OREGON BULLETIN

Supplements the 2006 *Oregon Administrative Rules Compilation*

Volume 45, No. 8
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For June 16, 2006–July 14, 2006

Published by
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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 Dpartment of Revenue.

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule's "History"

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2005–2006 Oregon Bulletin Publication Schedule

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

Submission Deadline — Publishing Date

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

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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

COMMENTS DUE: August 31, 2006
PROJECT LOCATION: 8900 SW Commercial, Tigard, Oregon.
PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with Tri-County Metropolitan Transportation District of Oregon (TriMet) and Washington County, Oregon, for the railroad right of way located adjacent to the former Farmcraft facility at 8900 SW Commercial, Tigard, Oregon (the "Property").
HIGHLIGHTS: TriMet and Washington County are acquiring the Property as part of the right of way for a commuter rail line from Beaverton to Wilsonville. The Property is adjacent to the former Farmcraft, Inc. facility, which was used to formulate, repackage, and distribute pesticides in both dust and liquid forms. During operations, hazardous substances were released into the ground and groundwater at the Property; such releases may extend onto and beneath adjacent properties. Investigations and removal actions have been conducted at the Property; however, additional actions are necessary to protect human health and the environment.

The Consent Judgment will require TriMet to implement a soil management plan at the Property. TriMet will agree to provide access to the Property for any additional investigation and removal or remedial actions required, and to implement any institutional or engineering controls that may be necessary.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved more than 80 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide TriMet and Washington County with a release from liability for claims by the State of Oregon under ORS 465.255 relating to historical releases of hazardous substances at or from the site. The proposed Consent Judgment will also provide TriMet and Washington County with protection from potential contribution actions by third parties for recovery of remedial action costs associated with historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases.
HOW TO COMMENT: Written comments concerning the proposed Consent Judgment should be sent to Charlie Landman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm August 31, 2006. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Northwest Region office in Portland by contacting Henning Larsen at (503) 229-5527.

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments on the proposed Consent Judgment.
THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the proposed Consent Judgment will be made after consideration of public comments.

OPPORTUNITY FOR PUBLIC COMMENT RECOMMENDATION FOR CONDITIONAL NO FURTHER ACTION

COMMENTS DUE: August 30, 2006
PROJECT LOCATION: IP Gardiner Sawmill, 77618 State Highway 10, Gardiner, Oregon
PROPOSAL: Pursuant to ORS 465.230 and Oregon Administrative Rules (OAR) 340-122-465, the Department of Environmental Quality (DEQ) invites public comment on its recommendation that, with the implementation and conditions of an Equitable Servitude and Easement (EE&S) to control property and onsite groundwater use, no further investigation or cleanup action be required at the former International Paper (IP) Gardiner Sawmill property located in Gardiner, Oregon.
HIGHLIGHTS: The former Gardiner sawmill consist of 77 acres currently owned by International Paper Corporation (IP). IP operated the sawmill from about 1957 until 1992 when it was permanently closed. The site is currently vacant. Since operations ceased, all buildings and structures (except the maintenance building) were torn down, demolished, and removed. The site borders the Umpqua River to the southeast. There are no known groundwater user's located onsite or downgradient.

EPA, DEQ, and IP conducted several groundwater and soil investigations at the site from 1995 through 2006 to determine if historical operations had impacted the environment. Several areas with impacts were identified during these investigations. Elevated levels of pentachlorophenol (PCP) resulting from dripping treated wood were identified in the soils beneath the package outfeed chain. Elevated levels of total petroleum hydrocarbons (TPH) were found in the soils near the powerhouse and in ditch sediments east of the site along Highway 101. TPH in the soils by the powerhouse most likely resulted from leaks and spills from a nearby aboveground storage tank which has since been removed. Accumulation of contaminants in the ditch sediments is attributed to a variety of site contaminants discharging as surface runoff into a nearby oil water separator connected to the ditch. The oil water separator has since been cleaned out and sources of potential contamination on the site have been removed.

Groundwater in the areas of concern was found to contain elevated concentrations of TPH above levels safe to drink. Laboratory detection limits for PCP were above these safe drinking water levels, so it is also possible groundwater is impacted by this contaminant above safe drinking water standards. Since there are no drinking water wells or uses on the site, these impacts were not considered a risk to current groundwater uses. An EE&S will be recorded with the property deed to control and restrict potential future uses of groundwater on the site.

Contaminated soils beneath the outfeed chain and powerhouse area were excavated and removed by IP in 1992. Approximately 38 cubic yards of soil were excavated from under the out feed chain and 80 cubic yards of soil from the powerhouse area. The contaminated soils were properly disposed of offsite by Safety-Kleen Corporation. Confirmation sampling conducted in 1992 during the removal activities and subsequent onsite investigations in November 2001, confirmed that soils above the Department of Environmental Quality's (DEQ's) residential and occupational risk screening levels for PCP and TPH exposure had been adequately removed from these areas.

Contaminated sediments from the ditch east of the site, along Highway 101, were excavated by IP in October and November 2003. Approximately 600 cubic yards of non-hazardous sediments were removed from the ditch and disposed of appropriately at Riverbend Landfill. Confirmation samples along the excavation indicated that contaminated soils above DEQ's human health risk screening levels had been adequately cleaned up. Several polynuclear aromatic hydrocarbons (PAHs) were detected slightly above the marine and freshwater sediment criteria. However, it was determined that this portion of the ditch which is located along the highway and at least 1 mile upstream from the river does not provide a significant habitat nor pose an unacceptable ecological risk.

In January 2