to a HIV test; and when the minor's consent is given, the consent of the minor's parents or guardians is not necessary for diagnosis, care, or treatment. However such consent must be informed consent.

(3) OYA facility health services will ensure that informed consent is obtained prior to the blood of an offender in OYA custody being tested for HIV. Documentation of the offender's informed consent will be maintained

in the offender's medical file for a minimum of seven years. Only specially trained health and mental health care staff are authorized to obtain an offender's informed consent to test blood for the HIV antibody.

(4) Informed consent will be obtained by authorized staff in the following manner, giving consideration to the offender's age and cognitive ability:

(a) Explain the risks from having the HIV test. This will include a description of Oregon law pertaining to the confidentiality of information about an individual having the test and that individual's test results; a statement detailing circumstances under which disclosure might be permitted or required without consent; and a statement of the potential consequences in regard to insurability, employment, and social discrimination if the HIV test results become known to others;

(b) Orally summarize for the offender the substance of the statements in the OYA HIV Test Informed Consent form and specify alternatives to the HIV test in the particular instance, and whether the test information will be disclosed to others, who those others will be, and for what purpose;

(c) Inform the offender that he/she has the right to request additional information from a knowledgeable person before giving consent;

(d) Ask the offender to be tested whether he/she has any further questions, and if so, provide a full and complete opportunity to ask those questions and receive answers from a person who is sufficiently knowledgeable to give accurate and complete answers about AIDS, HIV tests, and the consequences of being tested or not tested;

(e) Have the offender sign the OYA HIV Test Informed Consent form after having had an opportunity to read it;

(f) Provide the offender with a copy of the OYA HIV Test Informed Consent form for his/her retention.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 433.045 – 433.085, 420A.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2006, f. & cert. ef. 2-17-06

416-600-0040

Counseling

An offender who is considering whether or not to consent to an HIV antibody test or who has been court-ordered to submit to an HIV antibody test under ORS 419C.475 or 135.139 will receive pre- and post-test counseling services by OYA health care staff who have received HIV counseling training from the Health Division of the Oregon Department of Human Services.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 433.045 – 433.085, 420A.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2006, f. & cert. ef. 2-17-06

416-600-0050

Confidentiality

(1) Many of OYA records are exempt from disclosure or strictly confidential under the public records exemptions or confidentiality status. All medical records are privileged information. AIDS and/or HIV test results are specifically designated highly confidential by statute (ORS 433.045) and Oregon Health Division Administrative Rule (OAR 333-012-0270(1)-(9)) and must be held in the most strictly observed confidence possible to avoid consequences of casual or inappropriate disclosure of information.

(2) All HIV test information released with the authorization of the tested offender must be labeled with a statement which substantially states, "This information may not be disclosed to any one without the specific written authorization of the individual."

(3) Any OYA staff who has received HIV test information about an offender is prohibited from further disclosure without written authorization of the offender or as required by federal law, state law, or any rule, including any Oregon Department of Human Services rule considered necessary for public health or health care purposes.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 433.045 – 433.085, 420A.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 3-2006, f. & cert. ef. 2-17-06

•••••

Rule Caption: This rule is amended to rename the division, re-organize the division numbers, make grammatical changes.

Adm. Order No.: OYA 4-2006

Filed with Sec. of State: 2-17-2006

Certified to be Effective: 2-17-06

Notice Publication Date: 12-1-05

Rules Amended: 416-480-0000, 416-480-0010, 416-480-0020, 416-480-0040, 416-480-0060, 416-480-0070, 416-480-0080

ADMINISTRATIVE RULES

Subject: OAR Chapter 416 Division 480 will have the title changed to **Offender Religious Activities in Close Custody Facilities**; OAR 416-480-0000, 0010, 0020, 0040, 0060, 0070, and 0080 will have grammatical changes and rule numbers have been re-ordered.

Rules Coordinator: Mike Riggan—(503) 378-3864

416-480-0000

Purpose

(1) The provisions of these rules will be applied to offenders in OYA custody and placed in OYA facilities.

(2) Federal laws allow all persons to hold individual religious beliefs. Offenders in OYA custody maintain this same right. While the OYA will make every reasonable effort to allow offenders to practice the religion of their choice, the OYA may restrict religious practice when:

(a) There is a compelling interest to do so, including but not limited to legitimate security and operational considerations such as safety, health and order; rehabilitation or treatment-related issues; or limitations of resources; and

(b) The imposed limitation is the least restrictive means of addressing the compelling interest.

(3) The OYA will apply the standards of these rules, and resulting policy and procedures, to all faiths to ensure that:

(a) Offenders have reasonable opportunity for religious practice, unless a compelling reason exists to limit such practice;

(b) Religious activities are provided in an orderly fashion through supervision by facility staff, contracted providers, or approved religious volunteers;

(c) Religious programs encourage and foster understanding and respect for the diversity of religious beliefs and practices; and

(d) Religious programs and practices, or any imposed limitations, are consistent with relevant provisions of federal and state regulations.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0010

Religious Program Coordinator

Each OYA facility will designate a Religious Program Coordinator who coordinates religious activities within the facility.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0020

Religious Practice

(1) The OYA will provide offenders the opportunity for reasonable access to religious practice that includes, but is not limited to:

(a) Regular religious services and ceremonies, including access to religious items.

(b) Special ceremonies, holiday services, sacraments, and/or expression including, but not limited to:

(A) Religious requirements relating to head or facial hair consistent with the facility rules on hygiene and grooming.

(B) Wearing or carrying a religious emblem, medal, medallion or other religious item (e.g. medicine pouch, religious medal, rosary, prayer feather).

(C) Burning odor or smoke-producing substances (e.g., sage, sweet grass, and incense).

(D) Individual and group pastoral counseling (in a native language where possible).

(E) Religious or spiritual group meetings.

(F) Religious moral instruction.

(G) Dietary accommodations, including dietary restrictions or special handling of food.

(2) An offender assigned to isolation will be provided the opportunity to practice religion but may not be permitted to participate in group activities, special ceremonies, or other practices that affect safety or security.

(3) Each OYA facility will notify offenders of the schedule of religious activities.

(a) When possible, the facility will accommodate individual religious practice, including practices that call for particular times and/or calendar of lunar dates.

(4) Tobacco products or alcohol are not permitted within OYA facilities. Exceptions may be requested from the OYA Director.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0040

Offender Requests

(1) An offender desiring to participate in a religious activity that is not currently available within the facility may request to do so by submitting to the Religious Program Coordinator a completed request with the following information:

(a) The name of the religion or belief;

(b) The title of religious activity requested; and

(c) A brief description of the religious activity including:

(A) The significance of the activity in the practice of the religion.

(B) How often or under what circumstances the religious activity would be held if it were taking place in the community.

(C) Minimum time and any physical requirements within which the religious activity may take place, including those of any defined segments of the activity.

(D) Any materials that are required for the religious activity and their purpose or use, including a list of any items associated with the religious activity that the offender would retain, if any.

(E) The title (if any), function, and eligibility requirements for participants in the activity.

(F) The name, address, and phone number of a religious representative who can verify the above information.

(2) The Religious Program Coordinator will review the request and consider:

(a) The effects of the request on the safety and security of offenders or staff, and order of the facility.

(b) Available resources to provide the activity.

(c) Alternative means of meeting the request.

(d) Similar practices in other facilities.

(e) Other issues specific to the request.

(3) If no religious representative is available in the facility or among the current group of religious volunteers to conduct a religious activity, the request will be denied until such time as a person becomes available to do so.

(a) The Religious Program Coordinator will seek out an individual from the community to conduct the religious activity, when necessary.

(b) Offenders will not be permitted to lead religious programs.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0060

Activity Areas

(1) Each OYA facility will designate an area(s) appropriate for the conduct of approved religious activities.

(2) All areas are subject to search in accordance with OYA rule, policy, and procedure, and in a manner that reflects an awareness of and sensitivity to individual religious beliefs and practices.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

416-480-0070

Religious Items

Items required for the conduct of a religious activity may be purchased and supplied by the OYA, or donated by a religious representative, religious volunteer, or other approved source at the discretion of the OYA.

(1) All items utilized in religious practices are subject to search by OYA staff prior to introduction into the facility. Staff conducting such search will do so in a manner that reflects an awareness of and sensitivity to the individual religious belief and respect for the objects/symbols used in the religious practice.

(2)(a) Items not approved will be considered contraband and subject to confiscation.

(b) Supplying contraband is a felony, and the OYA will initiate criminal charges against any person committing such crime.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

ADMINISTRATIVE RULES

416-480-0080

Decision Appeal

(1) The Religious Program Coordinator will send a written decision to the offender. A copy will be sent to the facility Superintendent/Camp Director.

(2) An offender may appeal a decision by submitting a letter to the facility Superintendent/Camp Director within 10 calendar days after receiving the denial. The Superintendent/Camp Director will work with the OYA Program Office and Director to review the matter.

(a) Whenever there is a conflict between a request for a religious practice and a facility interest, the matter will be resolved by the OYA in consultation with affected parties. When necessary, the OYA will consult with appropriate religious representatives and/or other authorities as needed to clarify issues.

(b) The decision of the OYA Director is final.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.108

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 4-2002, f. & cert. ef. 1-18-02; OYA 4-2006, f. & cert. ef. 2-17-06

Parks and Recreation Department Chapter 736

Rule Caption: Renames Museums Grant-in-Aid program to Oregon Museum Grant Program, with changes.

Adm. Order No.: PRD 2-2006

Filed with Sec. of State: 2-27-2006

Certified to be Effective: 2-27-06

Notice Publication Date: 11-1-05

Rules Adopted: 736-053-0135, 736-053-0140

Rules Amended: 736-053-0100, 736-053-0105, 736-053-0110, 736-053-0115, 736-053-0120, 736-053-0125, 736-053-0130

Subject: Makes changes to the Museums Grant-in-Aid program, renaming it the "Oregon Museum Grant Program," and changing it from an entitlement program to one that is competitive, as authorized by the 73rd Legislative Assembly through Senate Bill 67.

Rules Coordinator: Pamela Berger—(503) 986-0719

736-053-0100

Purpose

The purpose of these rules is to establish the procedures and criteria that the Oregon Heritage Commission, with the advice of the Oregon Historical Society and the Oregon Museums Association, will use when awarding Museum Grant Funds as provided in ORS 358.730.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 358.730

Hist.: PRD 3-1998, f. 2-11-98, cert. ef. 2-17-98; PRD 2-2006, f. & cert. ef. 2-27-06

736-053-0105

Definitions

As used in these rules, unless the context requires otherwise:

(1) "Commission" means the Oregon Heritage Commission.

(2) "Museum" means a public institution or private nonprofit Oregon corporation primarily devoted to the acquisition and public exhibition of specimens, artifacts, articles, documents and other items that relate to history, anthropology, archaeology, science or art and that have historical significance.

(3) "Grant" means an award from the Oregon Museum Grant Program.

(4) "Museum Grant Review Committee" means the committee that reviews grant applications and makes funding recommendations to the commission.

(5) "Heritage" means the array of significant things, thoughts, and activities associated with past human experience in Oregon.

(6) "Heritage collections" includes artifacts and other manifestations of material culture, documents, publications, photographs and film, heritage recordings, music and songs gathered for study, comparison or exhibition, and their management.

(7) "Heritage-related tourism" means the practice of traveling for recreation to learn, enjoy or appreciate heritage.

(8) "Heritage aspects of education and interpretation" means the action or process of educating or of being educated about heritage.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 358.730

Hist.: PRD 3-1998, f. 2-11-98, cert. ef. 2-17-98; PRD 2-2006, f. & cert. ef. 2-27-06

736-053-0110

Eligible Applicants

In order to be eligible for a grant, museums shall meet the following requirements:

(1) Be in operation for a period of at least two years;

(2) Provide museum services open to the public at least 120 hours per year at designated and reasonable hours and places;

(3) Have a responsible, competent attendant on duty when museum services are provided to the public;

(4) Be organized as a public or private non-profit institution that exists on a permanent basis for essentially educational or aesthetic purposes;

(5) Care for and own or use tangible objects; and

(6) Exhibits the objects to the public on a regular basis through facilities the museum owns or operates.

Stat. Auth.: ORS 390.214

Stats. Implemented: ORS 378.740

Hist.: PRD 3-1998, f. 2-11-98, cert. ef. 2-17-98; PRD 2-2006, f. & cert. ef. 2-27-06

736-053-0115

Application Procedure

(1) Each biennium, the commission shall announce the availability of, procedures to apply for, and deadlines for applying for Oregon Museum Grants in general circulation publications in the State of Oregon and also by mail to parties who have expressed interest in the Oregon Museum Grant Program. If the commission has chosen to focus on a particular type of project in a particular grant cycle, that focus shall be a part of the announcement.

(2) Museums may, by announced deadlines, submit application information in a format prescribed by the commission that:

(a) Documents that the museum is eligible for a grant;

(b) Documents that the proposed project qualifies for a grant;

(c) Documents that the museum is capable of carrying out the proposed project; and

(d) Documents the potential effectiveness of the proposed project related to the collection and management of heritage collections and for heritage-related tourism and to assist in projects related to the heritage aspects of education and interpretation.

Stat. Auth.: ORS 390.214

Stats. Implemented: ORS 358.750

Hist.: PRD 3-1998, f. 2-11-98, cert. ef. 2-17-98; PRD 2-2006, f. & cert. ef. 2-27-06

736-053-0120

Evaluation of Applications

(1) Eligible applications received by announced deadlines shall be evaluated by the Museum Grants Review Committee appointed by the commission chair.

(2) The Museum Grants Review Committee shall rank applications in order of priority based on an evaluation of:

(a) The museum's capability of carrying out the proposed project; and

(b) The museum's most recent fiscal year operating budget, a current operating budget, or both;

(c) The anticipated effectiveness of the proposed project in the collection and management of heritage collections, the promotion of heritage-related tourism, or the provision of education and other interpretations related to heritage; and

(d) The commitment of other significant monetary or in-kind support to the goals of the project, or both.

(3) The commission shall, at a regularly scheduled public meeting, consider and approve or disapprove, in part or in full, the recommendations of the Museum Grants Review Committee.

Stat. Auth.: ORS 390.214

Stats. Implemented: ORS 358.760

Hist.: PRD 3-1998, f. 2-11-98, cert. ef. 2-17-98; PRD 2-2006, f. & cert. ef. 2-27-06

736-053-0125

Award of Grants

(1) When Museum Grant Program funds are appropriated by the Legislative Assembly, the commission shall award these funds based on priorities recommended by the Museum Grants Review Committee and approved by the commission.

(2) All awards shall be the subject of binding grant agreements between the Oregon Parks and Recreation Department and participants.

(3) Grant agreements shall specify total project costs, participant's share, commission share, work to be accomplished, products to be delivered, and deadlines for accomplishing work and delivering products.

Stat. Auth.: ORS 390.214

Stats. Implemented: ORS 358.750

Hist.: PRD 3-1998, f. 2-11-98, cert. ef. 2-17-98; PRD 2-2006, f. & cert. ef. 2-27-06

ADMINISTRATIVE RULES

736-053-0130

Museum Grant Review Committee

(1) The Museum Grant Review Committee shall be appointed by the commission chair and composed of:

(a) At least one representative recommended by the director of the Oregon Historical Society;

(b) At least two members recommended by the president of the Oregon Museums Association;

(c) At least two other heritage professionals appointed by the commission chair; and

(d) A representative of the commission.

(2) The Museum Grant Review Committee shall adopt guidelines on conflict-of-interest that are consistent with ORS Chapter 244.

Stat. Auth.: ORS 390.214

Stats. Implemented: ORS 358.730(1)(d)

Hist.: PRD 3-1998, f. 2-11-98, cert. ef. 2-17-98; PRD 2-2006, f. & cert. ef. 2-27-06

736-053-0135

Disbursement of Grant Funds

All grant funds shall be disbursed to participant museums using procedures included in the grant application announcement and specified in grant agreements. Participant museums shall supply information substantiating billings if requested by the commission.

Stat. Auth.: ORS 390.124 & 378.730(1)(d)

Stats. Implemented: ORS 358.730

Hist.: PRD 2-2006, f. & cert. ef. 2-27-06

736-053-0140

Recovery of Grant Funds

(1) Participant museums who fail to complete approved projects to the commission's satisfaction shall return all unexpended grant funds.

(2) Participant museums shall maintain records adequate for audit purposes for a period of not less than five years after project completion and shall reimburse the commission for any costs questioned in audit findings.

Stat. Auth.: ORS 390.124 & 378.730(1)(d)

Stats. Implemented: ORS 358.730

Hist.: PRD 2-2006, f. & cert. ef. 2-27-06

.....

Public Utility Commission Chapter 860

Rule Caption: Reconnection of Gas Service.

Adm. Order No.: PUC 1-2006(Temp)

Filed with Sec. of State: 2-17-2006

Certified to be Effective: 2-17-06 thru 8-15-06

Notice Publication Date:

Rules Adopted: 860-021-0328

Subject: This temporary rule sets a timeframe for reconnection of involuntarily disconnected gas service. Until recently, all of the Oregon natural gas utilities had internal operating policies that allowed for timely reconnection of involuntarily disconnected service. With this rule, service must be reconnected as soon as possible, but no later than the end of the next day after the conditions for reconnection are met and reconnection is requested. The temporary rule is necessary to ensure that customers, including the elderly, children and the infirm, are immediately protected during the current heating season.

Rules Coordinator: Diane Davis—(503) 378-4372

860-021-0328

Reconnection of Natural Gas Service

A natural gas utility must reconnect service after an involuntary disconnection, if the applicant has satisfied the requirements for reconnection. Service must be reconnected as soon as reasonably possible, but no later than the end of the next day after the applicant meets the conditions for reconnection and requests reconnection.

Stat. Auth.: ORS 183 & 756

Stats. Implemented: ORS 756.040

Hist.: PUC 1-2006(Temp), f. & cert. ef. 2-17-06 thru 8-15-06

.....

Rule Caption: Termination of Local Exchange Residential Telecommunications Service for Customers at Significant Risk of Abuse.

Adm. Order No.: PUC 2-2006

Filed with Sec. of State: 2-27-2006

Certified to be Effective: 2-27-06

Notice Publication Date: 10-1-05

Rules Adopted: 860-021-0550, 860-034-0275

Rules Repealed: 860-021-0550(T), 860-034-0275(T)

Subject: These rules implement Senate Bill 983, which was passed by the 2005 Oregon Legislative Assembly and signed by the Governor on June 9, 2005. The rules prohibit the termination of local exchange residential telephone service if the termination would significantly endanger a customer, or a member of the customer's household, who is at risk of domestic violence or abuse. The rules require the customer to submit to the telecommunications utility an affidavit and a copy of a court order that restrains another person from contact with the customer or member of the customer's household. The rules do not excuse the at risk customer from paying for telecommunications service; the qualifying customer is entitled by the rules to enter into a reasonable payment agreement with the utility if overdue balances exist.

Rules Coordinator: Diane Davis—(503) 378-4372

860-021-0550

Termination of Local Exchange Residential Service for Telecommunications Customers at Significant Risk

(1) "At significant risk" means:

(a) At risk of domestic violence, as defined in ORS 135.230;

(b) At risk of unwanted sexual contact, as defined in ORS 163.305;

(c) A person with disabilities, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e);

(d) An elderly person, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e); or

(e) A victim of stalking, as described in ORS 163.732.

(2) To establish that termination of local exchange residential service would significantly endanger the customer, or a person in the household of the customer, the customer must give the large telecommunications utility:

(a) A copy of an order issued under ORS 30.866, 107.700 to 107.732, 124.005 to 124.040, or 163.738 that restrains another person from contact with the customer, or a person in the household of the customer, at significant risk; or

(b) A copy of any other court order that restrains another person from contact with the customer, or a person in the household of the customer, due to a significant risk; and

(c) An affidavit signed by the customer stating that termination would place the customer, or a person in the household of the customer, at significant risk. The affidavit must include the name of the person to whom the court order applies, the relationship of the person to the customer, and the expiration date of the order.

(3) A large telecommunications utility must establish and maintain procedures for receiving affidavits and orders from customers.

(4) A customer submitting an affidavit and order under section (2) of this rule:

(a) Remains responsible for payment of telecommunication services provided by the large telecommunications utility; and

(b) Must enter into a time payment agreement with the large telecommunications utility pursuant to OAR 860-021-0575 if the customer has an overdue balance. This time payment agreement must be made within 10 days after submission of the affidavit and order.

(5) If a customer who has submitted an affidavit and order fails to enter into or abide by the terms of a time payment agreement pursuant to OAR 860-021-0575, the large telecommunications utility may disconnect local exchange service after complying with all provisions of OAR 860-021-0505. Five days' notice of disconnection must also be provided to the Commission's Consumer Services Section.

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: Ch.290, OL 2005

Hist.: PUC 4-2005(Temp), f. 8-22-05, cert. ef. 9-1-05 thru 2-27-06; PUC 2-2006, f. & cert. ef. 2-27-06

860-034-0275

Termination of Local Exchange Residential Service for Telecommunications Customers at Significant Risk

(1) "At significant risk" means:

(a) At risk of domestic violence, as defined in ORS 135.230;

(b) At risk of unwanted sexual contact, as defined in ORS 163.305;

(c) A person with disabilities, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e);

(d) An elderly person, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005(1)(a), (1)(d), or (1)(e); or

ADMINISTRATIVE RULES

(e) A victim of stalking, as described in ORS 163.732.

(2) To establish that termination of local exchange residential service would significantly endanger the customer, or a person in the household of the customer, the customer must give the small telecommunications utility:

(a) A copy of an order issued under ORS 30.866, 107.700 to 107.732, 124.005 to 124.040, or 163.738 that restrains another person from contact with the customer, or a person in the household of the customer, at significant risk; or

(b) A copy of any other court order that restrains another person from contact with the customer, or a person in the household of the customer, due to a significant risk; and

(c) An affidavit signed by the customer stating that termination would place the customer, or a person in the household of the customer, at significant risk. The affidavit must include the name of the person to whom the court order applies, the relationship of the person to the customer, and the expiration date of the order.

(3) A small telecommunications utility must establish and maintain procedures for receiving affidavits and orders from customers.

(4) A customer submitting an affidavit under section (2) of this rule:

(a) Remains responsible for payment of telecommunication services provided by the small telecommunications utility; and

(b) Must enter into a time payment agreement with the small telecommunications utility pursuant to OAR 860-034-0276 if the customer has an overdue balance. This time payment agreement must be made within 10 days after submission of the affidavit.

(5) If a customer who has submitted an affidavit and order fails to enter into or abide by the terms of a time payment agreement pursuant to OAR 860-034-0276, the small telecommunications utility may disconnect local exchange service after complying with all provisions of OAR 860-034-0260. Five days' notice of disconnection must also be provided to the Commission's Consumer Services Section.

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: Ch. 290, OL 2005

Hist.: PUC 4-2005(Temp), f. 8-22-05, cert. ef. 9-1-05 thru 2-27-06; PUC 2-2006, f. & cert. ef. 2-27-06

Rule Caption: Establish terms and time lines for time-payment agreements for telecommunications utility service.

Adm. Order No.: PUC 3-2006

Filed with Sec. of State: 2-27-2006

Certified to be Effective: 2-27-06

Notice Publication Date: 10-1-05

Rules Adopted: 860-021-0575, 860-034-0276

Rules Amended: 860-021-0510, 860-034-0270

Subject: These new rules establish the terms and time line for time-payment agreements. One rule is for large telecommunications utilities while the other identical rule is for small telecommunications utilities. OAR 860-021-0510 and 860-034-0270 regarding emergency medical certificates are amended to remove the language regarding time-payment agreements.

Rules Coordinator: Diane Davis—(503) 378-4372

860-021-0510

Emergency Medical Certificate for Residential Telecommunications Utility Service

(1) A large telecommunications utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to diagnose and treat the medical condition described without direct supervision by a physician.

(2) The oral certification to the large telecommunications utility must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. A written certification must include:

(a) The name of the person to whom the certificate applies and relationship to the customer;

(b) A complete description of the health conditions;

(c) An explanation of how the person's physical health will be significantly endangered by terminating the service;

(d) A statement indicating how long the health condition is expected to last;

(e) A statement specifying the particular type of service required (for example, electricity for respirator); and

(f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the large telecommunications utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-021-0505(3)(a) through (d) and shall be served as required by OAR 860-021-0505(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate:

(a) Remains responsible for payment of telecommunications services provided by the large telecommunications utility; and

(b) Must enter into a time payment agreement with the large telecommunications utility pursuant to OAR 860-021-0575 if the customer has an overdue balance. This time payment agreement must be entered into within 10 days after submission of the certificate.

(6) A large telecommunications utility may verify the accuracy of an emergency medical certificate. If the large telecommunications utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the large telecommunications utility may apply to the Commission for permission to disconnect service to the customer.

(7) After notice to the Commission, a large telecommunications utility may terminate local exchange residential service if the large telecommunications utility providing the service lacks the technical ability to terminate toll telecommunications service without also terminating local exchange service.

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

Stats. Implemented: ORS 756.040, 757.750, 757.760, 757.755 & Ch. 290, OL 1987

Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 17-1997(Temp), f. 12-11-97, cert. ef. 1-1-98 thru 6-29-98; PUC 5-1998, f. & cert. ef. 3-13-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 3-2006, f. & cert. ef. 2-27-06

860-021-0575

Time Payment Agreements for Large Telecommunications Utilities

(1) A time payment agreement must contain, at a minimum, the following terms:

(a) An initial customer down payment of \$10 or 25 percent of the balance owing for tariffed or price-listed large telecommunications utility services on file with the Commission, whichever is greater;

(b) Full payment of the overdue balance within 90 days of the date of the agreement; and

(c) Customer agreement to keep subsequent bills current.

(2) The large telecommunications utility must send a letter to the customer confirming the terms of the time payment agreement.

(3) Payments must be made on a monthly basis. The large telecommunications utility cannot require more frequent payments unless agreed to by the customer. The customer cannot extend the time payment agreement beyond 90 days without the consent of the large telecommunications utility.

(4) The large telecommunications utility may not accelerate payments under a time payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(5) The large telecommunications utility may terminate the customer's local exchange residential service pursuant to OAR 860-021-0505 if the customer refuses to enter into or fails to abide by the terms of the time payment agreement. The large telecommunications utility must provide five days' notice to the Commission's Consumer Services Section.

(6) Nothing in this rule prevents a large telecommunications utility and a customer from entering into a time payment agreement for other charges.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 2005

Stats. Implemented: ORS 756.040, 757.750, 757.760, 757.755, Ch. 290, OL 1987 & Ch. 290, OL 2005

Hist.: PUC 3-2006, f. & cert. ef. 2-27-06

860-034-0270

Emergency Medical Certificate for Residential Utility Service

(1) A small telecommunications utility shall not disconnect local exchange residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household. "Qualified medical professional" means a licensed physician, nurse-practitioner, or physician's assistant authorized to

ADMINISTRATIVE RULES

diagnose and treat the medical condition described without direct supervision by a physician.

(2) An oral certification must be confirmed in writing within 14 days by the qualified medical professional prescribing medical care. A written certification must include:

- (a) The name of the person to whom the certificate applies and relationship to the customer;
- (b) A complete description of the health conditions;
- (c) An explanation of how the person's physical health will be significantly endangered by terminating the utility service;
- (d) A statement indicating how long the health condition is expected to last;
- (e) A statement specifying the particular type of utility service required (for example, access to medical facility for telemonitoring); and
- (f) The signature of the qualified medical professional prescribing medical care.

(3) If an emergency medical certificate is not submitted in compliance with section (2) of this rule, the small telecommunications utility may disconnect local exchange service after providing five days' notice to the customer. The notice shall contain the information set forth in OAR 860-034-0260(3)(a) through (d) and shall be served as required by OAR 860-034-0260(4) and (5).

(4) An emergency medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than six months without renewal.

(5) A customer submitting an emergency medical certificate:

- (a) Remains responsible for payment of telecommunications services provided by the small telecommunications utility; and
- (b) Must enter into a time payment agreement with the small telecommunications utility pursuant to OAR 860-034-0276 if the customer has an overdue balance. This time payment agreement must be entered into within 10 days after submission of the certificate.

(6) A small telecommunications utility may verify the accuracy of an emergency medical certificate. If the small telecommunications utility believes a customer does not qualify, or no longer qualifies for an emergency medical certificate, the utility may apply to the Commission for permission to disconnect utility service to the customer.

(7) After notice to the Commission, a small telecommunications utility may terminate local exchange residential service if the utility providing the service lacks the technical ability to terminate toll telecommunications service without also terminating local exchange service.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987
Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 17-1997(Temp), f. 12-11-97, cert. ef. 1-1-98 thru 6-29-98; PUC 5-1998, f. & cert. ef. 3-13-98; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 3-2006, f. & cert. ef. 2-27-06

860-034-0276

Time Payment Agreements for Small Telecommunications Utilities

(1) A time payment agreement must contain, at a minimum, the following terms:

- (a) An initial customer down payment of \$10 or 25 percent of the balance owing for tariffed or price-listed small telecommunications utility services on file with the Commission, whichever is greater;
 - (b) Full payment of the overdue balance within 90 days of the date of the agreement; and
 - (c) Customer agreement to keep subsequent bills current.
- (2) The small telecommunications utility must send a letter to the customer confirming the terms of the time payment agreement.
- (3) Payments must be made on a monthly basis. The small telecommunications utility cannot require more frequent payments unless agreed to by the customer. The customer cannot extend the time payment agreement beyond 90 days without the consent of the small telecommunications utility.

(4) The small telecommunications utility may not accelerate payments under a time payment agreement when the customer changes residences. The customer must pay tariff charges associated with the change in residence.

(5) The small telecommunications utility may terminate the customer's local exchange residential service pursuant to OAR 860-034-0260 if the customer refuses to enter into or fails to abide by the terms of the time payment agreement. The small telecommunications utility must provide five days' notice to the Commission's Consumer Services Section.

(6) Nothing in this rule prevents a small telecommunications utility and a customer from entering into a time payment agreement for other charges.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 2005

Stats. Implemented: ORS 756.040, 757.750, 757.760, 757.755, Ch. 290, OL 1987 & Ch. 290, OL 2005
Hist.: PUC 3-2006, f. & cert. ef. 2-27-06

Rule Caption: Amends Rules 860-021-0120 and 860-021-0405 to Facilitate New Technologies.

Adm. Order No.: PUC 4-2006

Filed with Sec. of State: 2-27-2006

Certified to be Effective: 2-27-06

Notice Publication Date: 10-1-05

Rules Amended: 860-021-0120, 860-021-0405

Subject: These rule amendments make changes to the rule pertaining to Meter Readings and Bill Forms and to the rule pertaining to Notice of Pending Disconnection of Residential Electric or Gas Utility Service to accommodate the technological advances made possible by advanced metering technology.

Rules Coordinator: Diane Davis—(503) 378-4372

860-021-0120

Meter Readings and Bill Forms

(1) Every energy utility providing metered service will clearly indicate on the meter the units of service for which the charge is made to the customer. The energy utility will clearly and plainly mark on the meter the proper constant to be applied when the dial reading on an electric meter must be multiplied by a constant to obtain the units consumed.

(2) All bills must display:

- (a) The total consumption for the billing period;
- (b) The beginning and ending meter readings for the billing period, where available;
- (c) The beginning and ending dates of the billing period;
- (d) The number of units of service supplied;
- (e) The schedule number under which the bill was computed; and
- (f) Any other information needed to compute the bill. Each bill will specify the delinquent date of the bill. When there is good reason for so doing, the energy utility may submit estimated bills. The energy utility will clearly note on the bill when total consumption is estimated for more than twenty-four hours in one billing period.

(3) The energy utility will read all service meters at least once a month, as nearly as possible, on the corresponding day of each meter reading period. Special authority may be granted for reading the meters less frequently than once a month if the circumstances warrant or upon the customer's request if agreed to by the energy utility and the customer:

- (a) When access to a meter is difficult due to the meter's location or other circumstance, the energy utility may seek the customer's cooperation in obtaining meter readings. The energy utility will verify the actual meter reading not less than once every four months.
- (b) A customer must provide the energy utility with regular access to a meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice is grounds for disconnection.
- (4) On written customer request, an energy utility that manually obtains monthly meter reads must, at the time of such reading, leave at the premises, information containing the date and time of the meter read and the meter read data.
- (5) An energy utility will make a reasonable effort to prepare opening and closing bills from actual meter readings.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040 & 757.250
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0020; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & cert. ef. 5-7-98; PUC 4-2006, f. & cert. ef. 2-27-06

860-021-0405

Notice of Pending Disconnection of Residential Electric or Gas Utility Service

(1) When a written notice is given under these rules:

(a) The notice must conform to the requirements of OAR 860-021-0010 concerning multilingual requirements and service on any designated representative; and

(b) The notice must conform to the requirements of OAR 860-021-0326 if the energy utility's records show the billing address is different than the service address or the residence is a master-metered multi-family dwelling. The notice may be addressed to "tenant" or "occupant." The envelope must bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

ADMINISTRATIVE RULES

(2) The notice must be printed in boldface type and must state in easy to understand language:

- (a) The reason for the proposed disconnection;
- (b) The amount to be paid to avoid disconnection;
- (c) The earliest date for disconnection;
- (d) An explanation of the time-payment agreement provisions of

OAR 860-021-0415;

(e) An explanation of the medical certificate provisions of OAR 860-021-0410;

(f) The name and telephone number of the appropriate unit of the Department of Human Services or other agencies which may be able to provide financial aid; and

(g) An explanation of the Commission's complaint process and toll-free number.

(3) At least 15 days before an energy utility may disconnect a residential customer for nonpayment for services rendered, the energy utility must provide written notice to the customer. A 15-day notice is not required when disconnection is for failure to establish credit or theft of service.

(4) The energy utility may not send a notice of disconnection before the due date for payment of a bill.

(5) The energy utility may serve the 15-day notice of disconnection in person or send it by first-class mail to the customer's last known address. Service is complete on the date of personal delivery or, if the notice is delivered by U S Mail, service is complete on the day after the date of the U S Postal Service postmark or on the day after the date of postage metering.

(6) At least five business days before the proposed disconnection date, the energy utility must mail or deliver a written disconnection notice to the customer. Service is complete on the date of personal delivery or, if the notice is delivered by U S Mail, service is complete on the day after the date of the U S Postal Service postmark or on the day after the date of postage metering.

(a) The disconnection notice must inform the customer that service will be disconnected on or after a specific date and must explain the alternatives and assistance that might be available as required in section (2) of this rule; or

(b) If notification is delivered to the residence, the energy utility must attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the energy utility must leave the notice in a conspicuous place at the residence.

(7) The energy utility must make a good-faith effort to personally contact the customer or an adult at the residence to be disconnected on the day the energy utility expects to disconnect service or, where the service address has remote disconnection capability installed, at least three (3) business days prior to the day the energy utility expects to disconnect service:

(a) If contact is made, either in person or via the telephone, the energy utility must advise the customer or an adult at the residence of the proposed disconnection; or

(b) If contact is not made, the energy utility must:

(A) Leave a notice in a conspicuous place at the residence informing the customer that service has been, or is about to be, disconnected or

(B) Attempt to contact the customer at a service address where remote disconnect capability is installed via the telephone at least twice a day for the three consecutive days prior to the proposed disconnection, and at least one call must be placed during the morning or afternoon (8:00 am to 5:00 pm) and another call placed during early evening (6:00 pm to 8:00 pm). Where an answering machine or service is available, the utility must leave a message at the end of each calling day informing the customer of the proposed disconnection. Initial implementation of section 7(b)(B) may not occur during the winter heating season (November 1 through April 30).

(8) When an energy utility has an in-person or telephone conversation with the customer or an adult at the residence under this rule, and the circumstances are such that a reasonable person would conclude the customer or an adult at the residence does not understand the possible consequences of disconnection, the utility must:

(a) Notify the Department of Human Services and the Commission; and

(b) Delay the proposed disconnection date for five additional business days.

(9) When the energy utility makes personal contact under this rule, the utility's representative making contact is empowered to accept reasonable partial payment of the overdue balance under the time-payment provisions of OAR 860-021-0415.

(10) An energy utility must document its efforts to provide notice under this rule and make that documentation available to the customer and the Commission upon request.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.760

Hist.: PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0085; PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & cert. ef. 5-7-98; PUC 4-1999, f. & cert. ef. 8-12-99; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 7-2005, f. & cert. ef. 11-30-05; PUC 4-2006, f. & cert. ef. 2-27-06

Secretary of State, Elections Division Chapter 165

Rule Caption: Adopts most recent version of the Oregon Attorney General's Law Manual.

Adm. Order No.: ELECT 1-2006

Filed with Sec. of State: 3-7-2006

Certified to be Effective: 3-7-06

Notice Publication Date:

Rules Amended: 165-001-0005

Subject: This proposed amendment will adopt the most recent version, January 1, 2006, of the Oregon Attorney General's Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedure Act, which is the model and guide for agency rulemaking.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-001-0005

Model Rules of Procedure

The Uniform and Model Rules of Procedure, OAR 137-001-0007 through 137-002-0060 as adopted by the Attorney General of the State of Oregon under the Administrative Procedures Act, effective January 1, 2006, are adopted as the rules of procedure for rulemaking and declaratory rulings for the Elections Division, Secretary of State.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Elections Division.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: SD 76, f. 8-31-72; SD 81, f. 10-16-73, ef. 11-11-73; SD 109, f. & ef. 12-9-76; SD 6-1978, f. & ef. 8-4-78; SD 10-1980, f. & ef. 1-30-80; SD 16-1981, f. & ef. 12-2-81; SD 15-1983, f. & ef. 10-4-83; SD 7-1986, f. & ef. 3-6-86; ELECT 30-1988, f. & cert. ef. 8-10-88; ELECT 16-1990, f. & cert. ef. 5-11-90; ELECT 14-1991, f. & cert. ef. 12-4-91; ELECT 4-2001, f. & cert. ef. 3-15-01; ELECT 7-2003, f. & cert. ef. 9-3-03; ELECT 2-2005, f. & cert. ef. 3-22-05; ELECT 1-2006, f. & cert. ef. 3-7-06

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Amends temporary rule to require candidates to have a Master's degree or higher in counseling.

Adm. Order No.: TSPC 7-2006(Temp)

Filed with Sec. of State: 3-10-2006

Certified to be Effective: 4-1-06 thru 9-27-06

Notice Publication Date:

Rules Amended: 584-070-0013

Subject: 584-070-0013 *Initial School Counselor License for Child Development Specialists*: The temporary rule filed in February 2006 inadvertently included a Master's in education which would have allowed teachers *without* any training in counseling to bypass the counseling requirement if they were able to pass the PRAXIS test in School Counseling. The intent is to allow Child Development Specialist candidates with extensive school experience and who hold a Master's degree in counseling or social work to become Initial School Counselors only.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-070-0013

Initial School Counselor License for Child Development Specialists

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified Oregon Department of Education certified Child Development Specialist applicant shall be granted an Initial School Counselor License. This license is issued for three years and is renewable under conditions specified in 584-070-0011.

(2) To be eligible for an Initial School Counselor License, an applicant must satisfy all of the following general preparation requirements:

ADMINISTRATIVE RULES

Travel Information Council Chapter 733

(a) Teaching experience satisfied in one of the following ways:

(A) Two academic years of experience as a full-time licensed teacher in a public education setting or in a regionally accredited private school in any state or other U.S. jurisdiction; or

(B) Completion of five complete school years experience as an Oregon Department of Education certified Child Development Specialist as verified on a PEER form.

(b) Completion of a master's or higher degree in counseling, or related behavioral sciences from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with any equally accredited bachelor's degree;

(c) A passing score as currently specified by the commission on a test of professional knowledge for school counselors.

(d) A passing score as currently specified by the commission on a test of basic verbal and computational skills; and

(e) A passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission.

(3) To be eligible for an Initial School Counselor License, an Oregon Department of Education certified Child Development Specialist applicant must satisfy a recent experience requirement in one of the following ways during the three-year period immediately preceding application:

(a) Beginning and completion in a public school or regionally accredited private school in a U.S. jurisdiction of at least one academic year as a full-time licensed educator or two consecutive years as a half-time licensed educator on any license appropriate for the assignment, or equivalent experience as in a state or federal school; or

(b) Receipt of 6 semester hours or 9 quarter hours of academic credit, germane to counseling licensure, from a regionally accredited college or university; or

(c) Three years experience in an Oregon public school as a certified Child Development Specialist.

(4) To be eligible for an Initial School Counselor License, an applicant must furnish fingerprints in the manner prescribed by the commission.

(5) See, OAR 584-070-0011(5) for renewal requirements.

(6)(a) School counselor licenses are issued for paired authorizations in accordance with OAR 584-060-0051 and 584-060-0071.

(b) Paired authorizations for the Initial School Counselor License are as follows:

(A) Early childhood and elementary: Early childhood and elementary authorization is valid up through grade four in any school and through grade eight in a school designated as a self-contained elementary school; or

(B) Elementary and middle-level: Elementary and middle level authorization is valid in grades three through eight in an elementary school and in grades five through nine in a school designated as a middle school or junior high school; or

(C) Middle-level and high school: Middle level and high school authorization is valid in grades five through nine of a school designated as a middle school or junior high school and in grades seven through twelve of a school designated as a high school.

(c) The Initial School Counselor License is authorized on the basis of professional education, experience, previous licensure, and specialized academic course work.

(7) On an Initial School Counselor License authorized for only two levels, the remaining authorization levels can be added prior to attainment of the Continuing School Counselor License. The remaining levels will be added upon acquisition of practical experience in one of two ways:

(a) A practicum of four (4) semester hours or six (6) quarter hours at either or both of the paired new levels, entailing a minimum of 200 clock hours, in an institution approved to prepare for those levels; or

(b) One academic year at either or both of the paired new levels as permitted in subsection 8 below.

(8) A counselor authorized for only two levels may counsel at remaining unauthorized for a period of not more than three years while pursuing authorization at all four levels. The commission shall be informed of this extension of responsibility, but no conditional assignment permit is required.

(9) The Initial School Counselor License is valid for regular counseling at the authorization levels indicated on the license. It is also valid for substitute counseling at any level and for substitute teaching at any level in any specialty.

NOTE: See OAR 584-048-0067 for Special Provisions for renewing an Initial School Counselor License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 3-2006(Temp), f. 2-3-06, cert. ef. 4-1-06 thru 9-27-06; TSPC 7-2006(Temp), f. 3-10-06, cert. ef. 4-1-06 thru 9-27-06

Rule Caption: Businesses may relocate their logo plaques to vacant positions on sign panels for a fee.

Adm. Order No.: TIC 1-2006

Filed with Sec. of State: 3-2-2006

Certified to be Effective: 3-2-06

Notice Publication Date: 1-1-06

Rules Amended: 733-030-0065

Subject: The Travel Information Council held a quarterly meeting on November 18, 2005. The Council proposed rule changes to allow businesses that indicated a location preference to move their logo plaques to a vacant position on a primary sign panel. The relocation fee will be \$150 per plaque per location. Having received no public comment, the council voted to adopt the changes at the February 10, 2006 meeting.

Rules Coordinator: Angela Willhite—(503) 378-4508

733-030-0065

Fees and Installation

(1) The Council may request the Department to furnish, erect and maintain sign panels, supplemental sign panels and trailblazers at locations specified by the Council.

(2) Upon the approval of an application for a logo or logos to be affixed to a sign panel, the Council shall request and authorize installation of sign panels from ODOT, the TIC sign crew or a TIC contractor as determined appropriate by TIC staff. The Council shall provide the installer with all necessary information to erect the sign panels, supplemental sign panels, trailblazers or install the logo.

(3) The Council shall notify applicant promptly when a permit application has been approved to allow the applicant sufficient time to furnish the necessary number of logos. If the Council is notified that a qualified motorist service business has failed to furnish its logos by the specified date given by the Council, or that the logo signs furnished are not in compliance with specifications provided by the Council it may cancel the permit and refund the amount paid in advance by the applicant.

(4) Fees. The annual permit fee for each logo placed on a sign panel shall be based on the traffic volume and population density of the area where the highway is located. Fees set by the Council shall be reviewed biennially and made apart of this administrative rule. The new fee schedule as of November 1, 1997 is:

(a) Schedule A I-5, Portland; I-205, Portland; Highway 217, Tigard, Beaverton; 26 Portland, Beaverton (before North Plains):

(A) Primary Sign Fee \$400 per sign;

(B) Secondary Sign Fee \$160 per sign.

(b) Schedule B I-5, Eugene through Salem; Highway 213, Oregon City:

(A) Primary Sign Fee \$310 per sign;

(B) Secondary Sign Fee \$150 per sign.

(c) Schedule C I-5 Ashland through Creswell: All of I-84:

(A) Primary Sign Fee \$260 per sign;

(B) Secondary Sign Fee \$125 per sign.

(d) Schedule D all primary and secondary routes west of the Cascade Mountains, I-82, Southern Oregon, Oregon Coast and Klamath Falls and Bend/Sisters area:

(A) Primary Sign Fee \$220 per sign;

(B) Secondary Sign Fee \$100 per sign.

(e) Schedule E Central Oregon:

(A) Primary Sign Fee \$120 per sign;

(B) Secondary Sign Fee \$70 per sign.

(f) Schedule F Northeastern and Southeastern Oregon:

(A) Primary sign fee \$75 per sign;

(B) Secondary sign fee \$50 per sign.

(5) The annual permit fee for a trailblazer shall be \$50.

(6) In accordance with OAR 733-030-0055(10), permit fees are payable with the contract and the permit shall be automatically renewed upon receipt of the entirety of the appropriate annual fee on or before the payment due date stated in the Council's invoice.

(7) Permit fees for FOOD facilities that display the logos of two distinct brand FOOD services on one FOOD logo plaque shall be 1 1/3 fee for a regular FOOD logo charged in that area. Permit fees for GAS facilities that include a FOOD facility on their logo plaque, shall be 1 1/3 the fee for

ADMINISTRATIVE RULES

a regular GAS logo charged in that area. Payment of fees is the responsibility of the GAS facility, which will be designated as the primary facility.

(8) Permit fees for Dual Services signing shall be 1/3 the fee for one service logo charged in that area.

(9) The Council may charge a fee when a facility desires to replace their logo plaques due to a redesign of the logo design, color or a change in the registered business name of \$75 per plaque per location. If a facility desires to move their logo plaque from their current position on a primary sign panel to a vacant position on the same panel, the Council may charge a relocation fee of \$150 per plaque per location. When a vacancy occurs on a primary sign panel, the Council will give written notification to all businesses with logo plaques on that panel to respond within seven (7) days of any preference they may have for relocating their logo to a vacant position on that panel. If two or more businesses indicate preference for the same vacant space, the business with longest seniority on that panel will be offered the first option to relocate their logo plaque.

(10) Nonpayment of annual fees will result in the removal of signs, and the sign location will be offered to the next qualified motorist service business desiring that sign location. Should the signs be reinstalled after

removal due to nonpayment of fees, the Council shall charge a maintenance fee of \$200 per sign reinstalled, along with annual fees due.

(11) In case of removal of a sign panel or supplemental sign panel, the permit fee for any months or major portion (16 days or more) of a month remaining to the anniversary of the date of placement of the logo shall be refunded. There shall be no refund of annual permit fees due to temporary or seasonal closure.

(12) Annual fees for qualifying TOURIST ATTRACTION facilities shall be the same fees charged for other logo signs under this section, (4)(a)–(f). If the qualifying facility can show nonprofit designation, annual fees will be charged at \$150 per advance sign, and \$50 per supplemental ramp sign.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1984 (Temp), f. & ef. 10-29-84; TIC 2-1985, f. & ef. 6-4-85; TIC 1-1986, f. & ef. 5-28-86; TIC 2-1986, f. & ef. 9-19-86; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 3-1996, f. & cert. ef. 10-16-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-1998, f. 6-8-98, cert. ef. 7-1-98; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05; TIC 2-2004, f. & cert. ef. 11-12-04; TIC 1-2006, f. & cert. ef. 3-2-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
105-001-0005	1-30-06	Amend	3-1-06	125-145-0080	3-13-06	Amend(T)	4-1-06
123-006-0005	12-1-05	Amend	1-1-06	125-145-0080(T)	3-13-06	Suspend	4-1-06
123-006-0020	12-1-05	Amend	1-1-06	125-145-0090	3-13-06	Amend(T)	4-1-06
123-006-0025	12-1-05	Amend	1-1-06	125-145-0090(T)	3-13-06	Suspend	4-1-06
123-006-0030	12-1-05	Adopt	1-1-06	125-145-0100	3-13-06	Amend(T)	4-1-06
123-006-0035	12-1-05	Adopt	1-1-06	125-145-0100(T)	3-13-06	Suspend	4-1-06
123-006-0040	12-1-05	Adopt	1-1-06	125-145-0105	3-13-06	Amend(T)	4-1-06
123-021-0090	2-10-06	Amend	3-1-06	125-145-0105(T)	3-13-06	Suspend	4-1-06
123-027-0040	2-10-06	Amend	3-1-06	125-246-0170	12-22-05	Amend(T)	2-1-06
123-027-0050	2-10-06	Amend	3-1-06	125-247-0290	12-22-05	Adopt(T)	2-1-06
123-027-0056	2-10-06	Amend	3-1-06	125-247-0291	12-22-05	Adopt(T)	2-1-06
123-027-0060	2-10-06	Amend	3-1-06	125-247-0292	12-22-05	Adopt(T)	2-1-06
123-027-0070	2-10-06	Amend	3-1-06	125-700-0010	1-30-06	Adopt	3-1-06
123-027-0106	2-10-06	Amend	3-1-06	125-700-0012	1-30-06	Adopt	3-1-06
123-027-0156	2-10-06	Amend	3-1-06	125-700-0015	1-30-06	Adopt	3-1-06
123-027-0161	2-10-06	Amend	3-1-06	125-700-0020	1-30-06	Adopt	3-1-06
123-027-0166	2-10-06	Amend	3-1-06	125-700-0025	1-30-06	Adopt	3-1-06
123-027-0171	2-10-06	Repeal	3-1-06	125-700-0030	1-30-06	Adopt	3-1-06
123-027-0201	2-10-06	Repeal	3-1-06	125-700-0035	1-30-06	Adopt	3-1-06
123-027-0211	2-10-06	Amend	3-1-06	125-700-0040	1-30-06	Adopt	3-1-06
123-071-0000	12-1-05	Repeal	1-1-06	125-700-0045	1-30-06	Adopt	3-1-06
123-071-0010	12-1-05	Repeal	1-1-06	125-700-0050	1-30-06	Adopt	3-1-06
123-071-0020	12-1-05	Repeal	1-1-06	125-700-0055	1-30-06	Adopt	3-1-06
123-071-0030	12-1-05	Repeal	1-1-06	125-700-0060	1-30-06	Adopt	3-1-06
123-071-0040	12-1-05	Repeal	1-1-06	137-008-0005	1-1-06	Amend	1-1-06
123-071-0050	12-1-05	Repeal	1-1-06	137-008-0010	1-1-06	Amend	2-1-06
123-125-0000	12-1-05	Amend	1-1-06	137-008-0010(T)	1-1-06	Repeal	2-1-06
123-125-0020	12-1-05	Amend	1-1-06	137-010-0030	12-31-05	Amend	1-1-06
123-125-0040	12-1-05	Amend	1-1-06	137-025-0300	1-4-06	Amend	2-1-06
123-125-0060	12-1-05	Repeal	1-1-06	137-045-0010	1-1-06	Amend	2-1-06
123-125-0080	12-1-05	Repeal	1-1-06	137-045-0035	1-1-06	Amend	2-1-06
123-125-0100	12-1-05	Repeal	1-1-06	137-045-0050	1-1-06	Amend	2-1-06
123-125-0120	12-1-05	Repeal	1-1-06	137-045-0070	1-1-06	Amend	2-1-06
123-125-0140	12-1-05	Repeal	1-1-06	137-045-0080	1-1-06	Amend	2-1-06
125-055-0110	1-5-06	Repeal	2-1-06	137-046-0100	1-1-06	Amend	2-1-06
125-125-0050	3-15-06	Amend	4-1-06	137-046-0110	1-1-06	Amend	2-1-06
125-125-0100	3-15-06	Amend	4-1-06	137-046-0130	1-1-06	Amend	2-1-06
125-125-0150	3-15-06	Amend	4-1-06	137-046-0200	1-1-06	Amend	2-1-06
125-125-0200	3-15-06	Amend	4-1-06	137-046-0210	1-1-06	Amend	2-1-06
125-125-0250	3-15-06	Amend	4-1-06	137-046-0300	1-1-06	Amend	2-1-06
125-125-0300	3-15-06	Amend	4-1-06	137-046-0310	1-1-06	Amend	2-1-06
125-125-0350	3-15-06	Amend	4-1-06	137-046-0320	1-1-06	Amend	2-1-06
125-125-0400	3-15-06	Amend	4-1-06	137-046-0400	1-1-06	Amend	2-1-06
125-125-0450	3-15-06	Amend	4-1-06	137-046-0410	1-1-06	Amend	2-1-06
125-145-0010	3-13-06	Amend(T)	4-1-06	137-046-0440	1-1-06	Amend	2-1-06
125-145-0010(T)	3-13-06	Suspend	4-1-06	137-046-0460	1-1-06	Amend	2-1-06
125-145-0020	3-13-06	Amend(T)	4-1-06	137-046-0470	1-1-06	Amend	2-1-06
125-145-0020(T)	3-13-06	Suspend	4-1-06	137-046-0480	1-1-06	Amend	2-1-06
125-145-0030	3-13-06	Amend(T)	4-1-06	137-047-0000	1-1-06	Amend	2-1-06
125-145-0030(T)	3-13-06	Suspend	4-1-06	137-047-0100	1-1-06	Amend	2-1-06
125-145-0040	3-13-06	Amend(T)	4-1-06	137-047-0250	1-1-06	Amend	2-1-06
125-145-0040(T)	3-13-06	Suspend	4-1-06	137-047-0257	1-1-06	Amend	2-1-06
125-145-0045	3-13-06	Amend(T)	4-1-06	137-047-0260	1-1-06	Amend	2-1-06
125-145-0045(T)	3-13-06	Suspend	4-1-06	137-047-0262	1-1-06	Amend	2-1-06
125-145-0060	3-13-06	Amend(T)	4-1-06	137-047-0263	1-1-06	Amend	2-1-06
125-145-0060(T)	3-13-06	Suspend	4-1-06	137-047-0265	1-1-06	Amend	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-047-0270	1-1-06	Amend	2-1-06	137-049-0620	1-1-06	Amend	2-1-06
137-047-0275	1-1-06	Amend	2-1-06	137-049-0630	1-1-06	Amend	2-1-06
137-047-0280	1-1-06	Amend	2-1-06	137-049-0640	1-1-06	Amend	2-1-06
137-047-0285	1-1-06	Amend	2-1-06	137-049-0645	1-1-06	Adopt	2-1-06
137-047-0300	1-1-06	Amend	2-1-06	137-049-0650	1-1-06	Amend	2-1-06
137-047-0330	1-1-06	Amend	2-1-06	137-049-0660	1-1-06	Amend	2-1-06
137-047-0400	1-1-06	Amend	2-1-06	137-049-0670	1-1-06	Amend	2-1-06
137-047-0410	1-1-06	Amend	2-1-06	137-049-0680	1-1-06	Amend	2-1-06
137-047-0700	1-1-06	Amend	2-1-06	137-049-0690	1-1-06	Amend	2-1-06
137-047-0730	1-1-06	Amend	2-1-06	137-049-0815	1-1-06	Adopt	2-1-06
137-047-0740	1-1-06	Amend	2-1-06	137-049-0820	1-1-06	Amend	2-1-06
137-047-0745	1-1-06	Amend	2-1-06	137-049-0860	1-1-06	Amend	2-1-06
137-047-0800	1-1-06	Amend	2-1-06	137-049-0870	1-1-06	Amend	2-1-06
137-047-0810	1-1-06	Adopt	2-1-06	137-049-0900	1-1-06	Amend	2-1-06
137-048-0100	1-1-06	Amend	2-1-06	137-049-0910	1-1-06	Amend	2-1-06
137-048-0110	1-1-06	Amend	2-1-06	137-055-1020	1-3-06	Amend	2-1-06
137-048-0120	1-1-06	Amend	2-1-06	137-055-1040	1-3-06	Amend	2-1-06
137-048-0130	1-1-06	Amend	2-1-06	137-055-1060	1-3-06	Amend	2-1-06
137-048-0200	1-1-06	Amend	2-1-06	137-055-1070	1-3-06	Amend	2-1-06
137-048-0210	1-1-06	Amend	2-1-06	137-055-1070(T)	1-3-06	Repeal	2-1-06
137-048-0220	1-1-06	Amend	2-1-06	137-055-1090	1-3-06	Amend	2-1-06
137-048-0230	1-1-06	Amend	2-1-06	137-055-1100	1-3-06	Amend	2-1-06
137-048-0240	1-1-06	Amend	2-1-06	137-055-1120	1-3-06	Amend	2-1-06
137-048-0250	1-1-06	Amend	2-1-06	137-055-1120(T)	1-3-06	Repeal	2-1-06
137-048-0260	1-1-06	Amend	2-1-06	137-055-1140	1-3-06	Amend	2-1-06
137-048-0300	1-1-06	Amend	2-1-06	137-055-1140(T)	1-3-06	Repeal	2-1-06
137-048-0310	1-1-06	Amend	2-1-06	137-055-1145	1-3-06	Amend	2-1-06
137-048-0320	1-1-06	Amend	2-1-06	137-055-1160	1-3-06	Amend	2-1-06
137-049-0100	1-1-06	Amend	2-1-06	137-055-1160(T)	1-3-06	Repeal	2-1-06
137-049-0120	1-1-06	Amend	2-1-06	137-055-1180	1-3-06	Amend	2-1-06
137-049-0130	1-1-06	Amend	2-1-06	137-055-1180(T)	1-3-06	Repeal	2-1-06
137-049-0140	1-1-06	Amend	2-1-06	137-055-1600	1-3-06	Amend	2-1-06
137-049-0150	1-1-06	Amend	2-1-06	137-055-2045	1-3-06	Adopt	2-1-06
137-049-0160	1-1-06	Amend	2-1-06	137-055-2060	1-3-06	Amend	2-1-06
137-049-0200	1-1-06	Amend	2-1-06	137-055-2140	1-3-06	Amend	2-1-06
137-049-0210	1-1-06	Amend	2-1-06	137-055-2160	1-3-06	Amend(T)	2-1-06
137-049-0220	1-1-06	Amend	2-1-06	137-055-3020	1-3-06	Amend(T)	2-1-06
137-049-0260	1-1-06	Amend	2-1-06	137-055-3060	1-3-06	Amend(T)	2-1-06
137-049-0280	1-1-06	Amend	2-1-06	137-055-3140	1-3-06	Amend(T)	2-1-06
137-049-0290	1-1-06	Amend	2-1-06	137-055-3220	1-3-06	Amend	2-1-06
137-049-0300	1-1-06	Amend	2-1-06	137-055-3240	1-3-06	Amend	2-1-06
137-049-0310	1-1-06	Amend	2-1-06	137-055-3240(T)	1-3-06	Repeal	2-1-06
137-049-0320	1-1-06	Amend	2-1-06	137-055-3280	1-3-06	Amend	2-1-06
137-049-0330	1-1-06	Amend	2-1-06	137-055-3400	1-3-06	Amend	2-1-06
137-049-0360	1-1-06	Amend	2-1-06	137-055-3420	1-3-06	Amend	2-1-06
137-049-0370	1-1-06	Amend	2-1-06	137-055-3420(T)	1-3-06	Repeal	2-1-06
137-049-0380	1-1-06	Amend	2-1-06	137-055-3430	1-3-06	Amend	2-1-06
137-049-0390	1-1-06	Amend	2-1-06	137-055-3430(T)	1-3-06	Repeal	2-1-06
137-049-0395	1-1-06	Adopt	2-1-06	137-055-3440	1-3-06	Amend	2-1-06
137-049-0400	1-1-06	Amend	2-1-06	137-055-3440(T)	1-3-06	Repeal	2-1-06
137-049-0420	1-1-06	Amend	2-1-06	137-055-3480	1-3-06	Amend	2-1-06
137-049-0430	1-1-06	Amend	2-1-06	137-055-3490	1-3-06	Amend	2-1-06
137-049-0440	1-1-06	Amend	2-1-06	137-055-3490(T)	1-3-06	Repeal	2-1-06
137-049-0450	1-1-06	Amend	2-1-06	137-055-3500(T)	1-3-06	Repeal	2-1-06
137-049-0460	1-1-06	Amend	2-1-06	137-055-3640	1-3-06	Amend	2-1-06
137-049-0610	1-1-06	Amend	2-1-06	137-055-3660	1-3-06	Amend	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-055-4060	1-3-06	Amend	2-1-06	137-087-0065	1-1-06	Adopt	1-1-06
137-055-4080	1-3-06	Amend	2-1-06	137-087-0070	1-1-06	Adopt	1-1-06
137-055-4100	1-3-06	Amend	2-1-06	137-087-0075	1-1-06	Adopt	1-1-06
137-055-4110	1-3-06	Amend	2-1-06	137-087-0080	1-1-06	Adopt	1-1-06
137-055-4120	1-3-06	Amend	2-1-06	137-087-0085	1-1-06	Adopt	1-1-06
137-055-4120(T)	1-3-06	Repeal	2-1-06	137-087-0090	1-1-06	Adopt	1-1-06
137-055-4130	1-3-06	Amend	2-1-06	137-087-0095	1-1-06	Adopt	1-1-06
137-055-4160	1-3-06	Amend	2-1-06	137-087-0100	1-1-06	Adopt	1-1-06
137-055-4300	1-3-06	Amend	2-1-06	141-089-0105	1-3-06	Amend	2-1-06
137-055-4320	1-3-06	Amend	2-1-06	141-089-0110	1-3-06	Amend	2-1-06
137-055-4420	1-3-06	Amend	2-1-06	141-089-0115	1-3-06	Amend	2-1-06
137-055-4450	1-3-06	Amend	2-1-06	141-089-0120	1-3-06	Amend	2-1-06
137-055-4520	1-3-06	Amend	2-1-06	141-089-0130	1-3-06	Amend	2-1-06
137-055-4540	1-3-06	Amend	2-1-06	141-089-0145	1-3-06	Amend	2-1-06
137-055-4540(T)	1-3-06	Repeal	2-1-06	141-089-0150	1-3-06	Amend	2-1-06
137-055-4560	1-3-06	Amend	2-1-06	141-089-0155	1-3-06	Amend	2-1-06
137-055-5020	1-3-06	Amend	2-1-06	141-089-0165	1-3-06	Amend	2-1-06
137-055-5020(T)	1-3-06	Repeal	2-1-06	141-089-0170	1-3-06	Amend	2-1-06
137-055-5025	1-3-06	Amend	2-1-06	141-089-0175	1-3-06	Amend	2-1-06
137-055-5110	1-3-06	Amend	2-1-06	141-089-0180	1-3-06	Amend	2-1-06
137-055-5110(T)	1-3-06	Repeal	2-1-06	141-089-0185	1-3-06	Amend	2-1-06
137-055-5120	1-3-06	Amend	2-1-06	141-089-0190	1-3-06	Amend	2-1-06
137-055-5120(T)	1-3-06	Repeal	2-1-06	141-089-0200	1-3-06	Amend	2-1-06
137-055-5125	1-3-06	Repeal	2-1-06	141-089-0220	1-3-06	Amend	2-1-06
137-055-5240	1-3-06	Amend	2-1-06	141-089-0225	1-3-06	Amend	2-1-06
137-055-5240(T)	1-3-06	Repeal	2-1-06	141-089-0230	1-3-06	Amend	2-1-06
137-055-5400	1-3-06	Amend	2-1-06	141-089-0240	1-3-06	Amend	2-1-06
137-055-5400(T)	1-3-06	Repeal	2-1-06	141-089-0250	1-3-06	Amend	2-1-06
137-055-5420	1-3-06	Amend	2-1-06	141-089-0255	1-3-06	Amend	2-1-06
137-055-5510	1-3-06	Amend	2-1-06	141-089-0265	1-3-06	Amend	2-1-06
137-055-5510(T)	1-3-06	Repeal	2-1-06	141-089-0275	1-3-06	Amend	2-1-06
137-055-5520	1-3-06	Amend	2-1-06	141-089-0295	1-3-06	Amend	2-1-06
137-055-5520(T)	1-3-06	Repeal	2-1-06	141-089-0300	1-3-06	Amend	2-1-06
137-055-6021	1-3-06	Adopt	2-1-06	141-089-0310	1-3-06	Amend	2-1-06
137-055-6021(T)	1-3-06	Repeal	2-1-06	141-089-0415	1-3-06	Amend	2-1-06
137-055-6025	1-3-06	Amend	2-1-06	141-089-0420	1-3-06	Amend	2-1-06
137-055-6040	1-3-06	Amend	2-1-06	141-089-0430	1-3-06	Amend	2-1-06
137-055-6200	1-3-06	Amend	2-1-06	141-089-0430	1-3-06	Amend	2-1-06
137-055-6200(T)	1-3-06	Repeal	2-1-06	141-089-0520	1-3-06	Amend	2-1-06
137-055-6210	1-3-06	Amend	2-1-06	141-089-0530	1-3-06	Amend	2-1-06
137-055-6220	1-3-06	Amend	2-1-06	141-089-0555	1-3-06	Amend	2-1-06
137-055-6260	1-3-06	Amend	2-1-06	141-089-0560	1-3-06	Amend	2-1-06
137-055-6260	1-3-06	Amend	2-1-06	141-089-0565	1-3-06	Amend	2-1-06
137-055-6280	1-3-06	Amend	2-1-06	141-089-0570	1-3-06	Amend	2-1-06
137-087-0000	1-1-06	Adopt	1-1-06	141-089-0580	1-3-06	Amend	2-1-06
137-087-0005	1-1-06	Adopt	1-1-06	141-089-0595	1-3-06	Amend	2-1-06
137-087-0010	1-1-06	Adopt	1-1-06	141-089-0600	1-3-06	Amend	2-1-06
137-087-0015	1-1-06	Adopt	1-1-06	141-089-0605	1-3-06	Amend	2-1-06
137-087-0020	1-1-06	Adopt	1-1-06	141-089-0615	1-3-06	Amend	2-1-06
137-087-0025	1-1-06	Adopt	1-1-06	150-137.300(3)	1-1-06	Amend	2-1-06
137-087-0030	1-1-06	Adopt	1-1-06	150-137.302(7)	1-1-06	Amend	2-1-06
137-087-0035	1-1-06	Adopt	1-1-06	150-305.145	1-1-06	Amend	2-1-06
137-087-0040	1-1-06	Adopt	1-1-06	150-305.145(3)	1-1-06	Adopt	2-1-06
137-087-0045	1-1-06	Adopt	1-1-06	150-305.145(3)-(B)	1-1-06	Repeal	2-1-06
137-087-0050	1-1-06	Adopt	1-1-06	150-305.145(3)-(D)	1-1-06	Repeal	2-1-06
137-087-0055	1-1-06	Adopt	1-1-06	150-305.145(3)-(E)	1-1-06	Repeal	2-1-06
137-087-0060	1-1-06	Adopt	1-1-06	150-305.145(3)-(F)	1-1-06	Repeal	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
150-305.145(3)-(G)	1-1-06	Repeal	2-1-06	165-012-0240	12-30-05	Adopt	2-1-06
150-305.145(3)-(H)	1-1-06	Repeal	2-1-06	165-012-1010	12-30-05	Suspend	2-1-06
150-305.145(4)(a)	1-1-06	Am. & Ren.	2-1-06	165-013-0010	12-30-05	Amend	2-1-06
150-305.145(4)(b)	1-1-06	Adopt	2-1-06	165-013-0020	12-30-05	Amend	2-1-06
150-305.145(4)(c)	1-1-06	Am. & Ren.	2-1-06	165-014-0005	12-14-05	Amend	1-1-06
150-305.220(1)	1-1-06	Amend	2-1-06	165-014-0110	12-14-05	Amend	1-1-06
150-305.220(2)	1-1-06	Amend	2-1-06	165-020-0005	12-14-05	Amend	1-1-06
150-305.230	1-1-06	Amend	2-1-06	170-030-0055	12-15-05	Adopt	1-1-06
150-305.230(1)	1-1-06	Repeal	2-1-06	177-010-0100	3-1-06	Amend	4-1-06
150-305.230(2)	1-1-06	Repeal	2-1-06	177-035-0000	12-31-05	Repeal	2-1-06
150-305.992	1-1-06	Amend	2-1-06	177-035-0110	12-31-05	Repeal	2-1-06
150-306.132	1-1-06	Adopt	2-1-06	177-035-0115	12-31-05	Repeal	2-1-06
150-306.135	1-1-06	Adopt	2-1-06	177-035-0120	12-31-05	Repeal	2-1-06
150-308.242(3)	1-1-06	Adopt	2-1-06	177-035-0130	12-31-05	Repeal	2-1-06
150-308.865	1-1-06	Amend	2-1-06	177-035-0140	12-31-05	Repeal	2-1-06
150-308.865(4)	1-1-06	Repeal	2-1-06	177-035-0150	12-31-05	Repeal	2-1-06
150-311.507(1)(d)	1-1-06	Am. & Ren.	2-1-06	177-035-0160	12-31-05	Repeal	2-1-06
150-314.280-(N)	1-1-06	Amend	2-1-06	177-035-0200	12-31-05	Repeal	2-1-06
150-314.280(3)	1-1-06	Amend	2-1-06	177-035-0210	12-31-05	Repeal	2-1-06
150-314.385(1)-(D)	1-1-06	Renumber	2-1-06	177-035-0220	12-31-05	Repeal	2-1-06
150-314.415(1)(b)-(A)	1-1-06	Renumber	2-1-06	177-035-0230	12-31-05	Repeal	2-1-06
150-314.415(1)(b)-(B)	1-1-06	Renumber	2-1-06	177-035-0300	12-31-05	Repeal	2-1-06
150-314.415(1)(e)-(A)	1-1-06	Renumber	2-1-06	177-035-0310	12-31-05	Repeal	2-1-06
150-314.415(1)(e)-(B)	1-1-06	Renumber	2-1-06	177-035-0400	12-31-05	Repeal	2-1-06
150-314.415(4)(a)	1-1-06	Renumber	2-1-06	177-035-0600	12-31-05	Repeal	2-1-06
150-314.415(5)	1-1-06	Renumber	2-1-06	177-036-0000	12-31-05	Adopt	2-1-06
150-314.415(7)	1-1-06	Am. & Ren.	2-1-06	177-036-0000(T)	12-31-05	Repeal	2-1-06
150-314.415(7)	1-1-06	Renumber	2-1-06	177-036-0010	12-31-05	Adopt	2-1-06
150-314.505-(A)	1-1-06	Amend	2-1-06	177-036-0010(T)	12-31-05	Repeal	2-1-06
150-314.515	1-1-06	Amend	2-1-06	177-036-0020	12-31-05	Adopt	2-1-06
150-314.650	1-1-06	Amend	2-1-06	177-036-0020(T)	12-31-05	Repeal	2-1-06
150-314.665(2)-(A)	1-1-06	Amend	2-1-06	177-036-0030	12-31-05	Adopt	2-1-06
150-314.752	1-1-06	Amend	2-1-06	177-036-0030(T)	12-31-05	Repeal	2-1-06
150-315.204-(A)	1-1-06	Amend	2-1-06	177-036-0040	12-31-05	Adopt	2-1-06
150-315.234(8)	1-1-06	Repeal	2-1-06	177-036-0040(T)	12-31-05	Repeal	2-1-06
150-315.262	1-1-06	Amend	2-1-06	177-036-0050	12-31-05	Adopt	2-1-06
150-316.099	1-1-06	Amend	2-1-06	177-036-0050(T)	12-31-05	Repeal	2-1-06
150-316.127-(A)	1-20-06	Amend	3-1-06	177-036-0055	12-31-05	Adopt	2-1-06
150-316.127-(D)	1-20-06	Amend	3-1-06	177-036-0055(T)	12-31-05	Repeal	2-1-06
150-316.162(2)(j)	1-1-06	Amend	2-1-06	177-036-0060	12-31-05	Adopt	2-1-06
150-317.018	1-1-06	Amend	2-1-06	177-036-0060(T)	12-31-05	Repeal	2-1-06
150-317.097	1-1-06	Amend	2-1-06	177-036-0070	12-31-05	Adopt	2-1-06
150-317.267-(B)	1-1-06	Amend	2-1-06	177-036-0070(T)	12-31-05	Repeal	2-1-06
150-320.305	1-1-06	Amend	2-1-06	177-036-0080	12-31-05	Adopt	2-1-06
150-321.706(2)	1-1-06	Amend	2-1-06	177-036-0080(T)	12-31-05	Repeal	2-1-06
150-OL 2005 Ch. 387	1-1-06	Adopt	2-1-06	177-036-0090	12-31-05	Adopt	2-1-06
160-010-0400	2-1-06	Amend	3-1-06	177-036-0090(T)	12-31-05	Repeal	2-1-06
160-050-0200	2-6-06	Amend	3-1-06	177-036-0100	12-31-05	Adopt	2-1-06
160-050-0210	2-6-06	Amend	3-1-06	177-036-0100(T)	12-31-05	Repeal	2-1-06
160-100-0300	12-1-05	Repeal	1-1-06	177-036-0110	12-31-05	Adopt	2-1-06
165-001-0000	12-14-05	Amend	1-1-06	177-036-0110(T)	12-31-05	Repeal	2-1-06
165-001-0005	3-7-06	Amend	4-1-06	177-036-0115	12-31-05	Adopt	2-1-06
165-007-0280	12-14-05	Adopt	1-1-06	177-036-0115(T)	12-31-05	Repeal	2-1-06
165-010-0005	12-14-05	Amend	1-1-06	177-036-0120	12-31-05	Adopt	2-1-06
165-010-0120	12-30-05	Adopt	2-1-06	177-036-0120(T)	12-31-05	Repeal	2-1-06
165-012-0005	12-30-05	Amend	2-1-06	177-036-0130	12-31-05	Adopt	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
177-036-0130(T)	12-31-05	Repeal	2-1-06	177-070-0035	12-31-05	Amend	2-1-06
177-036-0140	12-31-05	Adopt	2-1-06	177-070-0035(T)	12-31-05	Repeal	2-1-06
177-036-0140(T)	12-31-05	Repeal	2-1-06	177-085-0005	12-31-05	Amend	2-1-06
177-036-0150	12-31-05	Adopt	2-1-06	177-085-0005(T)	12-31-05	Repeal	2-1-06
177-036-0150(T)	12-31-05	Repeal	2-1-06	177-085-0015	12-31-05	Amend	2-1-06
177-036-0160	12-31-05	Adopt	2-1-06	177-085-0015(T)	12-31-05	Repeal	2-1-06
177-036-0160(T)	12-31-05	Repeal	2-1-06	177-085-0020	12-31-05	Amend	2-1-06
177-036-0170	12-31-05	Adopt	2-1-06	177-085-0020(T)	12-31-05	Repeal	2-1-06
177-036-0170(T)	12-31-05	Repeal	2-1-06	177-085-0025	12-31-05	Amend	2-1-06
177-036-0180	12-31-05	Adopt	2-1-06	177-085-0025(T)	12-31-05	Repeal	2-1-06
177-036-0180(T)	12-31-05	Repeal	2-1-06	177-085-0030	12-31-05	Amend	2-1-06
177-036-0190	12-31-05	Adopt	2-1-06	177-085-0030(T)	12-31-05	Repeal	2-1-06
177-036-0190(T)	12-31-05	Repeal	2-1-06	177-085-0035	12-31-05	Amend	2-1-06
177-036-0200	12-31-05	Adopt	2-1-06	177-085-0035(T)	12-31-05	Repeal	2-1-06
177-036-0200(T)	12-31-05	Repeal	2-1-06	177-085-0065	12-31-05	Amend	2-1-06
177-036-0210	12-31-05	Adopt	2-1-06	177-085-0065(T)	12-31-05	Repeal	2-1-06
177-036-0210(T)	12-31-05	Repeal	2-1-06	177-200-0020	12-31-05	Amend	2-1-06
177-037-0000	12-31-05	Adopt	2-1-06	177-200-0020(T)	12-31-05	Repeal	2-1-06
177-037-0000(T)	12-31-05	Repeal	2-1-06	220-005-0005	12-30-05	Amend(T)	2-1-06
177-037-0010	12-31-05	Adopt	2-1-06	220-005-0010	12-30-05	Amend(T)	2-1-06
177-037-0010(T)	12-31-05	Repeal	2-1-06	220-005-0015	12-30-05	Amend(T)	2-1-06
177-037-0020	12-31-05	Adopt	2-1-06	220-005-0110	12-30-05	Amend(T)	2-1-06
177-037-0020(T)	12-31-05	Repeal	2-1-06	220-005-0115	12-30-05	Amend(T)	2-1-06
177-037-0030	12-31-05	Adopt	2-1-06	220-005-0120	12-30-05	Amend(T)	2-1-06
177-037-0030(T)	12-31-05	Repeal	2-1-06	220-005-0130	12-30-05	Amend(T)	2-1-06
177-037-0040	12-31-05	Adopt	2-1-06	220-005-0135	12-30-05	Amend(T)	2-1-06
177-037-0040(T)	12-31-05	Repeal	2-1-06	220-005-0140	12-30-05	Amend(T)	2-1-06
177-037-0050	12-31-05	Adopt	2-1-06	220-005-0150	12-30-05	Amend(T)	2-1-06
177-037-0050(T)	12-31-05	Repeal	2-1-06	220-005-0160	12-30-05	Amend(T)	2-1-06
177-037-0060	12-31-05	Adopt	2-1-06	220-005-0170	12-30-05	Amend(T)	2-1-06
177-037-0060(T)	12-31-05	Repeal	2-1-06	220-005-0210	12-30-05	Amend(T)	2-1-06
177-037-0070	12-31-05	Adopt	2-1-06	220-005-0220	12-30-05	Amend(T)	2-1-06
177-037-0070(T)	12-31-05	Repeal	2-1-06	220-005-0225	12-30-05	Adopt(T)	2-1-06
177-040-0000	3-1-06	Amend	4-1-06	220-005-0230	12-30-05	Suspend	2-1-06
177-040-0010	12-31-05	Amend	2-1-06	220-005-0240	12-30-05	Suspend	2-1-06
177-040-0017	12-31-05	Amend	2-1-06	220-005-0245	12-30-05	Adopt(T)	2-1-06
177-040-0017(T)	12-31-05	Repeal	2-1-06	220-005-0250	12-30-05	Amend(T)	2-1-06
177-040-0026	11-23-05	Amend(T)	1-1-06	220-010-0020	12-30-05	Amend(T)	2-1-06
177-040-0026	1-25-06	Amend	3-1-06	220-010-0030	12-30-05	Amend(T)	2-1-06
177-040-0026(T)	1-25-06	Repeal	3-1-06	220-010-0050	12-30-05	Amend(T)	2-1-06
177-040-0029	12-31-05	Amend	2-1-06	220-010-0060	12-30-05	Amend(T)	2-1-06
177-040-0105	12-31-05	Amend	2-1-06	220-010-0200	12-30-05	Suspend	2-1-06
177-040-0300	3-1-06	Adopt	4-1-06	220-010-0300	12-30-05	Amend(T)	2-1-06
177-040-0310	3-1-06	Adopt	4-1-06	220-030-0035	12-30-05	Amend(T)	2-1-06
177-040-0320	3-1-06	Adopt	4-1-06	220-040-0015	12-30-05	Amend(T)	2-1-06
177-046-0020	12-31-05	Amend	2-1-06	220-040-0025	12-30-05	Suspend	2-1-06
177-046-0020(T)	12-31-05	Repeal	2-1-06	220-040-0035	12-30-05	Amend(T)	2-1-06
177-046-0110	12-31-05	Amend	2-1-06	220-040-0045	12-30-05	Amend(T)	2-1-06
177-046-0110(T)	12-31-05	Repeal	2-1-06	220-040-0050	12-30-05	Amend(T)	2-1-06
177-050-0025	12-31-05	Amend	2-1-06	220-050-0105	12-30-05	Suspend	2-1-06
177-050-0025(T)	12-31-05	Repeal	2-1-06	220-050-0110	12-30-05	Amend(T)	2-1-06
177-050-0027	12-31-05	Amend	2-1-06	220-050-0140	12-30-05	Amend(T)	2-1-06
177-050-0027(T)	12-31-05	Repeal	2-1-06	220-050-0150	12-30-05	Suspend	2-1-06
177-050-0037	12-31-05	Amend	2-1-06	220-050-0300	12-30-05	Amend(T)	2-1-06
177-070-0025	12-31-05	Amend	2-1-06	250-016-0012	1-1-06	Adopt	2-1-06
177-070-0025(T)	12-31-05	Repeal	2-1-06	255-075-0035	12-29-05	Amend	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
257-050-0020	11-18-05	Adopt	1-1-06	291-047-0061	1-1-06	Adopt	2-1-06
257-050-0040	11-18-05	Amend	1-1-06	291-047-0065	1-1-06	Adopt	2-1-06
257-050-0070	11-18-05	Amend	1-1-06	291-047-0070	1-1-06	Adopt	2-1-06
257-050-0080	11-18-05	Repeal	1-1-06	291-047-0075	1-1-06	Adopt	2-1-06
257-050-0090	11-18-05	Amend	1-1-06	291-047-0080	1-1-06	Adopt	2-1-06
257-050-0120	11-18-05	Repeal	1-1-06	291-047-0085	1-1-06	Adopt	2-1-06
257-050-0125	11-18-05	Adopt	1-1-06	291-047-0090	1-1-06	Adopt	2-1-06
257-050-0140	11-18-05	Amend	1-1-06	291-047-0095	1-1-06	Adopt	2-1-06
257-050-0145	11-18-05	Adopt	1-1-06	291-047-0100	1-1-06	Adopt	2-1-06
257-050-0150	11-18-05	Amend	1-1-06	291-047-0105	1-1-06	Adopt	2-1-06
257-050-0157	11-18-05	Adopt	1-1-06	291-047-0110	1-1-06	Adopt	2-1-06
257-050-0160	11-18-05	Repeal	1-1-06	291-047-0115	1-1-06	Am. & Ren.	2-1-06
257-050-0170	11-18-05	Adopt	1-1-06	291-047-0120	1-1-06	Am. & Ren.	2-1-06
257-050-0200	11-18-05	Adopt	1-1-06	291-047-0125	1-1-06	Am. & Ren.	2-1-06
259-008-0010	2-28-06	Amend	4-1-06	291-047-0130	1-1-06	Am. & Ren.	2-1-06
259-008-0045	2-28-06	Amend	4-1-06	291-047-0135	1-1-06	Am. & Ren.	2-1-06
259-008-0076	12-7-05	Adopt	1-1-06	291-047-0140	1-1-06	Am. & Ren.	2-1-06
259-009-0005	1-24-06	Amend	3-1-06	291-063-0010	1-1-06	Amend	2-1-06
259-009-0059	1-23-06	Adopt(T)	3-1-06	291-063-0016	1-1-06	Amend	2-1-06
259-009-0062	1-24-06	Amend	3-1-06	291-063-0030	1-1-06	Amend	2-1-06
259-009-0065	1-24-06	Amend	3-1-06	291-063-0050	1-1-06	Amend	2-1-06
274-010-0100	1-27-06	Amend	3-1-06	291-077-0020	2-15-06	Amend	3-1-06
274-010-0115	1-27-06	Amend	3-1-06	291-077-0030	2-15-06	Amend	3-1-06
274-010-0120	1-27-06	Amend	3-1-06	291-077-0033	2-15-06	Amend	3-1-06
274-010-0135	1-27-06	Amend	3-1-06	291-077-0035	2-15-06	Amend	3-1-06
274-010-0140	1-27-06	Repeal	3-1-06	291-104-0010	12-7-05	Amend	1-1-06
274-010-0145	1-27-06	Amend	3-1-06	291-104-0015	12-7-05	Amend	1-1-06
274-010-0150	1-27-06	Repeal	3-1-06	291-104-0030	12-7-05	Amend	1-1-06
274-010-0155	1-27-06	Amend	3-1-06	291-104-0035	12-7-05	Amend	1-1-06
274-010-0160	1-27-06	Amend	3-1-06	291-130-0006	3-13-06	Amend	4-1-06
274-010-0170	1-27-06	Amend	3-1-06	291-130-0010	3-13-06	Repeal	4-1-06
274-010-0175	1-27-06	Amend	3-1-06	291-130-0011	3-13-06	Adopt	4-1-06
274-012-0001	2-23-06	Adopt(T)	4-1-06	291-130-0016	3-13-06	Am. & Ren.	4-1-06
274-012-0100	2-23-06	Adopt(T)	4-1-06	291-130-0020	3-13-06	Amend	4-1-06
274-012-0105	2-23-06	Adopt(T)	4-1-06	291-130-0021	3-13-06	Adopt	4-1-06
274-012-0110	2-23-06	Adopt(T)	4-1-06	291-130-0030	3-13-06	Amend	4-1-06
274-012-0115	2-23-06	Adopt(T)	4-1-06	291-130-0050	3-13-06	Amend	4-1-06
274-012-0120	2-23-06	Adopt(T)	4-1-06	291-130-0060	3-13-06	Amend	4-1-06
274-012-0125	2-23-06	Adopt(T)	4-1-06	291-130-0070	3-13-06	Repeal	4-1-06
274-012-0130	2-23-06	Adopt(T)	4-1-06	291-130-0080	3-13-06	Adopt	4-1-06
274-012-0131	2-23-06	Adopt(T)	4-1-06	309-120-0000(T)	1-1-06	Repeal	2-1-06
274-020-0340	12-27-05	Amend	2-1-06	309-120-0005(T)	1-1-06	Repeal	2-1-06
274-030-0600	12-23-05	Adopt(T)	2-1-06	309-120-0015	1-1-06	Repeal	2-1-06
274-030-0605	12-23-05	Adopt(T)	2-1-06	309-120-0020	1-1-06	Repeal	2-1-06
274-030-0610	12-23-05	Adopt(T)	2-1-06	309-120-0021(T)	1-1-06	Repeal	2-1-06
274-030-0615	12-23-05	Adopt(T)	2-1-06	309-120-0070	1-1-06	Adopt	2-1-06
274-030-0620	12-23-05	Adopt(T)	2-1-06	309-120-0070(T)	1-1-06	Repeal	2-1-06
274-030-0621	12-23-05	Adopt(T)	2-1-06	309-120-0075	1-1-06	Adopt	2-1-06
274-030-0630	12-23-05	Adopt(T)	2-1-06	309-120-0075(T)	1-1-06	Repeal	2-1-06
274-030-0640	12-23-05	Adopt(T)	2-1-06	309-120-0080	1-1-06	Adopt	2-1-06
274-045-0060	12-27-05	Amend	2-1-06	309-120-0080(T)	1-1-06	Repeal	2-1-06
291-047-0005	1-1-06	Amend	2-1-06	309-120-0200	1-1-06	Am. & Ren.	2-1-06
291-047-0010	1-1-06	Amend	2-1-06	309-120-0205	1-1-06	Am. & Ren.	2-1-06
291-047-0020	1-1-06	Repeal	2-1-06	309-120-0210	1-1-06	Adopt	2-1-06
291-047-0021	1-1-06	Adopt	2-1-06	309-120-0215	1-1-06	Adopt	2-1-06
291-047-0025	1-1-06	Repeal	2-1-06	309-120-0220	1-1-06	Adopt	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-120-0225	1-1-06	Adopt	2-1-06	331-410-0000	1-1-06	Amend	1-1-06
309-120-0230	1-1-06	Adopt	2-1-06	331-410-0010	1-1-06	Amend	1-1-06
309-120-0235	1-1-06	Adopt	2-1-06	331-410-0020	1-1-06	Amend	1-1-06
309-120-0240	1-1-06	Adopt	2-1-06	331-410-0030	1-1-06	Amend	1-1-06
309-120-0245	1-1-06	Adopt	2-1-06	331-410-0040	1-1-06	Amend	1-1-06
309-120-0250	1-1-06	Adopt	2-1-06	333-008-0000	1-1-06	Amend	2-1-06
309-120-0255	1-1-06	Adopt	2-1-06	333-008-0010	1-1-06	Amend	2-1-06
309-120-0260	1-1-06	Adopt	2-1-06	333-008-0020	12-1-05	Amend	1-1-06
309-120-0265	1-1-06	Adopt	2-1-06	333-008-0020	1-1-06	Amend	2-1-06
309-120-0270	1-1-06	Am. & Ren.	2-1-06	333-008-0025	1-1-06	Adopt	2-1-06
309-120-0275	1-1-06	Am. & Ren.	2-1-06	333-008-0030	1-1-06	Amend	2-1-06
309-120-0280	1-1-06	Am. & Ren.	2-1-06	333-008-0040	1-1-06	Amend	2-1-06
309-120-0285	1-1-06	Am. & Ren.	2-1-06	333-008-0050	1-1-06	Amend	2-1-06
309-120-0290	1-1-06	Am. & Ren.	2-1-06	333-008-0060	1-1-06	Amend	2-1-06
309-120-0295	1-1-06	Am. & Ren.	2-1-06	333-008-0070	1-1-06	Amend	2-1-06
325-005-0015	2-6-06	Adopt	3-1-06	333-008-0080	1-1-06	Amend	2-1-06
325-010-0001	2-6-06	Adopt	3-1-06	333-008-0090	1-1-06	Amend	2-1-06
325-010-0005	2-6-06	Adopt	3-1-06	333-008-0110	1-1-06	Adopt	2-1-06
325-010-0010	2-6-06	Adopt	3-1-06	333-008-0120	1-1-06	Adopt	2-1-06
325-010-0015	2-6-06	Adopt	3-1-06	333-012-0265	1-1-06	Amend(T)	2-1-06
325-010-0020	2-6-06	Adopt	3-1-06	333-018-0030	1-1-06	Amend(T)	2-1-06
325-010-0025	2-6-06	Adopt	3-1-06	333-019-0036	1-1-06	Amend	2-1-06
325-010-0030	2-6-06	Adopt	3-1-06	333-025-0100	1-1-06	Amend	2-1-06
325-010-0035	2-6-06	Adopt	3-1-06	333-025-0105	1-1-06	Amend	2-1-06
325-010-0040	2-6-06	Adopt	3-1-06	333-025-0110	1-1-06	Amend	2-1-06
325-010-0045	2-6-06	Adopt	3-1-06	333-025-0115	1-1-06	Amend	2-1-06
325-010-0050	2-6-06	Adopt	3-1-06	333-025-0120	1-1-06	Amend	2-1-06
325-010-0055	2-6-06	Adopt	3-1-06	333-025-0135	1-1-06	Amend	2-1-06
325-010-0060	2-6-06	Adopt	3-1-06	333-025-0140	1-1-06	Amend	2-1-06
330-070-0010	1-1-06	Amend	2-1-06	333-025-0160	1-1-06	Amend	2-1-06
330-070-0013	1-1-06	Amend	2-1-06	333-025-0165	1-1-06	Adopt	2-1-06
330-070-0014	1-1-06	Amend	2-1-06	333-050-0010	1-27-06	Amend	3-1-06
330-070-0020	1-1-06	Amend	2-1-06	333-050-0020	1-27-06	Amend	3-1-06
330-070-0021	1-1-06	Amend	2-1-06	333-050-0040	1-27-06	Amend	3-1-06
330-070-0022	1-1-06	Amend	2-1-06	333-050-0050	1-27-06	Amend	3-1-06
330-070-0025	1-1-06	Amend	2-1-06	333-050-0060	1-27-06	Amend	3-1-06
330-070-0026	1-1-06	Amend	2-1-06	333-050-0080	1-27-06	Amend	3-1-06
330-070-0040	1-1-06	Amend	2-1-06	333-050-0090	1-27-06	Amend	3-1-06
330-070-0045	1-1-06	Amend	2-1-06	333-050-0100	1-27-06	Amend	3-1-06
330-070-0048	1-1-06	Amend	2-1-06	333-050-0130	1-27-06	Amend	3-1-06
330-070-0055	1-1-06	Amend	2-1-06	333-061-0020	1-31-06	Amend	3-1-06
330-070-0059	1-1-06	Amend	2-1-06	333-061-0030	1-31-06	Amend	3-1-06
330-070-0060	1-1-06	Amend	2-1-06	333-061-0032	1-31-06	Amend	3-1-06
330-070-0062	1-1-06	Amend	2-1-06	333-061-0036	1-31-06	Amend	3-1-06
330-070-0063	1-1-06	Amend	2-1-06	333-061-0040	1-31-06	Amend	3-1-06
330-070-0064	1-1-06	Amend	2-1-06	333-061-0042	1-31-06	Amend	3-1-06
330-070-0073	1-1-06	Amend	2-1-06	333-061-0043	1-31-06	Amend	3-1-06
330-070-0089	1-1-06	Amend	2-1-06	333-061-0057	1-31-06	Amend	3-1-06
330-070-0097	1-1-06	Amend	2-1-06	333-061-0060	1-31-06	Amend	3-1-06
330-090-0105	1-1-06	Amend	2-1-06	333-061-0070	1-31-06	Amend	3-1-06
330-090-0110	1-1-06	Amend	2-1-06	333-061-0071	1-31-06	Amend	3-1-06
330-090-0120	1-1-06	Amend	2-1-06	333-061-0072	1-31-06	Amend	3-1-06
330-090-0130	1-1-06	Amend	2-1-06	333-061-0090	1-31-06	Amend	3-1-06
331-405-0020	1-1-06	Amend	1-1-06	333-061-0097	1-31-06	Amend	3-1-06
331-405-0030	1-1-06	Amend	1-1-06	333-061-0215	1-31-06	Amend	3-1-06
331-405-0045	1-1-06	Adopt	1-1-06	333-061-0220	1-31-06	Amend	3-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-061-0230	1-31-06	Amend	3-1-06	407-010-0001	3-1-06	Adopt	4-1-06
333-061-0235	1-31-06	Amend	3-1-06	407-050-0000	11-28-05	Adopt(T)	1-1-06
333-061-0245	1-31-06	Amend	3-1-06	407-050-0005	11-28-05	Adopt(T)	1-1-06
333-061-0250	1-31-06	Amend	3-1-06	407-050-0010	11-28-05	Adopt(T)	1-1-06
333-061-0260	1-31-06	Amend	3-1-06	410-011-0000	1-1-06	Am. & Ren.	1-1-06
333-061-0265	1-31-06	Amend	3-1-06	410-011-0010	1-1-06	Am. & Ren.	1-1-06
333-061-0270	1-31-06	Amend	3-1-06	410-011-0020	1-1-06	Am. & Ren.	1-1-06
333-061-0290	1-31-06	Amend	3-1-06	410-011-0030	1-1-06	Am. & Ren.	1-1-06
333-064-0060	2-8-06	Amend(T)	3-1-06	410-011-0040	1-1-06	Am. & Ren.	1-1-06
333-076-0101	3-2-06	Amend(T)	4-1-06	410-011-0050	1-1-06	Am. & Ren.	1-1-06
333-076-0125	3-2-06	Amend(T)	4-1-06	410-011-0060	1-1-06	Am. & Ren.	1-1-06
333-076-0130	3-2-06	Amend(T)	4-1-06	410-011-0070	1-1-06	Am. & Ren.	1-1-06
333-076-0135	3-2-06	Amend(T)	4-1-06	410-011-0080	1-1-06	Am. & Ren.	1-1-06
333-510-0045	1-1-06	Amend(T)	2-1-06	410-011-0090	1-1-06	Am. & Ren.	1-1-06
334-010-0010	1-5-06	Amend	2-1-06	410-011-0100	1-1-06	Am. & Ren.	1-1-06
334-010-0015	1-5-06	Amend	2-1-06	410-011-0110	1-1-06	Am. & Ren.	1-1-06
334-010-0015	2-16-06	Amend(T)	4-1-06	410-011-0120	1-1-06	Am. & Ren.	1-1-06
334-010-0017	1-5-06	Amend	2-1-06	410-120-0000	1-1-06	Amend	1-1-06
334-010-0033	1-5-06	Amend	2-1-06	410-120-0250	1-1-06	Amend	2-1-06
334-010-0050	1-5-06	Amend	2-1-06	410-120-1200	1-1-06	Amend	1-1-06
337-010-0030	2-6-06	Amend	3-1-06	410-120-1210	1-1-06	Amend	1-1-06
340-045-0033	12-28-05	Amend	2-1-06	410-120-1280	1-1-06	Amend	2-1-06
340-110-0001	3-15-06	Amend	4-1-06	410-120-1295	1-1-06	Amend	1-1-06
340-110-0020	3-15-06	Amend	4-1-06	410-120-1295	1-1-06	Amend(T)	1-1-06
340-110-0061	3-15-06	Amend	4-1-06	410-120-1295	1-1-06	Amend(T)	2-1-06
340-200-0020	3-14-06	Amend	4-1-06	410-120-1295(T)	1-1-06	Repeal	1-1-06
340-200-0040	3-14-06	Amend	4-1-06	410-121-0040	3-15-06	Amend(T)	4-1-06
340-216-0060	3-14-06	Amend	4-1-06	410-121-0147	1-1-06	Amend	1-1-06
340-238-0040	3-14-06	Amend	4-1-06	410-121-0149	1-18-06	Adopt(T)	3-1-06
340-238-0050	3-14-06	Amend	4-1-06	410-121-0190	12-1-05	Amend	1-1-06
340-238-0060	3-14-06	Amend	4-1-06	410-121-0300	1-1-06	Amend	2-1-06
340-244-0030	3-14-06	Amend	4-1-06	410-121-0320	1-1-06	Amend	2-1-06
340-244-0040	3-14-06	Amend	4-1-06	410-122-0190	12-1-05	Amend	1-1-06
340-244-0220	3-14-06	Amend	4-1-06	410-125-0090	1-1-06	Amend	2-1-06
340-257-0010	1-1-06	Adopt(T)	2-1-06	410-125-0141	1-1-06	Amend	2-1-06
340-257-0020	1-1-06	Adopt(T)	2-1-06	410-125-0181	1-1-06	Amend	2-1-06
340-257-0030	1-1-06	Adopt(T)	2-1-06	410-125-0190	1-1-06	Amend	2-1-06
340-257-0040	1-1-06	Adopt(T)	2-1-06	410-125-0195	1-1-06	Amend	2-1-06
340-257-0050	1-1-06	Adopt(T)	2-1-06	410-125-0201	1-1-06	Amend	2-1-06
340-257-0060	1-1-06	Adopt(T)	2-1-06	410-125-0210	1-1-06	Amend	2-1-06
340-257-0070	1-1-06	Adopt(T)	2-1-06	410-125-1020	1-1-06	Amend	2-1-06
340-257-0080	1-1-06	Adopt(T)	2-1-06	410-125-1060	1-1-06	Amend	2-1-06
340-257-0090	1-1-06	Adopt(T)	2-1-06	410-132-0140	12-1-05	Repeal	1-1-06
340-257-0100	1-1-06	Adopt(T)	2-1-06	410-136-0420	12-1-05	Amend	1-1-06
340-257-0110	1-1-06	Adopt(T)	2-1-06	410-138-0600	2-7-06	Adopt(T)	3-1-06
340-257-0120	1-1-06	Adopt(T)	2-1-06	410-138-0610	2-7-06	Adopt(T)	3-1-06
340-257-0130	1-1-06	Adopt(T)	2-1-06	410-138-0620	2-7-06	Adopt(T)	3-1-06
340-257-0150	1-1-06	Adopt(T)	2-1-06	410-138-0640	2-7-06	Adopt(T)	3-1-06
340-257-0160	1-1-06	Adopt(T)	2-1-06	410-138-0660	2-7-06	Adopt(T)	3-1-06
407-005-0000	3-1-06	Adopt	4-1-06	410-138-0680	2-7-06	Adopt(T)	3-1-06
407-005-0005	3-1-06	Adopt	4-1-06	410-138-0700	2-7-06	Adopt(T)	3-1-06
407-005-0010	3-1-06	Adopt	4-1-06	410-138-0710	2-7-06	Adopt(T)	3-1-06
407-005-0015	3-1-06	Adopt	4-1-06	410-138-0720	2-7-06	Adopt(T)	3-1-06
407-005-0020	3-1-06	Adopt	4-1-06	410-138-0740	2-7-06	Adopt(T)	3-1-06
407-005-0025	3-1-06	Adopt	4-1-06	410-138-0760	2-7-06	Adopt(T)	3-1-06
407-005-0030	3-1-06	Adopt	4-1-06	410-138-0780	2-7-06	Adopt(T)	3-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-140-0320	12-1-05	Amend	1-1-06	411-070-0120	2-1-06	Amend	3-1-06
410-140-0400	12-1-05	Amend	1-1-06	411-070-0125	2-1-06	Amend	3-1-06
410-141-0000	1-1-06	Amend	1-1-06	411-070-0130	2-1-06	Amend	3-1-06
410-141-0010	3-1-06	Adopt	3-1-06	411-070-0140	2-1-06	Amend	3-1-06
410-141-0010(T)	3-1-06	Repeal	3-1-06	411-070-0300	2-1-06	Amend	3-1-06
410-141-0060	1-1-06	Amend	1-1-06	411-070-0302	2-1-06	Amend	3-1-06
410-141-0070	1-1-06	Amend	1-1-06	411-070-0305	2-1-06	Amend	3-1-06
410-141-0080	1-1-06	Amend	1-1-06	411-070-0310	2-1-06	Amend	3-1-06
410-141-0120	1-1-06	Amend	1-1-06	411-070-0315	2-1-06	Amend	3-1-06
410-141-0160	1-1-06	Amend	1-1-06	411-070-0330	2-1-06	Amend	3-1-06
410-141-0220	1-1-06	Amend	1-1-06	411-070-0335	2-1-06	Amend	3-1-06
410-141-0520	12-1-05	Amend	1-1-06	411-070-0340	2-1-06	Amend	3-1-06
410-141-0520	1-1-06	Amend	2-1-06	411-070-0345	2-1-06	Amend	3-1-06
410-146-0100	12-1-05	Amend	1-1-06	411-070-0350	2-1-06	Amend	3-1-06
410-147-0365	1-1-06	Amend	1-1-06	411-070-0359	2-1-06	Amend	3-1-06
411-015-0005	12-29-05	Amend	2-1-06	411-070-0365	2-1-06	Amend	3-1-06
411-015-0015	2-1-06	Amend	3-1-06	411-070-0370	2-1-06	Amend	3-1-06
411-015-0100	12-29-05	Amend	2-1-06	411-070-0375	2-1-06	Amend	3-1-06
411-018-0000	12-12-05	Amend	1-1-06	411-070-0385	2-1-06	Amend	3-1-06
411-018-0010	12-12-05	Amend	1-1-06	411-070-0400	2-1-06	Amend	3-1-06
411-018-0020	12-12-05	Amend	1-1-06	411-070-0415	2-1-06	Amend	3-1-06
411-030-0020	12-21-05	Amend(T)	2-1-06	411-070-0420	2-1-06	Amend	3-1-06
411-030-0033	12-21-05	Amend(T)	2-1-06	411-070-0425	2-1-06	Amend	3-1-06
411-030-0040	12-21-05	Amend(T)	2-1-06	411-070-0428	2-1-06	Amend	3-1-06
411-030-0040	1-13-06	Amend(T)	2-1-06	411-070-0430	2-1-06	Amend	3-1-06
411-030-0050	12-21-05	Amend(T)	2-1-06	411-070-0435	2-1-06	Amend	3-1-06
411-030-0055	12-21-05	Adopt(T)	2-1-06	411-070-0452	2-1-06	Amend	3-1-06
411-030-0070	12-21-05	Amend(T)	2-1-06	411-070-0458	2-1-06	Repeal	3-1-06
411-031-0020	11-16-05	Amend(T)	1-1-06	411-070-0462	2-1-06	Amend	3-1-06
411-031-0050	11-16-05	Amend(T)	1-1-06	411-070-0464	2-1-06	Amend	3-1-06
411-055-0003	2-1-06	Amend	3-1-06	411-070-0465	2-1-06	Amend	3-1-06
411-055-0003(T)	2-1-06	Repeal	3-1-06	411-070-0470	2-1-06	Amend	3-1-06
411-055-0190	1-18-06	Amend(T)	3-1-06	411-088-0020	1-18-06	Amend(T)	3-1-06
411-056-0007	2-1-06	Amend	3-1-06	411-320-0020	11-23-05	Amend(T)	1-1-06
411-056-0007(T)	2-1-06	Repeal	3-1-06	411-320-0020	2-1-06	Amend	3-1-06
411-056-0020	1-18-06	Amend(T)	3-1-06	411-320-0020(T)	2-1-06	Repeal	3-1-06
411-070-0005	2-1-06	Amend	3-1-06	411-320-0030	11-23-05	Amend(T)	1-1-06
411-070-0010	2-1-06	Amend	3-1-06	411-320-0030	2-1-06	Amend	3-1-06
411-070-0015	2-1-06	Amend	3-1-06	411-320-0030(T)	2-1-06	Repeal	3-1-06
411-070-0020	2-1-06	Amend	3-1-06	411-320-0040	11-23-05	Amend(T)	1-1-06
411-070-0025	2-1-06	Amend	3-1-06	411-320-0040	2-1-06	Amend	3-1-06
411-070-0027	2-1-06	Amend	3-1-06	411-320-0040(T)	2-1-06	Repeal	3-1-06
411-070-0029	2-1-06	Amend	3-1-06	411-320-0050	11-23-05	Amend(T)	1-1-06
411-070-0035	2-1-06	Amend	3-1-06	411-320-0050	2-1-06	Amend	3-1-06
411-070-0040	2-1-06	Amend	3-1-06	411-320-0050(T)	2-1-06	Repeal	3-1-06
411-070-0043	2-1-06	Amend	3-1-06	411-320-0060	2-1-06	Amend	3-1-06
411-070-0045	2-1-06	Amend	3-1-06	411-320-0070	11-23-05	Amend(T)	1-1-06
411-070-0050	2-1-06	Amend	3-1-06	411-320-0070	2-1-06	Amend	3-1-06
411-070-0080	2-1-06	Amend	3-1-06	411-320-0070(T)	2-1-06	Repeal	3-1-06
411-070-0085	2-1-06	Amend	3-1-06	411-320-0080	11-23-05	Amend(T)	1-1-06
411-070-0091	2-1-06	Amend	3-1-06	411-320-0080	2-1-06	Amend	3-1-06
411-070-0095	2-1-06	Amend	3-1-06	411-320-0080(T)	2-1-06	Repeal	3-1-06
411-070-0100	2-1-06	Amend	3-1-06	411-320-0090	11-23-05	Amend(T)	1-1-06
411-070-0105	2-1-06	Amend	3-1-06	411-320-0090	2-1-06	Amend	3-1-06
411-070-0110	2-1-06	Amend	3-1-06	411-320-0090(T)	2-1-06	Repeal	3-1-06
411-070-0115	2-1-06	Amend	3-1-06	411-320-0100	11-23-05	Amend(T)	1-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-320-0100	2-1-06	Amend	3-1-06	413-015-0720	1-1-06	Amend(T)	2-1-06
411-320-0100(T)	2-1-06	Repeal	3-1-06	413-015-0900	1-1-06	Amend(T)	2-1-06
411-320-0110	11-23-05	Amend(T)	1-1-06	413-015-1000	1-1-06	Amend(T)	2-1-06
411-320-0110	2-1-06	Amend	3-1-06	413-020-0140	2-1-06	Amend	3-1-06
411-320-0110(T)	2-1-06	Repeal	3-1-06	413-040-0110	2-1-06	Amend	3-1-06
411-320-0120	11-23-05	Amend(T)	1-1-06	413-040-0135	2-1-06	Amend	3-1-06
411-320-0120	2-1-06	Amend	3-1-06	413-040-0140	2-1-06	Amend	3-1-06
411-320-0120(T)	2-1-06	Repeal	3-1-06	413-050-0100	1-1-06	Repeal	2-1-06
411-320-0130	11-23-05	Amend(T)	1-1-06	413-050-0110	1-1-06	Repeal	2-1-06
411-320-0130	2-1-06	Amend	3-1-06	413-050-0120	1-1-06	Repeal	2-1-06
411-320-0130(T)	2-1-06	Repeal	3-1-06	413-050-0130	1-1-06	Repeal	2-1-06
411-320-0140	11-23-05	Amend(T)	1-1-06	413-050-0140	1-1-06	Repeal	2-1-06
411-320-0140	2-1-06	Amend	3-1-06	413-080-0100	1-1-06	Repeal	2-1-06
411-320-0140(T)	2-1-06	Repeal	3-1-06	413-080-0110	1-1-06	Repeal	2-1-06
411-320-0160	11-23-05	Amend(T)	1-1-06	413-080-0120	1-1-06	Repeal	2-1-06
411-320-0160	2-1-06	Amend	3-1-06	413-080-0130	1-1-06	Repeal	2-1-06
411-320-0160(T)	2-1-06	Repeal	3-1-06	413-080-0140	1-1-06	Repeal	2-1-06
411-320-0170	11-23-05	Amend(T)	1-1-06	413-080-0150	1-1-06	Repeal	2-1-06
411-320-0170	2-1-06	Amend	3-1-06	413-090-0300	2-1-06	Amend	3-1-06
411-320-0170(T)	2-1-06	Repeal	3-1-06	413-090-0310	2-1-06	Amend	3-1-06
413-010-0081	2-6-06	Adopt(T)	3-1-06	413-090-0380	2-1-06	Amend	3-1-06
413-010-0082	2-6-06	Adopt(T)	3-1-06	413-130-0010	1-1-06	Amend(T)	2-1-06
413-010-0083	2-6-06	Adopt(T)	3-1-06	413-130-0080	1-1-06	Amend(T)	2-1-06
413-010-0084	2-6-06	Adopt(T)	3-1-06	413-140-0010	1-1-06	Amend(T)	2-1-06
413-010-0085	2-6-06	Adopt(T)	3-1-06	413-140-0030	1-1-06	Amend(T)	2-1-06
413-010-0086	2-6-06	Adopt(T)	3-1-06	413-200-0307	3-1-06	Amend(T)	4-1-06
413-015-0115	1-1-06	Amend(T)	2-1-06	414-061-0080	1-1-06	Amend	2-1-06
413-015-0200	12-1-05	Amend	1-1-06	414-350-0000	1-1-06	Amend(T)	2-1-06
413-015-0205	12-1-05	Amend	1-1-06	414-350-0010	1-1-06	Amend(T)	2-1-06
413-015-0210	12-1-05	Amend	1-1-06	414-350-0020	1-1-06	Amend(T)	2-1-06
413-015-0211	12-1-05	Adopt	1-1-06	414-350-0030	1-1-06	Amend(T)	2-1-06
413-015-0212	12-1-05	Adopt	1-1-06	414-350-0050	1-1-06	Amend(T)	2-1-06
413-015-0213	12-1-05	Adopt	1-1-06	414-350-0100	1-1-06	Amend(T)	2-1-06
413-015-0215	12-1-05	Amend	1-1-06	414-350-0120	1-1-06	Amend(T)	2-1-06
413-015-0220	12-1-05	Amend	1-1-06	414-350-0140	1-1-06	Amend(T)	2-1-06
413-015-0300	1-1-06	Amend(T)	2-1-06	414-350-0160	1-1-06	Amend(T)	2-1-06
413-015-0302	1-1-06	Adopt(T)	2-1-06	414-350-0170	1-1-06	Amend(T)	2-1-06
413-015-0305	1-1-06	Amend(T)	2-1-06	414-350-0220	1-1-06	Amend(T)	2-1-06
413-015-0310	1-1-06	Amend(T)	2-1-06	414-350-0235	1-1-06	Amend(T)	2-1-06
413-015-0405	1-1-06	Amend(T)	2-1-06	414-350-0250	1-1-06	Amend(T)	2-1-06
413-015-0405	2-1-06	Amend	3-1-06	414-700-0060	12-15-05	Amend(T)	1-1-06
413-015-0405	2-1-06	Amend(T)	3-1-06	416-310-0000	2-7-06	Repeal	3-1-06
413-015-0405(T)	2-1-06	Suspend	3-1-06	416-310-0010	2-7-06	Repeal	3-1-06
413-015-0505	3-1-06	Amend	4-1-06	416-310-0020	2-7-06	Repeal	3-1-06
413-015-0505(T)	3-1-06	Repeal	4-1-06	416-310-0030	2-7-06	Repeal	3-1-06
413-015-0510	3-1-06	Amend	4-1-06	416-425-0000	11-22-05	Adopt	1-1-06
413-015-0510(T)	3-1-06	Repeal	4-1-06	416-425-0010	11-22-05	Adopt	1-1-06
413-015-0511	3-1-06	Amend	4-1-06	416-425-0020	11-22-05	Adopt	1-1-06
413-015-0511(T)	3-1-06	Repeal	4-1-06	416-480-0000	2-17-06	Amend	4-1-06
413-015-0512	3-1-06	Amend	4-1-06	416-480-0010	2-17-06	Amend	4-1-06
413-015-0512(T)	3-1-06	Repeal	4-1-06	416-480-0020	2-17-06	Amend	4-1-06
413-015-0513	3-1-06	Amend	4-1-06	416-480-0040	2-17-06	Amend	4-1-06
413-015-0513(T)	3-1-06	Repeal	4-1-06	416-480-0060	2-17-06	Amend	4-1-06
413-015-0514	3-1-06	Amend	4-1-06	416-480-0070	2-17-06	Amend	4-1-06
413-015-0514(T)	3-1-06	Repeal	4-1-06	416-480-0080	2-17-06	Amend	4-1-06
413-015-0710	2-1-06	Amend	3-1-06	416-600-0000	2-17-06	Amend	4-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
416-600-0010	2-17-06	Amend	4-1-06	436-030-0034	1-1-06	Amend	1-1-06
416-600-0020	2-17-06	Amend	4-1-06	436-030-0055	1-1-06	Amend	1-1-06
416-600-0030	2-17-06	Amend	4-1-06	436-030-0065	1-1-06	Amend	1-1-06
416-600-0040	2-17-06	Amend	4-1-06	436-030-0115	1-1-06	Amend	1-1-06
416-600-0050	2-17-06	Amend	4-1-06	436-030-0155	1-1-06	Amend	1-1-06
416-650-0000	2-7-06	Repeal	3-1-06	436-030-0165	1-1-06	Amend	1-1-06
416-650-0010	2-7-06	Repeal	3-1-06	436-030-0175	1-1-06	Amend	1-1-06
416-650-0020	2-7-06	Repeal	3-1-06	436-030-0185	1-1-06	Amend	1-1-06
416-650-0030	2-7-06	Repeal	3-1-06	436-030-0575	1-1-06	Amend	1-1-06
416-650-0040	2-7-06	Repeal	3-1-06	436-030-0580	1-1-06	Amend	1-1-06
416-650-0050	2-7-06	Repeal	3-1-06	436-035-0005	1-1-06	Amend	1-1-06
436-001-0003	1-17-06	Amend	2-1-06	436-035-0007	1-1-06	Amend	1-1-06
436-001-0005	1-17-06	Amend	2-1-06	436-035-0008	1-1-06	Amend	1-1-06
436-009-0004	4-1-06	Amend	4-1-06	436-035-0009	1-1-06	Amend	1-1-06
436-009-0005	4-1-06	Amend	4-1-06	436-035-0011	1-1-06	Amend	1-1-06
436-009-0006	4-1-06	Amend	4-1-06	436-035-0012	1-1-06	Amend	1-1-06
436-009-0008	4-1-06	Amend	4-1-06	436-035-0016	1-1-06	Amend	1-1-06
436-009-0010	4-1-06	Amend	4-1-06	436-035-0017	1-1-06	Amend	1-1-06
436-009-0015	4-1-06	Amend	4-1-06	436-035-0019	1-1-06	Amend	1-1-06
436-009-0020	4-1-06	Amend	4-1-06	436-035-0110	1-1-06	Amend	1-1-06
436-009-0022	4-1-06	Amend	4-1-06	436-035-0190	1-1-06	Amend	1-1-06
436-009-0025	4-1-06	Amend	4-1-06	436-035-0230	1-1-06	Amend	1-1-06
436-009-0030	4-1-06	Amend	4-1-06	436-035-0330	1-1-06	Amend	1-1-06
436-009-0035	4-1-06	Amend	4-1-06	436-035-0340	1-1-06	Amend	1-1-06
436-009-0040	4-1-06	Amend	4-1-06	436-035-0350	1-1-06	Amend	1-1-06
436-009-0050	4-1-06	Amend	4-1-06	436-035-0360	1-1-06	Amend	1-1-06
436-009-0060	4-1-06	Amend	4-1-06	436-035-0380	1-1-06	Amend	1-1-06
436-009-0070	4-1-06	Amend	4-1-06	436-035-0390	1-1-06	Amend	1-1-06
436-009-0080	4-1-06	Amend	4-1-06	436-035-0395	1-1-06	Amend	1-1-06
436-009-0090	4-1-06	Amend	4-1-06	436-035-0400	1-1-06	Amend	1-1-06
436-010-0005	1-1-06	Amend	1-1-06	436-035-0410	1-1-06	Amend	1-1-06
436-010-0008	1-1-06	Amend	1-1-06	436-035-0420	1-1-06	Amend	1-1-06
436-010-0210	1-1-06	Amend	1-1-06	436-035-0430	1-1-06	Amend	1-1-06
436-010-0220	1-1-06	Amend	1-1-06	436-035-0500	1-1-06	Amend	1-1-06
436-010-0230	1-1-06	Amend	1-1-06	436-050-0003	1-1-06	Amend	1-1-06
436-010-0240	1-1-06	Amend	1-1-06	436-050-0008	1-1-06	Amend	1-1-06
436-010-0250	1-1-06	Amend	1-1-06	436-050-0100	1-1-06	Amend	1-1-06
436-010-0265	1-1-06	Amend	1-1-06	436-050-0110	1-1-06	Amend	1-1-06
436-010-0270	1-1-06	Amend	1-1-06	436-050-0170	1-1-06	Amend	1-1-06
436-010-0280	1-1-06	Amend	1-1-06	436-050-0220	1-1-06	Amend	1-1-06
436-010-0290	1-1-06	Amend	1-1-06	436-050-0230	1-1-06	Amend	1-1-06
436-010-0300	1-1-06	Amend	1-1-06	436-055-0070	1-1-06	Amend	1-1-06
436-010-0340	1-1-06	Amend	1-1-06	436-055-0085	1-1-06	Adopt	1-1-06
436-015-0008	1-1-06	Amend	1-1-06	436-055-0100	1-1-06	Amend	1-1-06
436-015-0030	1-1-06	Amend	1-1-06	436-060-0002	1-1-06	Amend	1-1-06
436-015-0040	1-1-06	Amend	1-1-06	436-060-0008	1-1-06	Amend	1-1-06
436-015-0070	1-1-06	Amend	1-1-06	436-060-0009	1-1-06	Amend	1-1-06
436-015-0080	1-1-06	Amend	1-1-06	436-060-0010	1-1-06	Amend	1-1-06
436-015-0110	1-1-06	Amend	1-1-06	436-060-0015	1-1-06	Amend	1-1-06
436-030-0003	1-1-06	Amend	1-1-06	436-060-0017	1-1-06	Amend	1-1-06
436-030-0005	1-1-06	Amend	1-1-06	436-060-0020	1-1-06	Amend	1-1-06
436-030-0007	1-1-06	Amend	1-1-06	436-060-0025	1-1-06	Amend	1-1-06
436-030-0009	1-1-06	Amend	1-1-06	436-060-0030	1-1-06	Amend	1-1-06
436-030-0015	1-1-06	Amend	1-1-06	436-060-0035	1-1-06	Amend	1-1-06
436-030-0020	1-1-06	Amend	1-1-06	436-060-0040	1-1-06	Amend	1-1-06
436-030-0023	1-1-06	Amend	1-1-06	436-060-0055	1-1-06	Amend	1-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-060-0060	1-1-06	Amend	1-1-06	441-910-0055	1-1-06	Am. & Ren.	1-1-06
436-060-0095	1-1-06	Amend	1-1-06	441-910-0060	1-1-06	Repeal	1-1-06
436-060-0105	1-1-06	Amend	1-1-06	441-910-0070	1-1-06	Repeal	1-1-06
436-060-0135	1-1-06	Amend	1-1-06	441-910-0080	1-1-06	Amend	1-1-06
436-060-0137	1-1-06	Adopt	1-1-06	441-910-0090	1-1-06	Amend	1-1-06
436-060-0140	1-1-06	Amend	1-1-06	441-910-0092	1-1-06	Adopt	1-1-06
436-060-0147	1-1-06	Amend	1-1-06	441-910-0093	1-1-06	Adopt	1-1-06
436-060-0150	1-1-06	Amend	1-1-06	441-910-0095	1-1-06	Amend	1-1-06
436-060-0155	1-1-06	Amend	1-1-06	441-910-0110	1-1-06	Amend	1-1-06
436-060-0180	1-1-06	Amend	1-1-06	441-910-0120	1-1-06	Amend	1-1-06
436-060-0190	1-1-06	Amend	1-1-06	441-910-0130	1-1-06	Repeal	1-1-06
436-060-0200	1-1-06	Amend	1-1-06	441-930-0010	2-22-06	Amend	4-1-06
436-060-0500	1-1-06	Amend	1-1-06	441-930-0020	2-22-06	Repeal	4-1-06
436-060-0510	1-1-06	Adopt	1-1-06	441-930-0030	2-22-06	Amend	4-1-06
436-070-0020	1-27-06	Amend(T)	3-1-06	441-930-0040	2-22-06	Repeal	4-1-06
436-105-0500	1-1-06	Amend	1-1-06	441-930-0050	2-22-06	Repeal	4-1-06
436-110-0002	1-1-06	Amend	1-1-06	441-930-0060	2-22-06	Repeal	4-1-06
436-110-0005	1-1-06	Amend	1-1-06	441-930-0070	2-22-06	Amend	4-1-06
436-110-0310	1-1-06	Amend	1-1-06	441-930-0080	2-22-06	Adopt	4-1-06
436-110-0326	1-1-06	Amend	1-1-06	441-930-0200	2-22-06	Repeal	4-1-06
436-110-0327	1-1-06	Amend	1-1-06	441-930-0210	2-22-06	Amend	4-1-06
436-110-0335	1-1-06	Amend	1-1-06	441-930-0220	2-22-06	Amend	4-1-06
436-110-0337	1-1-06	Amend	1-1-06	441-930-0230	2-22-06	Amend	4-1-06
436-110-0345	1-1-06	Amend	1-1-06	441-930-0240	2-22-06	Amend	4-1-06
436-120-0003	1-1-06	Amend	1-1-06	441-930-0250	2-22-06	Amend	4-1-06
436-120-0008	1-1-06	Amend	1-1-06	441-930-0260	2-22-06	Amend	4-1-06
436-120-0320	1-1-06	Amend	1-1-06	441-930-0270	2-22-06	Amend	4-1-06
436-120-0755	1-1-06	Adopt	1-1-06	441-930-0280	2-22-06	Amend	4-1-06
436-120-0900	1-1-06	Amend	1-1-06	441-930-0290	2-22-06	Amend	4-1-06
437-001-0001	2-14-06	Amend	3-1-06	441-930-0300	2-22-06	Amend	4-1-06
437-002-0005	12-14-05	Amend	1-1-06	441-930-0310	2-22-06	Amend	4-1-06
437-002-0100	12-14-05	Amend	1-1-06	441-930-0320	2-22-06	Amend	4-1-06
437-002-0260	12-14-05	Amend	1-1-06	441-930-0330	2-22-06	Amend	4-1-06
437-002-0280	12-14-05	Amend	1-1-06	441-930-0340	2-22-06	Amend	4-1-06
437-002-0300	12-14-05	Amend	1-1-06	441-930-0350	2-22-06	Amend	4-1-06
440-001-0005	2-14-06	Amend	3-1-06	441-930-0360	2-22-06	Amend	4-1-06
441-750-0000	1-9-06	Repeal	2-1-06	441-950-0010	1-9-06	Repeal	2-1-06
441-750-0010	1-9-06	Repeal	2-1-06	441-950-0020	1-9-06	Repeal	2-1-06
441-750-0020	1-9-06	Repeal	2-1-06	441-950-0030	1-9-06	Repeal	2-1-06
441-750-0030	1-9-06	Repeal	2-1-06	441-950-0040	1-9-06	Repeal	2-1-06
441-750-0040	1-9-06	Repeal	2-1-06	441-950-0050	1-9-06	Repeal	2-1-06
441-780-0010	1-9-06	Repeal	2-1-06	442-004-0010	1-17-06	Amend(T)	3-1-06
441-780-0020	1-9-06	Repeal	2-1-06	442-004-0080	1-17-06	Amend(T)	3-1-06
441-780-0030	1-9-06	Repeal	2-1-06	442-004-0085	1-17-06	Amend(T)	3-1-06
441-780-0040	1-9-06	Repeal	2-1-06	442-004-0130	1-17-06	Amend(T)	3-1-06
441-780-0050	1-9-06	Repeal	2-1-06	442-004-0150	1-17-06	Amend(T)	3-1-06
441-780-0060	1-9-06	Repeal	2-1-06	442-004-0160	1-17-06	Amend(T)	3-1-06
441-780-0070	1-9-06	Repeal	2-1-06	442-004-0170	1-17-06	Amend(T)	3-1-06
441-780-0080	1-9-06	Repeal	2-1-06	443-002-0010	1-1-06	Amend	2-1-06
441-780-0090	1-9-06	Repeal	2-1-06	443-002-0030	1-1-06	Amend	2-1-06
441-910-0000	1-1-06	Amend	1-1-06	443-002-0060	1-1-06	Amend	2-1-06
441-910-0010	1-1-06	Amend	1-1-06	443-002-0070	1-1-06	Amend	2-1-06
441-910-0020	1-1-06	Amend	1-1-06	443-002-0080	1-1-06	Amend	2-1-06
441-910-0030	1-1-06	Amend	1-1-06	443-002-0090	1-1-06	Amend	2-1-06
441-910-0040	1-1-06	Amend	1-1-06	443-002-0095	1-1-06	Adopt	2-1-06
441-910-0050	1-1-06	Amend	1-1-06	443-002-0110	1-1-06	Amend	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
443-002-0120	1-1-06	Amend	2-1-06	461-155-0520	1-1-06	Repeal	2-1-06
445-050-0115	12-29-05	Amend(T)	2-1-06	461-155-0526	1-1-06	Amend	2-1-06
445-050-0125	12-29-05	Amend(T)	2-1-06	461-155-0630	1-1-06	Amend	2-1-06
445-050-0135	12-29-05	Amend(T)	2-1-06	461-160-0580	1-1-06	Amend	2-1-06
459-005-0610	2-1-06	Amend	3-1-06	461-160-0580	3-6-06	Amend(T)	4-1-06
459-007-0001	2-1-06	Amend	3-1-06	461-160-0610	1-1-06	Amend	2-1-06
459-007-0001(T)	2-1-06	Repeal	3-1-06	461-160-0620	1-1-06	Amend	2-1-06
459-007-0003	2-1-06	Amend	3-1-06	461-170-0010	12-1-05	Amend	1-1-06
459-007-0003(T)	2-1-06	Repeal	3-1-06	461-170-0020	12-1-05	Amend	1-1-06
459-007-0005	2-1-06	Amend	3-1-06	461-170-0101	12-1-05	Amend	1-1-06
459-007-0005(T)	2-1-06	Repeal	3-1-06	461-170-0102	12-1-05	Amend	1-1-06
459-007-0015	12-7-05	Amend	1-1-06	461-170-0103	12-1-05	Amend	1-1-06
459-007-0090	2-1-06	Amend	3-1-06	461-170-0104	12-1-05	Amend	1-1-06
459-007-0090(T)	2-1-06	Repeal	3-1-06	461-180-0130	1-1-06	Amend	2-1-06
459-007-0095	2-1-06	Repeal	3-1-06	461-185-0050	1-1-06	Amend	2-1-06
459-010-0003	1-1-06	Amend	2-1-06	461-190-0161	1-1-06	Amend	2-1-06
459-010-0014	1-1-06	Amend	2-1-06	461-190-0195	1-1-06	Adopt	2-1-06
459-013-0300	2-1-06	Repeal	3-1-06	461-190-0211	1-1-06	Amend	2-1-06
459-017-0060	3-1-06	Amend	4-1-06	461-190-0241	1-1-06	Amend	2-1-06
459-070-0001	1-1-06	Amend	2-1-06	461-195-0301	1-1-06	Amend	2-1-06
461-101-0010	1-1-06	Amend	2-1-06	461-195-0303	1-1-06	Amend	2-1-06
461-105-0004(T)	2-1-06	Suspend	3-1-06	461-195-0305	1-1-06	Amend	2-1-06
461-115-0651	1-1-06	Amend	2-1-06	461-195-0310	1-1-06	Amend	2-1-06
461-120-0510	1-1-06	Amend	2-1-06	461-195-0315	1-1-06	Amend	2-1-06
461-135-0380	1-1-06	Repeal	2-1-06	461-195-0320	1-1-06	Amend	2-1-06
461-135-0701	1-1-06	Amend	2-1-06	461-195-0321	1-1-06	Amend	2-1-06
461-135-0701(T)	1-1-06	Repeal	2-1-06	461-195-0325	1-1-06	Amend	2-1-06
461-135-0730	2-6-06	Amend(T)	3-1-06	461-195-0350	1-1-06	Amend	2-1-06
461-135-0750	1-1-06	Amend	2-1-06	471-010-0040	12-25-05	Amend	2-1-06
461-135-0780	1-1-06	Amend	2-1-06	471-015-0015	1-1-06	Amend	2-1-06
461-135-0830	1-1-06	Amend	2-1-06	471-020-0010	12-25-05	Amend	2-1-06
461-135-0950	1-1-06	Amend(T)	2-1-06	471-020-0021	1-8-06	Amend	2-1-06
461-135-1200	1-1-06	Amend	2-1-06	471-030-0030	12-25-05	Repeal	2-1-06
461-140-0220	1-1-06	Amend	2-1-06	471-030-0035	12-25-05	Amend	2-1-06
461-140-0296	1-1-06	Amend	2-1-06	471-030-0036	1-8-06	Amend	2-1-06
461-145-0020	1-1-06	Amend	2-1-06	471-030-0049	1-8-06	Amend	2-1-06
461-145-0070	1-1-06	Amend	2-1-06	471-030-0050	12-25-05	Amend	2-1-06
461-145-0110	1-1-06	Amend	2-1-06	471-030-0056	1-8-06	Adopt	2-1-06
461-145-0190	1-1-06	Amend	2-1-06	471-030-0060	12-25-05	Amend	2-1-06
461-145-0330	1-1-06	Amend	2-1-06	471-030-0065	12-25-05	Amend	2-1-06
461-145-0410	1-1-06	Amend	2-1-06	471-030-0076	1-12-06	Amend(T)	2-1-06
461-145-0440	1-1-06	Amend	2-1-06	471-030-0080	1-1-06	Amend	2-1-06
461-145-0540	1-1-06	Amend	2-1-06	471-030-0125	3-12-06	Amend	4-1-06
461-145-0580	1-1-06	Amend	2-1-06	471-030-0150	12-15-05	Amend	1-1-06
461-155-0150	1-1-06	Amend	2-1-06	471-030-0174	12-25-05	Amend	2-1-06
461-155-0210	1-1-06	Amend	2-1-06	471-031-0055	12-25-05	Amend	2-1-06
461-155-0210(T)	1-1-06	Repeal	2-1-06	471-031-0057	12-25-05	Repeal	2-1-06
461-155-0225	1-24-06	Amend	3-1-06	471-031-0090	1-1-06	Repeal	2-1-06
461-155-0235	1-24-06	Amend	3-1-06	471-031-0139	2-5-06	Adopt	3-1-06
461-155-0250	1-1-06	Amend	2-1-06	471-031-0140	2-5-06	Amend	3-1-06
461-155-0250	3-1-06	Amend	4-1-06	471-031-0141	2-5-06	Amend	3-1-06
461-155-0270	1-1-06	Amend	2-1-06	471-031-0142	2-5-06	Amend	3-1-06
461-155-0290	3-1-06	Amend	4-1-06	471-031-0180	1-1-06	Repeal	2-1-06
461-155-0291	3-1-06	Amend	4-1-06	471-040-0005	12-25-05	Amend	2-1-06
461-155-0295	3-1-06	Amend	4-1-06	471-040-0007	3-5-06	Adopt	4-1-06
461-155-0300	1-1-06	Amend	2-1-06	471-040-0008	3-5-06	Adopt	4-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
471-042-0005	12-25-05	Repeal	2-1-06	581-022-1730	2-21-06	Amend	4-1-06
471-050-0001	12-25-05	Repeal	2-1-06	581-022-1732	2-21-06	Amend	4-1-06
543-040-0020	2-14-06	Amend	3-1-06	581-022-1735	2-14-06	Amend	3-1-06
543-040-0033	2-14-06	Repeal	3-1-06	581-023-0040	2-21-06	Amend	4-1-06
543-050-0010	2-14-06	Repeal	3-1-06	581-024-0195	12-29-05	Adopt(T)	2-1-06
543-060-0000	2-14-06	Amend	3-1-06	581-024-0205	12-29-05	Amend(T)	2-1-06
543-060-0010	2-14-06	Amend	3-1-06	581-024-0206	12-29-05	Amend(T)	2-1-06
543-060-0020	2-14-06	Amend	3-1-06	581-024-0208	12-29-05	Amend(T)	2-1-06
543-060-0030	2-14-06	Amend	3-1-06	581-024-0210	12-29-05	Amend(T)	2-1-06
543-070-0000	2-14-06	Amend	3-1-06	581-024-0215	2-21-06	Amend	4-1-06
574-001-0000	3-2-06	Amend	4-1-06	581-024-0226	2-14-06	Suspend	3-1-06
574-050-0005	3-2-06	Amend	4-1-06	581-024-0228	2-14-06	Suspend	3-1-06
575-060-0005	2-8-06	Amend	3-1-06	581-024-0285	12-29-05	Amend(T)	2-1-06
575-071-0000	3-1-06	Amend	4-1-06	583-030-0005	12-7-05	Amend	1-1-06
575-071-0010	3-1-06	Amend	4-1-06	583-030-0009	12-7-05	Adopt	1-1-06
575-071-0020	3-1-06	Amend	4-1-06	583-030-0010	12-7-05	Amend	1-1-06
575-071-0030	3-1-06	Amend	4-1-06	583-030-0011	12-7-05	Am. & Ren.	1-1-06
575-071-0035	3-1-06	Amend	4-1-06	583-030-0015	12-7-05	Amend	1-1-06
575-071-0040	3-1-06	Amend	4-1-06	583-030-0016	12-7-05	Amend	1-1-06
575-071-0050	3-1-06	Amend	4-1-06	583-030-0020	12-7-05	Amend	1-1-06
575-071-0060	3-1-06	Amend	4-1-06	583-030-0021	12-7-05	Repeal	1-1-06
575-071-0070	3-1-06	Amend	4-1-06	583-030-0025	12-7-05	Amend	1-1-06
575-074-0000	3-1-06	Adopt	4-1-06	583-030-0030	12-7-05	Amend	1-1-06
575-074-0005	3-1-06	Adopt	4-1-06	583-030-0032	12-7-05	Am. & Ren.	1-1-06
575-074-0010	3-1-06	Adopt	4-1-06	583-030-0035	12-7-05	Amend	1-1-06
575-074-0015	3-1-06	Adopt	4-1-06	583-030-0036	12-7-05	Amend	1-1-06
575-074-0020	3-1-06	Adopt	4-1-06	583-030-0038	12-7-05	Adopt	1-1-06
575-074-0025	3-1-06	Adopt	4-1-06	583-030-0039	12-7-05	Am. & Ren.	1-1-06
575-074-0030	3-1-06	Adopt	4-1-06	583-030-0041	12-7-05	Amend	1-1-06
576-045-0020	12-16-05	Amend	2-1-06	583-030-0042	12-7-05	Amend	1-1-06
576-050-0025	12-16-05	Amend	2-1-06	583-030-0043	12-7-05	Amend	1-1-06
577-001-0100	12-15-05	Amend	1-1-06	583-030-0044	12-7-05	Amend	1-1-06
577-001-0105	12-15-05	Amend	1-1-06	583-030-0045	12-7-05	Amend	1-1-06
577-001-0110	12-15-05	Amend	1-1-06	583-030-0046	12-7-05	Amend	1-1-06
577-001-0115	12-15-05	Amend	1-1-06	583-030-0049	12-7-05	Amend	1-1-06
577-001-0120	12-15-05	Amend	1-1-06	584-017-0070	1-3-06	Amend(T)	2-1-06
577-031-0131	3-10-06	Amend	4-1-06	584-017-0070	2-3-06	Amend(T)	3-1-06
577-060-0020	12-13-05	Amend	1-1-06	584-017-0440	5-12-06	Repeal	3-1-06
580-043-0060	2-9-06	Adopt(T)	3-1-06	584-017-0450	5-12-06	Repeal	3-1-06
580-043-0065	2-9-06	Adopt(T)	3-1-06	584-021-0170	1-1-06	Amend(T)	1-1-06
580-043-0070	2-9-06	Adopt(T)	3-1-06	584-021-0170	2-10-06	Amend	3-1-06
580-043-0075	2-9-06	Adopt(T)	3-1-06	584-021-0177	2-10-06	Amend	3-1-06
580-043-0080	2-9-06	Adopt(T)	3-1-06	584-023-0025	2-10-06	Amend	3-1-06
580-043-0085	2-9-06	Adopt(T)	3-1-06	584-036-0055	1-1-06	Amend(T)	1-1-06
580-043-0090	2-9-06	Adopt(T)	3-1-06	584-036-0055	2-10-06	Amend	3-1-06
580-043-0095	2-9-06	Adopt(T)	3-1-06	584-036-0062	2-10-06	Amend	3-1-06
581-001-0005	2-14-06	Amend(T)	3-1-06	584-036-0070	2-3-06	Adopt(T)	3-1-06
581-011-0119	2-14-06	Amend	3-1-06	584-060-0120	5-12-06	Repeal	3-1-06
581-021-0042	1-20-06	Adopt	3-1-06	584-070-0013	4-1-06	Adopt(T)	3-1-06
581-021-0044	2-14-06	Amend(T)	3-1-06	584-070-0013	4-1-06	Amend(T)	4-1-06
581-021-0110	2-21-06	Amend	4-1-06	584-100-0002	2-3-06	Amend(T)	3-1-06
581-022-1110	2-14-06	Amend	3-1-06	584-100-0006	2-3-06	Amend(T)	3-1-06
581-022-1120	2-14-06	Amend	3-1-06	584-100-0011	2-3-06	Amend(T)	3-1-06
581-022-1210	2-14-06	Amend	3-1-06	584-100-0016	2-3-06	Amend(T)	3-1-06
581-022-1360	12-15-05	Adopt(T)	1-1-06	584-100-0021	2-3-06	Amend(T)	3-1-06
581-022-1361	12-15-05	Adopt(T)	1-1-06	584-100-0026	2-3-06	Amend(T)	3-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
584-100-0031	2-3-06	Amend(T)	3-1-06	629-023-0410	1-3-06	Amend(T)	2-1-06
584-100-0036	2-3-06	Amend(T)	3-1-06	629-023-0420	1-3-06	Amend(T)	2-1-06
584-100-0037	2-10-06	Repeal	3-1-06	629-023-0430	1-3-06	Amend(T)	2-1-06
584-100-0038	2-3-06	Adopt(T)	3-1-06	629-023-0440	1-3-06	Amend(T)	2-1-06
584-100-0041	2-3-06	Amend(T)	3-1-06	629-023-0450	1-3-06	Amend(T)	2-1-06
584-100-0051	2-3-06	Amend(T)	3-1-06	629-023-0460	1-3-06	Amend(T)	2-1-06
584-100-0056	2-3-06	Amend(T)	3-1-06	629-023-0490	1-3-06	Amend(T)	2-1-06
584-100-0061	2-3-06	Amend(T)	3-1-06	629-041-0520	7-1-06	Repeal	1-1-06
584-100-0066	2-3-06	Amend(T)	3-1-06	629-041-0535	7-1-06	Repeal	1-1-06
584-100-0071	2-3-06	Amend(T)	3-1-06	629-041-0545	7-1-06	Repeal	1-1-06
584-100-0091	2-3-06	Amend(T)	3-1-06	629-041-0547	7-1-06	Adopt	1-1-06
584-100-0096	2-3-06	Amend(T)	3-1-06	629-041-0557	7-1-06	Adopt	1-1-06
584-100-0101	2-3-06	Amend(T)	3-1-06	629-600-0100	1-1-06	Amend	1-1-06
584-100-0106	2-3-06	Amend(T)	3-1-06	629-600-0100(T)	1-1-06	Repeal	1-1-06
603-021-0008	3-10-06	Repeal	4-1-06	629-605-0100	1-1-06	Amend	1-1-06
603-021-0709	3-10-06	Repeal	4-1-06	629-605-0100(T)	1-1-06	Repeal	1-1-06
603-024-0017	3-10-06	Amend	4-1-06	629-605-0150	1-1-06	Amend	1-1-06
603-024-0211	3-10-06	Amend	4-1-06	629-605-0150(T)	1-1-06	Repeal	1-1-06
603-024-0234	3-10-06	Amend	4-1-06	629-605-0170	1-1-06	Amend	1-1-06
603-024-0547	3-10-06	Amend	4-1-06	629-605-0170(T)	1-1-06	Repeal	1-1-06
603-025-0010	3-10-06	Amend	4-1-06	629-605-0173	1-1-06	Adopt	1-1-06
603-025-0030	3-10-06	Amend	4-1-06	629-605-0173(T)	1-1-06	Repeal	1-1-06
603-025-0040	3-10-06	Repeal	4-1-06	629-605-0175	1-1-06	Amend	1-1-06
603-025-0150	1-3-06	Amend(T)	2-1-06	629-605-0175(T)	1-1-06	Repeal	1-1-06
603-025-0190	3-10-06	Amend	4-1-06	629-605-0180	1-1-06	Amend	1-1-06
603-025-0210	3-10-06	Repeal	4-1-06	629-605-0180(T)	1-1-06	Repeal	1-1-06
603-028-0010	3-10-06	Repeal	4-1-06	629-605-0190	1-1-06	Amend	1-1-06
603-028-0500	3-10-06	Amend	4-1-06	629-605-0190(T)	1-1-06	Repeal	1-1-06
603-052-0116	1-13-06	Amend	2-1-06	629-605-0500	1-1-06	Amend	1-1-06
603-052-0117	1-13-06	Amend	2-1-06	629-605-0500(T)	1-1-06	Repeal	1-1-06
603-052-0129	1-13-06	Amend	2-1-06	629-610-0020	1-1-06	Amend	1-1-06
603-052-0150	1-13-06	Amend	2-1-06	629-610-0020(T)	1-1-06	Repeal	1-1-06
603-052-0349	1-13-06	Repeal	2-1-06	629-610-0030	1-1-06	Amend	1-1-06
603-052-0355	1-13-06	Amend	2-1-06	629-610-0030(T)	1-1-06	Repeal	1-1-06
603-052-0360	1-13-06	Amend	2-1-06	629-610-0040	1-1-06	Amend	1-1-06
603-052-0385	1-13-06	Amend	2-1-06	629-610-0040(T)	1-1-06	Repeal	1-1-06
603-052-1200	1-13-06	Amend	2-1-06	629-610-0050	1-1-06	Amend	1-1-06
603-052-1221	1-13-06	Amend	2-1-06	629-610-0050(T)	1-1-06	Repeal	1-1-06
603-052-1230	3-10-06	Amend	4-1-06	629-610-0060	1-1-06	Amend	1-1-06
603-052-1240	2-6-06	Amend	3-1-06	629-610-0060(T)	1-1-06	Repeal	1-1-06
603-052-1250	3-10-06	Amend	4-1-06	629-610-0070	1-1-06	Amend	1-1-06
603-057-0006	3-8-06	Amend	4-1-06	629-610-0070(T)	1-1-06	Repeal	1-1-06
603-057-0006(T)	3-8-06	Repeal	4-1-06	629-610-0090	1-1-06	Amend	1-1-06
606-010-0015	12-23-05	Amend	2-1-06	629-610-0090(T)	1-1-06	Repeal	1-1-06
619-001-0010	12-15-05	Adopt	1-1-06	629-615-0300	1-1-06	Amend	1-1-06
619-001-0020	12-15-05	Adopt	1-1-06	629-615-0300(T)	1-1-06	Repeal	1-1-06
619-001-0030	12-15-05	Adopt	1-1-06	629-623-0450	1-1-06	Amend	1-1-06
619-001-0040	12-15-05	Adopt	1-1-06	629-623-0450(T)	1-1-06	Repeal	1-1-06
619-001-0050	12-15-05	Adopt	1-1-06	629-623-0550	1-1-06	Amend	1-1-06
619-001-0060	12-15-05	Adopt	1-1-06	629-623-0550(T)	1-1-06	Repeal	1-1-06
629-001-0005	3-15-06	Amend	4-1-06	629-623-0700	1-1-06	Amend	1-1-06
629-001-0010	1-1-06	Amend	1-1-06	629-623-0700(T)	1-1-06	Repeal	1-1-06
629-001-0010(T)	1-1-06	Repeal	1-1-06	629-625-0100	1-1-06	Amend	1-1-06
629-001-0025	1-1-06	Amend	1-1-06	629-625-0100(T)	1-1-06	Repeal	1-1-06
629-001-0025(T)	1-1-06	Repeal	1-1-06	629-625-0320	1-1-06	Amend	1-1-06
629-001-0057	1-13-06	Adopt	2-1-06	629-625-0320(T)	1-1-06	Repeal	1-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
629-625-0430	1-1-06	Amend	1-1-06	629-670-0125	1-1-06	Amend	1-1-06
629-625-0430(T)	1-1-06	Repeal	1-1-06	629-670-0125(T)	1-1-06	Repeal	1-1-06
629-630-0200	1-1-06	Amend	1-1-06	629-670-0210	1-1-06	Amend	1-1-06
629-630-0200(T)	1-1-06	Repeal	1-1-06	629-670-0210(T)	1-1-06	Repeal	1-1-06
629-630-0600	1-1-06	Amend	1-1-06	629-672-0100	1-1-06	Amend	1-1-06
629-630-0600(T)	1-1-06	Repeal	1-1-06	629-672-0100(T)	1-1-06	Repeal	1-1-06
629-630-0700	1-1-06	Amend	1-1-06	629-672-0200	1-1-06	Amend	1-1-06
629-630-0700(T)	1-1-06	Repeal	1-1-06	629-672-0200(T)	1-1-06	Repeal	1-1-06
629-630-0800	1-1-06	Amend	1-1-06	629-672-0210	1-1-06	Amend	1-1-06
629-630-0800(T)	1-1-06	Repeal	1-1-06	629-672-0210(T)	1-1-06	Repeal	1-1-06
629-635-0130	1-1-06	Amend	1-1-06	629-672-0220	1-1-06	Repeal	1-1-06
629-635-0130(T)	1-1-06	Repeal	1-1-06	629-672-0310	1-1-06	Amend	1-1-06
629-640-0100	1-1-06	Amend	1-1-06	629-672-0310(T)	1-1-06	Repeal	1-1-06
629-640-0100(T)	1-1-06	Repeal	1-1-06	629-674-0100	1-1-06	Amend	1-1-06
629-640-0110	1-1-06	Amend	1-1-06	629-674-0100(T)	1-1-06	Repeal	1-1-06
629-640-0110(T)	1-1-06	Repeal	1-1-06	632-030-0022	1-10-06	Amend	2-1-06
629-640-0200	1-1-06	Amend	1-1-06	635-001-0005	2-15-06	Amend	3-1-06
629-640-0200(T)	1-1-06	Repeal	1-1-06	635-003-0004	3-15-06	Amend(T)	4-1-06
629-640-0400	1-1-06	Amend	1-1-06	635-004-0011	1-1-06	Adopt	1-1-06
629-640-0400(T)	1-1-06	Repeal	1-1-06	635-004-0013	1-1-06	Adopt	1-1-06
629-645-0000	1-1-06	Amend	1-1-06	635-004-0014	1-1-06	Adopt	1-1-06
629-645-0000(T)	1-1-06	Repeal	1-1-06	635-004-0016	1-1-06	Adopt	1-1-06
629-645-0020	1-1-06	Amend	1-1-06	635-004-0019	11-30-05	Amend(T)	1-1-06
629-645-0020(T)	1-1-06	Repeal	1-1-06	635-004-0019	1-1-06	Amend(T)	2-1-06
629-645-0030	1-1-06	Amend	1-1-06	635-004-0019	3-1-06	Amend(T)	4-1-06
629-645-0030(T)	1-1-06	Repeal	1-1-06	635-004-0019(T)	11-30-05	Suspend	1-1-06
629-645-0050	1-1-06	Amend	1-1-06	635-004-0027	1-1-06	Amend(T)	2-1-06
629-645-0050(T)	1-1-06	Repeal	1-1-06	635-004-0033	11-30-05	Amend(T)	1-1-06
629-650-0040	1-1-06	Amend	1-1-06	635-004-0033	1-1-06	Amend	1-1-06
629-650-0040(T)	1-1-06	Repeal	1-1-06	635-004-0033(T)	11-30-05	Suspend	1-1-06
629-660-0040	1-1-06	Amend	1-1-06	635-004-0090	1-1-06	Amend(T)	2-1-06
629-660-0040(T)	1-1-06	Repeal	1-1-06	635-004-0090	2-15-06	Amend	3-1-06
629-660-0050	1-1-06	Amend	1-1-06	635-004-0170	1-1-06	Amend	1-1-06
629-660-0050(T)	1-1-06	Repeal	1-1-06	635-005-0020	1-1-06	Amend	1-1-06
629-665-0020	1-1-06	Amend	1-1-06	635-005-0030	1-1-06	Amend	1-1-06
629-665-0020(T)	1-1-06	Repeal	1-1-06	635-005-0032	1-1-06	Adopt	1-1-06
629-665-0110	1-1-06	Amend	1-1-06	635-005-0045	11-29-05	Amend(T)	1-1-06
629-665-0110(T)	1-1-06	Repeal	1-1-06	635-005-0045	12-30-05	Amend(T)	1-1-06
629-665-0120	1-1-06	Amend	1-1-06	635-005-0045(T)	12-30-05	Suspend	1-1-06
629-665-0120(T)	1-1-06	Repeal	1-1-06	635-006-0215	1-1-06	Amend	1-1-06
629-665-0210	1-1-06	Amend	1-1-06	635-006-0232	1-9-06	Amend	2-1-06
629-665-0210(T)	1-1-06	Repeal	1-1-06	635-006-0810	1-1-06	Amend	1-1-06
629-665-0220	1-1-06	Amend	1-1-06	635-006-0850	1-1-06	Amend	1-1-06
629-665-0220(T)	1-1-06	Repeal	1-1-06	635-006-0850	1-1-06	Amend	1-1-06
629-665-0230	1-1-06	Amend	1-1-06	635-006-0910	1-1-06	Amend	1-1-06
629-665-0230(T)	1-1-06	Repeal	1-1-06	635-006-1010	1-1-06	Amend	1-1-06
629-665-0240	1-1-06	Amend	1-1-06	635-006-1010	1-1-06	Amend	1-1-06
629-665-0240(T)	1-1-06	Repeal	1-1-06	635-006-1015	1-1-06	Amend	1-1-06
629-670-0010	1-1-06	Amend	1-1-06	635-006-1015	1-1-06	Amend	1-1-06
629-670-0010(T)	1-1-06	Repeal	1-1-06	635-006-1025	1-1-06	Amend	1-1-06
629-670-0015	1-1-06	Amend	1-1-06	635-006-1025	1-1-06	Amend	1-1-06
629-670-0015(T)	1-1-06	Repeal	1-1-06	635-006-1035	1-1-06	Amend	1-1-06
629-670-0100	1-1-06	Amend	1-1-06	635-006-1035	1-1-06	Amend	1-1-06
629-670-0100(T)	1-1-06	Repeal	1-1-06	635-006-1065	1-1-06	Amend	1-1-06
629-670-0115	1-1-06	Amend	1-1-06	635-006-1065	1-1-06	Amend	1-1-06
629-670-0115(T)	1-1-06	Repeal	1-1-06	635-006-1075	1-1-06	Amend	1-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-006-1075	1-1-06	Amend	1-1-06	635-042-0130	3-9-06	Amend(T)	4-1-06
635-006-1085	1-1-06	Amend	1-1-06	635-042-0133	1-1-06	Amend(T)	2-1-06
635-006-1085	1-1-06	Amend	1-1-06	635-042-0133	2-15-06	Amend	3-1-06
635-006-1095	1-1-06	Amend	1-1-06	635-042-0135	1-1-06	Amend(T)	2-1-06
635-006-1095	1-1-06	Amend	1-1-06	635-042-0135	1-27-06	Amend(T)	3-1-06
635-006-1110	1-1-06	Amend	1-1-06	635-042-0135	2-15-06	Amend	3-1-06
635-006-1110	1-1-06	Amend	1-1-06	635-042-0135(T)	1-27-06	Suspend	3-1-06
635-011-0072	1-1-06	Amend	1-1-06	635-042-0145	2-15-06	Amend	3-1-06
635-011-0100	1-1-06	Amend	1-1-06	635-042-0145	3-16-06	Amend(T)	4-1-06
635-013-0003	1-1-06	Amend	1-1-06	635-042-0160	2-15-06	Amend	3-1-06
635-013-0004	1-1-06	Amend	1-1-06	635-042-0160	3-16-06	Amend(T)	4-1-06
635-014-0080	1-1-06	Amend	1-1-06	635-042-0180	2-15-06	Amend	3-1-06
635-014-0090	11-23-05	Amend(T)	1-1-06	635-043-0085	12-16-05	Amend	2-1-06
635-014-0090	1-1-06	Amend	1-1-06	635-045-0000	1-1-06	Amend	1-1-06
635-016-0080	1-1-06	Amend	1-1-06	635-045-0002	12-16-05	Amend	2-1-06
635-016-0090	1-1-06	Amend	1-1-06	635-051-0070	12-20-05	Amend(T)	2-1-06
635-017-0080	1-1-06	Amend	1-1-06	635-060-0000	1-1-06	Amend	1-1-06
635-017-0090	1-1-06	Amend	1-1-06	635-060-0055	4-1-06	Amend	1-1-06
635-017-0095	1-1-06	Amend	1-1-06	635-065-0001	1-1-06	Amend	1-1-06
635-017-0095	1-1-06	Amend(T)	2-1-06	635-065-0015	1-1-06	Amend	1-1-06
635-017-0095	2-15-06	Amend	3-1-06	635-065-0090	12-16-05	Amend	2-1-06
635-018-0080	1-1-06	Amend	1-1-06	635-065-0401	1-1-06	Amend	1-1-06
635-018-0090	1-1-06	Amend	1-1-06	635-065-0625	1-1-06	Amend	1-1-06
635-019-0080	1-1-06	Amend	1-1-06	635-065-0635	1-1-06	Amend	1-1-06
635-019-0090	1-1-06	Amend	1-1-06	635-065-0720	1-1-06	Amend	1-1-06
635-021-0080	1-1-06	Amend	1-1-06	635-065-0735	12-16-05	Amend	2-1-06
635-021-0090	1-1-06	Amend	1-1-06	635-065-0740	1-1-06	Amend	1-1-06
635-023-0080	1-1-06	Amend	1-1-06	635-065-0760	6-1-06	Amend	1-1-06
635-023-0085	2-15-06	Adopt	3-1-06	635-065-0765	1-1-06	Amend	1-1-06
635-023-0090	1-1-06	Amend	1-1-06	635-066-0000	1-1-06	Amend	1-1-06
635-023-0095	1-1-06	Amend	1-1-06	635-067-0000	1-1-06	Amend	1-1-06
635-023-0095	1-1-06	Amend(T)	2-1-06	635-067-0004	1-1-06	Amend	1-1-06
635-023-0095	2-15-06	Amend	3-1-06	635-067-0015	1-1-06	Amend	1-1-06
635-023-0125	1-1-06	Amend	1-1-06	635-068-0000	3-1-06	Amend	1-1-06
635-023-0125	2-15-06	Amend	3-1-06	635-069-0000	2-1-06	Amend	1-1-06
635-023-0130	1-1-06	Amend	1-1-06	635-070-0000	4-1-06	Amend	1-1-06
635-039-0080	1-1-06	Amend	1-1-06	635-071-0000	4-1-06	Amend	1-1-06
635-039-0080	1-1-06	Amend	1-1-06	635-072-0000	1-1-06	Amend	1-1-06
635-039-0090	11-29-05	Amend(T)	1-1-06	635-073-0000	2-1-06	Amend	1-1-06
635-039-0090	12-30-05	Amend(T)	1-1-06	635-075-0026	1-1-06	Amend	1-1-06
635-039-0090	1-1-06	Amend	1-1-06	635-075-0026	1-25-06	Amend	3-1-06
635-039-0090	1-1-06	Amend	1-1-06	635-075-0029	1-25-06	Amend	3-1-06
635-039-0090(T)	11-29-05	Suspend	1-1-06	635-075-0035	1-25-06	Adopt	3-1-06
635-039-0090(T)	12-30-05	Suspend	1-1-06	635-080-0015	1-1-06	Amend	1-1-06
635-041-0065	1-27-06	Amend(T)	3-1-06	635-080-0016	1-1-06	Amend	1-1-06
635-041-0076	2-15-06	Adopt	3-1-06	635-080-0066	1-1-06	Amend	1-1-06
635-042-0020	2-15-06	Repeal	3-1-06	635-080-0068	1-1-06	Amend	1-1-06
635-042-0022	2-15-06	Amend	3-1-06	635-080-0069	1-1-06	Amend	1-1-06
635-042-0022	2-23-06	Amend(T)	4-1-06	635-080-0070	1-1-06	Amend	1-1-06
635-042-0022	3-2-06	Amend(T)	4-1-06	635-080-0071	1-1-06	Amend	1-1-06
635-042-0022	3-7-06	Amend(T)	4-1-06	635-110-0000	12-29-05	Amend	2-1-06
635-042-0022	3-9-06	Amend(T)	4-1-06	635-412-0005	1-9-06	Adopt	2-1-06
635-042-0022	3-14-06	Amend(T)	4-1-06	635-412-0015	1-9-06	Adopt	2-1-06
635-042-0027	2-15-06	Adopt	3-1-06	635-412-0020	1-9-06	Amend	2-1-06
635-042-0110	2-15-06	Amend	3-1-06	635-412-0025	1-9-06	Amend	2-1-06
635-042-0130	1-1-06	Amend(T)	2-1-06	635-412-0035	1-9-06	Adopt	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-412-0040	1-9-06	Adopt	2-1-06	731-035-0060	1-24-06	Adopt	3-1-06
644-010-0010	1-1-06	Amend	1-1-06	731-035-0060(T)	1-24-06	Repeal	3-1-06
660-004-0000	2-15-06	Amend	3-1-06	731-035-0070	11-21-05	Adopt(T)	1-1-06
660-004-0018	12-13-05	Amend	1-1-06	731-035-0070	1-24-06	Adopt	3-1-06
660-004-0022	2-15-06	Amend	3-1-06	731-035-0070(T)	1-24-06	Repeal	3-1-06
660-006-0027	2-15-06	Amend	3-1-06	731-035-0080	11-21-05	Adopt(T)	1-1-06
660-006-0031	2-15-06	Amend	3-1-06	731-035-0080	1-24-06	Adopt	3-1-06
660-009-0000	1-1-07	Amend	1-1-06	731-035-0080(T)	1-24-06	Repeal	3-1-06
660-009-0005	1-1-07	Amend	1-1-06	733-030-0065	3-2-06	Amend	4-1-06
660-009-0010	1-1-07	Amend	1-1-06	734-020-0005	12-14-05	Amend(T)	1-1-06
660-009-0015	1-1-07	Amend	1-1-06	734-030-0010	1-24-06	Amend	3-1-06
660-009-0020	1-1-07	Amend	1-1-06	734-030-0025	1-24-06	Amend	3-1-06
660-009-0025	1-1-07	Amend	1-1-06	734-073-0051	12-14-05	Amend	1-1-06
660-009-0030	1-1-07	Adopt	1-1-06	734-073-0130	12-14-05	Amend	1-1-06
660-014-0040	12-13-05	Amend	1-1-06	734-079-0005	12-14-05	Amend	1-1-06
660-015-0000	12-13-05	Amend	1-1-06	734-079-0015	12-14-05	Amend	1-1-06
660-015-0000	2-10-06	Amend	3-1-06	735-001-0040	1-1-06	Amend(T)	1-1-06
660-022-0030	12-13-05	Amend	1-1-06	735-010-0008	1-1-06	Amend	1-1-06
660-033-0120	2-15-06	Amend	3-1-06	735-010-0210	1-1-06	Amend	1-1-06
660-033-0130	2-15-06	Amend	3-1-06	735-010-0215	1-1-06	Adopt	1-1-06
678-010-0010	1-27-06	Amend	3-1-06	735-010-0240	1-1-06	Adopt	1-1-06
678-010-0020	1-27-06	Amend	3-1-06	735-020-0010	1-1-06	Amend(T)	1-1-06
678-010-0030	1-27-06	Amend	3-1-06	735-020-0070	1-1-06	Amend(T)	1-1-06
678-010-0040	1-27-06	Amend	3-1-06	735-022-0000	1-1-06	Amend(T)	1-1-06
678-010-0050	1-27-06	Amend	3-1-06	735-024-0015	1-1-06	Amend(T)	1-1-06
690-030-0085	1-30-06	Amend	3-1-06	735-024-0030	1-1-06	Amend(T)	1-1-06
690-315-0010	11-22-05	Amend	1-1-06	735-024-0070	1-1-06	Amend(T)	1-1-06
690-315-0020	11-22-05	Amend	1-1-06	735-024-0075	1-1-06	Amend(T)	1-1-06
690-315-0030	11-22-05	Amend	1-1-06	735-024-0077	1-1-06	Adopt(T)	1-1-06
690-315-0040	11-22-05	Amend	1-1-06	735-024-0080	1-1-06	Amend(T)	1-1-06
690-315-0060	11-22-05	Amend	1-1-06	735-024-0120	1-1-06	Amend(T)	1-1-06
690-315-0070	11-22-05	Amend	1-1-06	735-024-0130	1-1-06	Amend(T)	1-1-06
690-315-0080	11-22-05	Amend	1-1-06	735-024-0170	1-1-06	Amend(T)	1-1-06
690-315-0090	11-22-05	Amend	1-1-06	735-028-0010	1-1-06	Amend(T)	1-1-06
731-001-0005	1-24-06	Amend	3-1-06	735-028-0090	1-1-06	Amend(T)	1-1-06
731-001-0025	1-24-06	Amend	3-1-06	735-028-0110	1-1-06	Amend(T)	1-1-06
731-005-0470	2-16-06	Amend	4-1-06	735-032-0020	1-1-06	Amend(T)	1-1-06
731-007-0335	11-17-05	Adopt(T)	1-1-06	735-046-0080	1-1-06	Suspend	1-1-06
731-007-0335	2-16-06	Adopt	4-1-06	735-060-0000	12-14-05	Amend	1-1-06
731-007-0335(T)	2-16-06	Repeal	4-1-06	735-060-0030	12-14-05	Amend	1-1-06
731-035-0010	11-21-05	Adopt(T)	1-1-06	735-060-0040	12-14-05	Amend	1-1-06
731-035-0010	1-24-06	Adopt	3-1-06	735-060-0050	12-14-05	Amend	1-1-06
731-035-0010(T)	1-24-06	Repeal	3-1-06	735-060-0055	12-14-05	Amend	1-1-06
731-035-0020	11-21-05	Adopt(T)	1-1-06	735-060-0057	12-14-05	Amend	1-1-06
731-035-0020	1-24-06	Adopt	3-1-06	735-060-0060	12-14-05	Amend	1-1-06
731-035-0020(T)	1-24-06	Repeal	3-1-06	735-060-0105	12-14-05	Amend	1-1-06
731-035-0030	11-21-05	Adopt(T)	1-1-06	735-060-0110	12-14-05	Amend	1-1-06
731-035-0030	1-24-06	Adopt	3-1-06	735-060-0120	12-14-05	Amend	1-1-06
731-035-0030(T)	1-24-06	Repeal	3-1-06	735-060-0130	12-14-05	Amend	1-1-06
731-035-0040	11-21-05	Adopt(T)	1-1-06	735-062-0000	1-1-06	Amend	1-1-06
731-035-0040	1-24-06	Adopt	3-1-06	735-062-0030	11-18-05	Amend	1-1-06
731-035-0040(T)	1-24-06	Repeal	3-1-06	735-062-0030(T)	11-18-05	Repeal	1-1-06
731-035-0050	11-21-05	Adopt(T)	1-1-06	735-062-0080	12-14-05	Amend	1-1-06
731-035-0050	1-24-06	Adopt	3-1-06	735-062-0105	11-18-05	Amend	1-1-06
731-035-0050(T)	1-24-06	Repeal	3-1-06	735-062-0105(T)	11-18-05	Repeal	1-1-06
731-035-0060	11-21-05	Adopt(T)	1-1-06	735-062-0110	11-18-05	Amend	1-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-062-0110(T)	11-18-05	Repeal	1-1-06	735-152-0090	1-1-06	Adopt(T)	1-1-06
735-062-0115	11-18-05	Amend	1-1-06	735-160-0003	1-1-06	Adopt	1-1-06
735-062-0115(T)	11-18-05	Repeal	1-1-06	736-015-0035	2-14-06	Amend	3-1-06
735-062-0120	11-18-05	Amend	1-1-06	736-015-0035(T)	2-14-06	Repeal	3-1-06
735-062-0120(T)	11-18-05	Repeal	1-1-06	736-053-0100	2-27-06	Amend	4-1-06
735-062-0130	1-1-06	Amend(T)	1-1-06	736-053-0105	2-27-06	Amend	4-1-06
735-062-0130	2-15-06	Amend	3-1-06	736-053-0110	2-27-06	Amend	4-1-06
735-062-0130(T)	2-15-06	Repeal	3-1-06	736-053-0115	2-27-06	Amend	4-1-06
735-062-0135	11-18-05	Amend	1-1-06	736-053-0120	2-27-06	Amend	4-1-06
735-062-0135(T)	11-18-05	Repeal	1-1-06	736-053-0125	2-27-06	Amend	4-1-06
735-062-0190	12-14-05	Amend	1-1-06	736-053-0130	2-27-06	Amend	4-1-06
735-062-0190(T)	12-14-05	Repeal	1-1-06	736-053-0135	2-27-06	Adopt	4-1-06
735-062-0320	12-14-05	Amend	1-1-06	736-053-0140	2-27-06	Adopt	4-1-06
735-064-0005	2-15-06	Amend	3-1-06	738-015-0005	1-27-06	Amend	3-1-06
735-064-0040	2-15-06	Amend	3-1-06	738-015-0075	1-27-06	Amend	3-1-06
735-064-0090	2-15-06	Amend	3-1-06	740-010-0020	12-14-05	Adopt	1-1-06
735-064-0100	2-15-06	Amend	3-1-06	740-010-0020(T)	12-14-05	Repeal	1-1-06
735-064-0110	2-15-06	Amend	3-1-06	740-050-0610	12-14-05	Amend	1-1-06
735-064-0220	12-14-05	Amend	1-1-06	740-055-0300	12-14-05	Repeal	1-1-06
735-064-0220(T)	12-14-05	Repeal	1-1-06	740-055-0320	12-14-05	Amend	1-1-06
735-064-0235	12-14-05	Amend	1-1-06	740-200-0045	2-16-06	Adopt	4-1-06
735-070-0010	11-18-05	Amend	1-1-06	801-001-0035	1-1-06	Amend	1-1-06
735-070-0010	1-1-06	Amend	1-1-06	801-001-0055	1-1-06	Adopt	1-1-06
735-070-0010(T)	11-18-05	Repeal	1-1-06	801-005-0010	1-1-06	Amend	1-1-06
735-070-0020	12-14-05	Amend	1-1-06	801-010-0050	1-1-06	Amend	1-1-06
735-070-0020(T)	12-14-05	Repeal	1-1-06	801-010-0080	1-1-06	Amend	1-1-06
735-070-0030	12-14-05	Amend	1-1-06	801-020-0720	1-1-06	Amend	1-1-06
735-070-0037	12-14-05	Amend	1-1-06	801-030-0005	1-1-06	Amend	1-1-06
735-070-0054	12-14-05	Amend	1-1-06	801-030-0015	1-1-06	Amend	1-1-06
735-070-0180	12-14-05	Repeal	1-1-06	801-030-0020	1-1-06	Amend	1-1-06
735-150-0005	1-1-06	Amend(T)	1-1-06	801-040-0010	1-1-06	Amend	1-1-06
735-150-0010	1-1-06	Amend	1-1-06	801-040-0070	1-1-06	Amend	1-1-06
735-150-0010	1-1-06	Amend(T)	1-1-06	801-040-0090	1-1-06	Amend	1-1-06
735-150-0033	1-1-06	Adopt	1-1-06	801-050-0005	12-15-05	Amend	1-1-06
735-150-0040	1-1-06	Amend	1-1-06	801-050-0010	12-15-05	Amend	1-1-06
735-150-0050	1-1-06	Amend	1-1-06	801-050-0020	12-15-05	Amend	1-1-06
735-150-0055	1-1-06	Amend	1-1-06	801-050-0030	12-15-05	Amend	1-1-06
735-150-0110	1-1-06	Amend	1-1-06	801-050-0035	12-15-05	Adopt	1-1-06
735-150-0120	1-1-06	Amend	1-1-06	801-050-0040	12-15-05	Amend	1-1-06
735-150-0130	1-1-06	Amend	1-1-06	801-050-0050	12-15-05	Repeal	1-1-06
735-150-0140	1-1-06	Amend	1-1-06	801-050-0060	12-15-05	Amend	1-1-06
735-152-0000	1-1-06	Amend(T)	1-1-06	801-050-0065	12-15-05	Adopt	1-1-06
735-152-0005	1-1-06	Amend(T)	1-1-06	801-050-0070	12-15-05	Amend	1-1-06
735-152-0010	1-1-06	Amend(T)	1-1-06	801-050-0080	12-15-05	Amend	1-1-06
735-152-0020	1-1-06	Amend(T)	1-1-06	804-020-0055	12-13-05	Amend	1-1-06
735-152-0025	1-1-06	Adopt(T)	1-1-06	806-001-0004	3-15-06	Amend	4-1-06
735-152-0030	1-1-06	Suspend	1-1-06	806-001-0005	3-15-06	Amend	4-1-06
735-152-0031	1-1-06	Adopt(T)	1-1-06	806-010-0015	12-13-05	Amend	1-1-06
735-152-0034	1-1-06	Adopt(T)	1-1-06	806-010-0037	12-13-05	Amend	1-1-06
735-152-0037	1-1-06	Adopt(T)	1-1-06	806-010-0037	3-10-06	Amend	4-1-06
735-152-0040	1-1-06	Amend(T)	1-1-06	806-010-0075	3-10-06	Amend	4-1-06
735-152-0045	1-1-06	Adopt(T)	1-1-06	806-010-0075	3-15-06	Amend(T)	4-1-06
735-152-0050	1-1-06	Amend(T)	1-1-06	806-020-0020	12-13-05	Amend	1-1-06
735-152-0060	1-1-06	Adopt(T)	1-1-06	808-002-0150	1-1-06	Adopt	2-1-06
735-152-0070	1-1-06	Adopt(T)	1-1-06	808-002-0200	1-1-06	Amend	2-1-06
735-152-0080	1-1-06	Adopt(T)	1-1-06	808-002-0250	1-1-06	Amend	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
808-002-0298	1-1-06	Repeal	2-1-06	812-001-0200	1-1-06	Am. & Ren.	1-1-06
808-002-0328	1-1-06	Adopt	2-1-06	812-001-0200	1-11-06	Amend(T)	2-1-06
808-002-0330	1-1-06	Adopt	2-1-06	812-001-0300	1-1-06	Am. & Ren.	1-1-06
808-002-0338	1-1-06	Adopt	2-1-06	812-001-0305	1-1-06	Am. & Ren.	1-1-06
808-002-0340	1-1-06	Amend	2-1-06	812-001-0310	1-1-06	Am. & Ren.	1-1-06
808-002-0360	1-1-06	Amend	2-1-06	812-001-0500	1-1-06	Am. & Ren.	1-1-06
808-002-0455	1-1-06	Adopt	2-1-06	812-001-0510	1-1-06	Am. & Ren.	1-1-06
808-002-0460	1-1-06	Repeal	2-1-06	812-002-0040	1-1-06	Amend	1-1-06
808-002-0490	1-1-06	Adopt	2-1-06	812-002-0060	1-1-06	Amend	1-1-06
808-002-0495	1-1-06	Adopt	2-1-06	812-002-0100	1-1-06	Amend	1-1-06
808-002-0500	1-1-06	Amend	2-1-06	812-002-0160	1-1-06	Amend	1-1-06
808-002-0600	1-1-06	Repeal	2-1-06	812-002-0190	1-1-06	Amend	1-1-06
808-002-0650	1-1-06	Adopt	2-1-06	812-002-0260	1-1-06	Amend	1-1-06
808-002-0720	1-1-06	Repeal	2-1-06	812-002-0325	1-1-06	Amend	1-1-06
808-002-0730	1-1-06	Amend	2-1-06	812-002-0340	1-1-06	Repeal	1-1-06
808-002-0734	1-1-06	Adopt	2-1-06	812-002-0350	1-1-06	Adopt	1-1-06
808-002-0735	1-1-06	Repeal	2-1-06	812-002-0360	1-1-06	Amend	1-1-06
808-002-0745	1-1-06	Repeal	2-1-06	812-002-0420	1-1-06	Amend	1-1-06
808-002-0810	1-1-06	Adopt	2-1-06	812-002-0430	1-1-06	Amend	1-1-06
808-002-0875	1-1-06	Adopt	2-1-06	812-002-0443	1-1-06	Amend	1-1-06
808-002-0885	1-1-06	Adopt	2-1-06	812-002-0520	1-1-06	Amend	1-1-06
808-003-0010	1-1-06	Amend	2-1-06	812-002-0533	1-1-06	Adopt	1-1-06
808-003-0015	1-1-06	Amend	2-1-06	812-002-0537	1-1-06	Adopt	1-1-06
808-003-0035	1-1-06	Amend	2-1-06	812-002-0540	1-1-06	Amend	1-1-06
808-003-0040	1-1-06	Amend	2-1-06	812-002-0555	1-1-06	Repeal	1-1-06
808-003-0045	1-1-06	Amend	2-1-06	812-002-0640	1-1-06	Amend	1-1-06
808-003-0060	1-1-06	Amend	2-1-06	812-002-0670	1-1-06	Amend	1-1-06
808-003-0105	1-1-06	Amend	2-1-06	812-002-0675	1-1-06	Amend	1-1-06
808-003-0110	1-1-06	Amend	2-1-06	812-002-0700	1-1-06	Amend	1-1-06
808-003-0130	1-1-06	Amend	2-1-06	812-002-0720	1-1-06	Amend	1-1-06
808-003-0225	1-1-06	Adopt	2-1-06	812-002-0740	1-1-06	Amend	1-1-06
808-003-0230	1-1-06	Adopt	2-1-06	812-002-0780	1-1-06	Amend	1-1-06
808-003-0235	1-1-06	Adopt	2-1-06	812-002-0800	1-1-06	Amend	1-1-06
808-003-0240	1-1-06	Adopt	2-1-06	812-003-0170	1-1-06	Amend	1-1-06
808-003-0245	1-1-06	Adopt	2-1-06	812-003-0175	3-9-06	Adopt(T)	4-1-06
808-003-0250	1-1-06	Adopt	2-1-06	812-003-0240	1-1-06	Amend	1-1-06
808-003-0255	1-1-06	Adopt	2-1-06	812-003-0240	1-11-06	Amend(T)	2-1-06
808-003-0260	1-1-06	Adopt	2-1-06	812-003-0420	1-1-06	Amend	1-1-06
808-004-0320	1-1-06	Amend	2-1-06	812-004-0180	1-1-06	Amend	1-1-06
808-004-0600	1-1-06	Amend	2-1-06	812-004-0195	1-1-06	Amend	1-1-06
808-005-0020	1-1-06	Amend	2-1-06	812-004-0240	1-1-06	Amend	1-1-06
809-010-0001	12-7-05	Amend	1-1-06	812-004-0250	1-1-06	Amend	1-1-06
809-015-0000	12-14-05	Amend	1-1-06	812-004-0260	1-1-06	Amend	1-1-06
809-015-0005	12-14-05	Amend	1-1-06	812-004-0300	1-1-06	Amend	1-1-06
811-010-0084	2-9-06	Adopt(T)	3-1-06	812-004-0320	1-1-06	Amend	1-1-06
811-010-0085	2-9-06	Amend	3-1-06	812-004-0325	1-1-06	Repeal	1-1-06
811-010-0130	2-9-06	Adopt	3-1-06	812-004-0340	1-1-06	Amend	1-1-06
811-015-0005	2-9-06	Amend	3-1-06	812-004-0360	1-1-06	Amend	1-1-06
811-021-0005	2-9-06	Amend	3-1-06	812-004-0420	1-1-06	Amend	1-1-06
812-001-0051	1-1-06	Am. & Ren.	1-1-06	812-004-0440	1-1-06	Amend	1-1-06
812-001-0100	1-1-06	Am. & Ren.	1-1-06	812-004-0450	1-1-06	Amend	1-1-06
812-001-0110	1-1-06	Am. & Ren.	1-1-06	812-004-0460	1-1-06	Amend	1-1-06
812-001-0120	1-1-06	Am. & Ren.	1-1-06	812-004-0470	1-1-06	Amend	1-1-06
812-001-0130	1-1-06	Am. & Ren.	1-1-06	812-004-0480	1-1-06	Amend	1-1-06
812-001-0140	1-1-06	Am. & Ren.	1-1-06	812-004-0500	1-1-06	Amend	1-1-06
812-001-0160	1-1-06	Am. & Ren.	1-1-06	812-004-0530	1-1-06	Amend	1-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
812-004-0590	1-1-06	Amend	1-1-06	813-005-0030	1-31-06	Repeal	3-1-06
812-005-0100	1-1-06	Am. & Ren.	1-1-06	813-009-0001	2-10-06	Amend(T)	3-1-06
812-005-0110	1-1-06	Am. & Ren.	1-1-06	813-009-0005	2-10-06	Amend(T)	3-1-06
812-005-0120	1-1-06	Am. & Ren.	1-1-06	813-009-0010	2-10-06	Amend(T)	3-1-06
812-005-0130	1-1-06	Am. & Ren.	1-1-06	813-009-0015	2-10-06	Amend(T)	3-1-06
812-005-0140	1-1-06	Am. & Ren.	1-1-06	813-009-0020	2-10-06	Amend(T)	3-1-06
812-005-0150	1-1-06	Am. & Ren.	1-1-06	813-009-0030	2-10-06	Adopt(T)	3-1-06
812-005-0160	1-1-06	Am. & Ren.	1-1-06	813-013-0001	1-5-06	Adopt(T)	2-1-06
812-005-0170	1-1-06	Am. & Ren.	1-1-06	813-013-0005	1-5-06	Adopt(T)	2-1-06
812-005-0180	1-1-06	Am. & Ren.	1-1-06	813-013-0010	1-5-06	Adopt(T)	2-1-06
812-005-0200	1-1-06	Am. & Ren.	1-1-06	813-013-0015	1-5-06	Adopt(T)	2-1-06
812-005-0210	1-1-06	Am. & Ren.	1-1-06	813-013-0020	1-5-06	Adopt(T)	2-1-06
812-005-0500	1-1-06	Am. & Ren.	1-1-06	813-013-0025	1-5-06	Adopt(T)	2-1-06
812-005-0800	1-1-06	Am. & Ren.	1-1-06	813-013-0030	1-5-06	Adopt(T)	2-1-06
812-005-0800	1-26-06	Amend	3-1-06	813-013-0035	1-5-06	Adopt(T)	2-1-06
812-006-0012	1-1-06	Amend	1-1-06	813-013-0040	1-5-06	Adopt(T)	2-1-06
812-006-0015	1-1-06	Adopt	1-1-06	813-013-0045	1-5-06	Adopt(T)	2-1-06
812-006-0030	1-1-06	Amend	1-1-06	813-013-0050	1-5-06	Adopt(T)	2-1-06
812-008-0050	3-2-06	Amend	4-1-06	813-013-0055	1-5-06	Adopt(T)	2-1-06
812-008-0070	1-26-06	Amend	3-1-06	813-013-0060	1-5-06	Adopt(T)	2-1-06
812-008-0072	1-26-06	Amend	3-1-06	817-005-0005	3-15-06	Amend	4-1-06
812-008-0078	1-26-06	Repeal	3-1-06	817-010-0065	3-15-06	Amend	4-1-06
812-008-0090	3-2-06	Amend	4-1-06	817-010-0068	3-15-06	Amend	4-1-06
812-008-0110	1-1-06	Amend	1-1-06	817-010-0101	3-15-06	Amend	4-1-06
812-008-0202	3-2-06	Amend	4-1-06	817-010-0106	3-15-06	Amend	4-1-06
812-009-0160	1-1-06	Amend	1-1-06	817-015-0050	3-15-06	Amend	4-1-06
812-009-0320	1-1-06	Amend	1-1-06	817-015-0065	3-15-06	Amend	4-1-06
812-009-0400	1-1-06	Amend	1-1-06	817-020-0305	3-15-06	Amend	4-1-06
812-009-0420	1-1-06	Amend	1-1-06	817-030-0005	3-15-06	Amend	4-1-06
812-009-0430	1-1-06	Amend	1-1-06	817-030-0015	3-15-06	Amend	4-1-06
813-001-0000	1-31-06	Repeal	3-1-06	817-030-0018	3-15-06	Amend	4-1-06
813-001-0002	1-31-06	Adopt	3-1-06	817-030-0020	3-15-06	Amend	4-1-06
813-001-0002(T)	1-31-06	Repeal	3-1-06	817-030-0040	3-15-06	Amend	4-1-06
813-001-0003	1-31-06	Am. & Ren.	3-1-06	817-030-0045	3-15-06	Amend	4-1-06
813-001-0003(T)	1-31-06	Repeal	3-1-06	817-030-0100	3-15-06	Amend	4-1-06
813-001-0005	1-31-06	Repeal	3-1-06	817-035-0010	3-15-06	Amend	4-1-06
813-001-0007	1-31-06	Adopt	3-1-06	817-035-0030	3-15-06	Amend	4-1-06
813-001-0007(T)	1-31-06	Repeal	3-1-06	817-035-0110	3-15-06	Amend	4-1-06
813-001-0008	1-31-06	Repeal	3-1-06	817-040-0003	3-15-06	Amend	4-1-06
813-001-0011	1-31-06	Adopt	3-1-06	817-080-0005	3-15-06	Amend	4-1-06
813-001-0011(T)	1-31-06	Repeal	3-1-06	817-090-0025	3-15-06	Amend	4-1-06
813-001-0066	1-31-06	Repeal	3-1-06	817-090-0035	3-15-06	Amend	4-1-06
813-001-0068	1-31-06	Repeal	3-1-06	817-090-0045	3-15-06	Amend	4-1-06
813-001-0069	1-31-06	Repeal	3-1-06	817-090-0050	3-15-06	Amend	4-1-06
813-001-0080	1-31-06	Repeal	3-1-06	817-090-0055	3-15-06	Amend	4-1-06
813-001-0090	1-31-06	Repeal	3-1-06	817-090-0065	3-15-06	Amend	4-1-06
813-005-0001	1-31-06	Adopt	3-1-06	817-090-0070	3-15-06	Amend	4-1-06
813-005-0001(T)	1-31-06	Repeal	3-1-06	817-090-0075	3-15-06	Amend	4-1-06
813-005-0005	1-31-06	Amend	3-1-06	817-090-0080	3-15-06	Amend	4-1-06
813-005-0005(T)	1-31-06	Repeal	3-1-06	817-090-0085	3-15-06	Amend	4-1-06
813-005-0010	1-31-06	Repeal	3-1-06	817-090-0090	3-15-06	Amend	4-1-06
813-005-0015	1-31-06	Repeal	3-1-06	817-090-0095	3-15-06	Amend	4-1-06
813-005-0016	1-31-06	Adopt	3-1-06	817-090-0100	3-15-06	Amend	4-1-06
813-005-0016(T)	1-31-06	Repeal	3-1-06	817-090-0105	3-15-06	Amend	4-1-06
813-005-0020	1-31-06	Repeal	3-1-06	817-090-0110	3-15-06	Amend	4-1-06
813-005-0025	1-31-06	Repeal	3-1-06	817-090-0115	3-15-06	Amend	4-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
817-100-0005	3-15-06	Amend	4-1-06	839-015-0200	1-1-06	Amend	2-1-06
817-120-0005	3-15-06	Amend	4-1-06	839-015-0230	1-1-06	Amend	2-1-06
820-010-0010	12-13-05	Amend	1-1-06	839-015-0260	1-1-06	Amend	2-1-06
820-010-0205	12-13-05	Amend	1-1-06	839-015-0300	1-1-06	Amend	2-1-06
820-010-0207	12-13-05	Adopt	1-1-06	839-015-0300	3-1-06	Amend	4-1-06
820-010-0215	12-13-05	Amend	1-1-06	839-015-0350	1-1-06	Amend	2-1-06
820-010-0230	12-13-05	Amend	1-1-06	839-015-0500	1-1-06	Amend	2-1-06
820-010-0255	12-13-05	Amend	1-1-06	839-015-0508	1-1-06	Amend	2-1-06
820-010-0305	12-13-05	Amend	1-1-06	839-015-0600	1-1-06	Amend	2-1-06
820-010-0427	12-13-05	Adopt	1-1-06	839-015-0610	1-1-06	Amend	2-1-06
820-010-0450	12-13-05	Amend	1-1-06	839-017-0001	3-7-06	Repeal	4-1-06
820-010-0465	12-13-05	Amend	1-1-06	839-019-0002	3-7-06	Repeal	4-1-06
820-010-0610	12-13-05	Amend	1-1-06	839-025-0002	3-7-06	Repeal	4-1-06
820-010-0618	12-13-05	Amend	1-1-06	839-025-0003	1-1-06	Amend	2-1-06
820-010-0619	12-13-05	Adopt	1-1-06	839-025-0004	1-1-06	Amend	2-1-06
820-010-0625	12-13-05	Amend	1-1-06	839-025-0010	1-1-06	Amend	2-1-06
820-010-0635	12-13-05	Amend	1-1-06	839-025-0015	1-1-06	Adopt	2-1-06
836-011-0000	1-23-06	Amend	3-1-06	839-025-0020	1-1-06	Amend	2-1-06
836-027-0200	2-13-06	Amend	3-1-06	839-025-0035	1-1-06	Amend	2-1-06
836-052-0676	3-20-06	Amend	4-1-06	839-025-0100	1-1-06	Amend	2-1-06
836-052-0696	3-20-06	Amend	4-1-06	839-025-0220	1-1-06	Amend	2-1-06
836-071-0180	1-31-06	Amend	3-1-06	839-025-0230	1-1-06	Amend	2-1-06
836-071-0263	1-15-06	Adopt	2-1-06	839-025-0240	1-1-06	Repeal	2-1-06
836-071-0277	1-15-06	Amend	2-1-06	839-025-0530	1-1-06	Amend	2-1-06
836-080-0430	3-10-06	Amend	4-1-06	839-025-0700	1-1-06	Amend	2-1-06
836-080-0438	3-10-06	Amend	4-1-06	839-025-0700	1-25-06	Amend	3-1-06
837-012-0510	3-10-06	Amend	4-1-06	839-025-0700	2-9-06	Amend	3-1-06
837-012-0555	3-10-06	Amend	4-1-06	839-025-0700	2-24-06	Amend	4-1-06
837-012-0620	3-10-06	Amend	4-1-06	839-025-0750	12-23-05	Amend	2-1-06
837-012-0625	2-13-06	Amend(T)	2-1-06	839-025-0750	3-13-06	Amend	4-1-06
837-012-0625	3-10-06	Amend	4-1-06	845-004-0020	1-1-06	Amend	2-1-06
837-012-0750	2-13-06	Amend(T)	2-1-06	845-004-0105	3-1-06	Adopt	4-1-06
837-012-0750	3-10-06	Amend	4-1-06	845-005-0306	12-1-05	Amend	1-1-06
837-012-0855	3-10-06	Amend	4-1-06	845-006-0301	2-1-06	Amend	3-1-06
837-012-0900	3-10-06	Amend	4-1-06	845-006-0335	1-1-06	Amend	1-1-06
837-012-0910	3-10-06	Amend	4-1-06	845-006-0430	2-1-06	Amend	3-1-06
837-040-0001	2-1-06	Amend(T)	2-1-06	845-010-0151	1-1-06	Amend	2-1-06
837-040-0010	2-1-06	Amend(T)	2-1-06	845-010-0170	1-1-06	Amend	2-1-06
837-040-0020	2-1-06	Adopt(T)	2-1-06	845-015-0165	3-1-06	Amend	4-1-06
837-040-0140	2-1-06	Amend(T)	2-1-06	847-008-0023	2-8-06	Adopt(T)	3-1-06
839-001-0420	1-1-06	Amend	2-1-06	847-010-0052	2-8-06	Amend	3-1-06
839-001-0470	1-1-06	Amend	2-1-06	847-020-0130	2-8-06	Amend(T)	3-1-06
839-014-0025	3-7-06	Repeal	4-1-06	847-020-0140	2-8-06	Amend	3-1-06
839-014-0060	1-1-06	Amend	2-1-06	847-020-0150	2-8-06	Amend	3-1-06
839-014-0100	1-1-06	Amend	2-1-06	847-020-0170	2-8-06	Amend	3-1-06
839-014-0105	1-1-06	Amend	2-1-06	847-020-0170	2-8-06	Amend(T)	3-1-06
839-014-0200	1-1-06	Amend	2-1-06	847-020-0180	2-8-06	Amend	3-1-06
839-014-0380	1-1-06	Amend	2-1-06	847-031-0020	2-8-06	Amend	3-1-06
839-014-0630	1-1-06	Amend	2-1-06	847-050-0026	2-8-06	Amend	3-1-06
839-015-0002	3-7-06	Repeal	4-1-06	847-050-0041	2-8-06	Amend	3-1-06
839-015-0130	3-1-06	Amend	4-1-06	847-050-0065	2-8-06	Amend	3-1-06
839-015-0145	3-1-06	Amend	4-1-06	848-001-0000	1-1-06	Amend	2-1-06
839-015-0155	1-1-06	Amend	2-1-06	848-005-0020	1-1-06	Amend	2-1-06
839-015-0157	1-1-06	Amend	2-1-06	848-005-0030	1-1-06	Amend	2-1-06
839-015-0160	1-1-06	Amend	2-1-06	848-010-0015	1-1-06	Amend	2-1-06
839-015-0165	1-1-06	Amend	2-1-06	848-010-0020	1-1-06	Amend	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
848-010-0026	1-1-06	Amend	2-1-06	860-021-0420	11-30-05	Amend	1-1-06
848-010-0033	1-1-06	Amend	2-1-06	860-021-0510	2-27-06	Amend	4-1-06
848-010-0035	1-1-06	Amend	2-1-06	860-021-0550	2-27-06	Adopt	4-1-06
848-010-0044	1-1-06	Amend	2-1-06	860-021-0550(T)	2-27-06	Repeal	4-1-06
848-015-0010	1-1-06	Amend	2-1-06	860-021-0575	2-27-06	Adopt	4-1-06
848-015-0030	1-1-06	Amend	2-1-06	860-022-0001	11-30-05	Amend	1-1-06
848-020-0030	1-1-06	Amend	2-1-06	860-022-0017	11-30-05	Amend	1-1-06
848-020-0060	1-1-06	Amend	2-1-06	860-022-0040	11-30-05	Amend	1-1-06
848-030-0000	1-1-06	Repeal	2-1-06	860-022-0046	11-30-05	Amend	1-1-06
848-030-0010	1-1-06	Repeal	2-1-06	860-022-0075	11-30-05	Adopt	1-1-06
848-040-0105	1-1-06	Amend	2-1-06	860-023-0000	12-23-05	Amend	2-1-06
848-040-0110	1-1-06	Amend	2-1-06	860-023-0001	11-30-05	Amend	1-1-06
848-040-0115	1-1-06	Repeal	2-1-06	860-023-0001	12-23-05	Amend	2-1-06
848-040-0117	1-1-06	Adopt	2-1-06	860-023-0005	11-30-05	Amend	1-1-06
848-040-0120	1-1-06	Amend	2-1-06	860-023-0005	12-23-05	Amend	2-1-06
848-040-0147	1-1-06	Adopt	2-1-06	860-023-0020	11-30-05	Amend	1-1-06
848-045-0010	1-1-06	Amend	2-1-06	860-023-0054	12-23-05	Adopt	2-1-06
848-045-0020	1-1-06	Amend	2-1-06	860-023-0055	12-27-05	Amend	2-1-06
850-060-0225	12-12-05	Amend	1-1-06	860-023-0080	11-30-05	Amend	1-1-06
850-060-0226	12-12-05	Amend	1-1-06	860-023-0090	11-30-05	Amend	1-1-06
851-031-0006	12-21-05	Amend	2-1-06	860-023-0100	11-30-05	Amend	1-1-06
851-031-0045	12-21-05	Amend	2-1-06	860-023-0110	11-30-05	Amend	1-1-06
851-031-0088	2-22-06	Adopt	4-1-06	860-023-0120	11-30-05	Amend	1-1-06
851-045-0025	12-21-05	Amend	2-1-06	860-023-0130	11-30-05	Amend	1-1-06
851-050-0131	12-21-05	Amend	2-1-06	860-023-0140	11-30-05	Amend	1-1-06
851-050-0131	2-22-06	Amend	4-1-06	860-023-0150	11-30-05	Amend	1-1-06
851-061-0090	12-21-05	Amend	2-1-06	860-023-0160	11-30-05	Amend	1-1-06
851-062-0010	12-21-05	Amend	2-1-06	860-025-0001	11-30-05	Amend	1-1-06
851-063-0040	2-22-06	Amend	4-1-06	860-026-0005	11-30-05	Amend	1-1-06
852-060-0025	12-8-05	Am. & Ren.	1-1-06	860-027-0001	11-30-05	Amend	1-1-06
852-060-0027	12-8-05	Am. & Ren.	1-1-06	860-027-0045	11-30-05	Amend	1-1-06
852-060-0028	12-8-05	Am. & Ren.	1-1-06	860-027-0120	11-30-05	Amend	1-1-06
852-060-0075	3-8-06	Amend	4-1-06	860-027-0300	11-30-05	Amend	1-1-06
855-025-0001	12-15-05	Adopt	1-1-06	860-030-0005	11-30-05	Amend	1-1-06
855-025-0050	12-14-05	Adopt	1-1-06	860-030-0010	11-30-05	Amend	1-1-06
855-041-0063	12-15-05	Amend	1-1-06	860-030-0015	11-30-05	Amend	1-1-06
856-010-0012	11-29-05	Amend	1-1-06	860-030-0018	11-30-05	Amend	1-1-06
856-010-0026	1-30-06	Adopt	3-1-06	860-032-0012	12-27-05	Amend	2-1-06
860-011-0036	11-28-05	Adopt	1-1-06	860-034-0270	2-27-06	Amend	4-1-06
860-011-0080	11-30-05	Amend	1-1-06	860-034-0275	2-27-06	Adopt	4-1-06
860-011-0080	12-21-05	Amend	2-1-06	860-034-0275(T)	2-27-06	Repeal	4-1-06
860-012-0040	11-30-05	Amend	1-1-06	860-034-0276	2-27-06	Adopt	4-1-06
860-021-0008	11-30-05	Amend	1-1-06	860-034-0390	12-27-05	Amend	2-1-06
860-021-0010	11-30-05	Amend	1-1-06	860-038-0005	11-30-05	Amend	1-1-06
860-021-0033	11-30-05	Amend	1-1-06	860-038-0300	11-30-05	Amend	1-1-06
860-021-0045	11-30-05	Amend	1-1-06	860-038-0400	11-30-05	Amend	1-1-06
860-021-0120	2-27-06	Amend	4-1-06	860-038-0410	11-30-05	Amend	1-1-06
860-021-0205	11-30-05	Amend	1-1-06	863-015-0186	1-1-06	Adopt(T)	2-1-06
860-021-0326	11-30-05	Amend	1-1-06	863-015-0225	1-1-06	Adopt(T)	2-1-06
860-021-0328	2-17-06	Adopt(T)	4-1-06	863-015-0230	1-1-06	Adopt(T)	2-1-06
860-021-0335	11-30-05	Amend	1-1-06	875-001-0000	2-8-06	Amend	3-1-06
860-021-0405	11-30-05	Amend	1-1-06	875-001-0005	2-8-06	Amend	3-1-06
860-021-0405	2-27-06	Amend	4-1-06	875-001-0010	2-8-06	Repeal	3-1-06
860-021-0410	11-30-05	Amend	1-1-06	875-001-0015	2-8-06	Adopt	3-1-06
860-021-0414	11-30-05	Amend	1-1-06	875-001-0020	2-8-06	Repeal	3-1-06
860-021-0415	11-30-05	Amend	1-1-06	875-001-0030	2-8-06	Repeal	3-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
875-005-0000	2-8-06	Adopt	3-1-06	877-030-0100	12-22-05	Adopt	2-1-06
875-005-0005	2-8-06	Adopt	3-1-06	877-035-0012	12-22-05	Amend	2-1-06
875-005-0010	2-8-06	Adopt	3-1-06	877-035-0013	12-22-05	Adopt	2-1-06
875-010-0000	2-8-06	Adopt	3-1-06	877-035-0015	12-22-05	Amend	2-1-06
875-010-0006	2-8-06	Adopt	3-1-06	877-040-0015	12-22-05	Amend	2-1-06
875-010-0010	2-8-06	Repeal	3-1-06	877-040-0025	12-22-05	Repeal	2-1-06
875-010-0016	2-8-06	Adopt	3-1-06	877-040-0027	12-22-05	Repeal	2-1-06
875-010-0021	2-8-06	Adopt	3-1-06	877-040-0050	12-22-05	Amend	2-1-06
875-010-0026	2-8-06	Adopt	3-1-06	877-040-0055	12-22-05	Amend	2-1-06
875-010-0030	2-8-06	Repeal	3-1-06	877-040-0060	12-22-05	Repeal	2-1-06
875-010-0045	2-8-06	Amend	3-1-06	877-040-0065	12-22-05	Repeal	2-1-06
875-010-0050	2-8-06	Amend	3-1-06	877-040-0070	12-22-05	Repeal	2-1-06
875-010-0055	2-8-06	Repeal	3-1-06	918-001-0010	2-13-06	Amend	3-1-06
875-010-0060	2-8-06	Repeal	3-1-06	918-008-0000	3-1-06	Amend(T)	4-1-06
875-010-0065	2-8-06	Amend	3-1-06	918-008-0010	3-1-06	Amend(T)	4-1-06
875-010-0070	2-8-06	Repeal	3-1-06	918-008-0020	3-1-06	Amend(T)	4-1-06
875-010-0075	2-8-06	Repeal	3-1-06	918-008-0030	3-1-06	Amend(T)	4-1-06
875-010-0080	2-8-06	Repeal	3-1-06	918-008-0060	3-1-06	Amend(T)	4-1-06
875-010-0085	2-8-06	Repeal	3-1-06	918-008-0075	1-1-06	Adopt	2-1-06
875-010-0090	2-8-06	Adopt	3-1-06	918-008-0080	1-1-06	Adopt	2-1-06
875-010-0095	2-8-06	Adopt	3-1-06	918-008-0085	1-1-06	Adopt	2-1-06
875-011-0005	2-8-06	Adopt	3-1-06	918-008-0090	1-1-06	Adopt	2-1-06
875-011-0010	2-8-06	Adopt	3-1-06	918-008-0095	1-1-06	Adopt	2-1-06
875-015-0000	2-8-06	Repeal	3-1-06	918-008-0110	1-1-06	Adopt	2-1-06
875-015-0020	2-8-06	Amend	3-1-06	918-008-0115	1-1-06	Adopt	2-1-06
875-015-0030	2-8-06	Amend	3-1-06	918-008-0120	1-1-06	Adopt	2-1-06
875-015-0050	2-8-06	Amend	3-1-06	918-020-0090	1-1-06	Amend	2-1-06
875-020-0000	2-8-06	Repeal	3-1-06	918-050-0000	1-1-06	Amend	2-1-06
875-020-0030	2-8-06	Amend	3-1-06	918-050-0010	1-1-06	Amend	2-1-06
875-020-0040	2-8-06	Amend	3-1-06	918-050-0020	1-1-06	Amend	2-1-06
875-020-0055	2-8-06	Amend	3-1-06	918-050-0030	1-1-06	Amend	2-1-06
875-030-0010	2-8-06	Amend	3-1-06	918-050-0100	1-1-06	Amend	2-1-06
875-030-0020	2-8-06	Amend	3-1-06	918-050-0110	1-1-06	Amend	2-1-06
875-030-0025	2-8-06	Amend	3-1-06	918-050-0120	1-1-06	Amend	2-1-06
875-030-0040	2-8-06	Amend	3-1-06	918-050-0130	1-1-06	Amend	2-1-06
877-001-0000	12-22-05	Amend	2-1-06	918-050-0140	1-1-06	Amend	2-1-06
877-010-0025	12-22-05	Amend	2-1-06	918-050-0150	1-1-06	Amend	2-1-06
877-020-0000	12-22-05	Amend	2-1-06	918-050-0160	1-1-06	Amend	2-1-06
877-020-0009	12-22-05	Amend	2-1-06	918-050-0170	1-1-06	Amend	2-1-06
877-020-0010	12-22-05	Amend	2-1-06	918-050-0200	1-1-06	Repeal	2-1-06
877-020-0012	12-22-05	Amend	2-1-06	918-050-0800	1-1-06	Amend	2-1-06
877-020-0013	12-22-05	Amend	2-1-06	918-090-0000	1-1-06	Amend	1-1-06
877-020-0015	12-22-05	Amend	2-1-06	918-090-0010	1-1-06	Amend	1-1-06
877-020-0016	12-22-05	Amend	2-1-06	918-090-0200	1-1-06	Amend	1-1-06
877-020-0020	12-22-05	Amend	2-1-06	918-090-0210	1-1-06	Amend	1-1-06
877-020-0030	12-22-05	Amend	2-1-06	918-100-0000	1-1-06	Amend	2-1-06
877-020-0031	12-22-05	Amend	2-1-06	918-100-0030	1-1-06	Amend	2-1-06
877-020-0046	12-22-05	Amend	2-1-06	918-225-0440	1-1-06	Repeal	2-1-06
877-020-0050	12-22-05	Repeal	2-1-06	918-225-0610	1-1-06	Amend	2-1-06
877-020-0055	12-22-05	Adopt	2-1-06	918-251-0030	1-1-06	Repeal	2-1-06
877-025-0000	12-22-05	Amend	2-1-06	918-251-0040	1-1-06	Repeal	2-1-06
877-025-0005	12-22-05	Amend	2-1-06	918-261-0025	1-1-06	Adopt	2-1-06
877-030-0040	12-22-05	Amend	2-1-06	918-305-0030	1-1-06	Amend	2-1-06
877-030-0050	12-22-05	Amend	2-1-06	918-305-0110	1-1-06	Amend	2-1-06
877-030-0070	12-22-05	Amend	2-1-06	918-305-0120	1-1-06	Amend	2-1-06
877-030-0090	12-22-05	Amend	2-1-06	918-305-0130	1-1-06	Amend	2-1-06

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-305-0150	1-1-06	Amend	2-1-06				
918-305-0160	1-1-06	Amend	2-1-06				
918-305-0180	1-1-06	Amend	2-1-06				
918-400-0230	1-1-06	Repeal	2-1-06				
918-460-0015	2-1-06	Amend	3-1-06				
918-525-0310	1-1-06	Amend	2-1-06				
918-525-0410	1-1-06	Amend	2-1-06				
918-525-0420	1-1-06	Amend	2-1-06				
918-525-0520	1-1-06	Amend	2-1-06				
918-690-0340	1-1-06	Repeal	2-1-06				
918-690-0350	1-1-06	Repeal	2-1-06				

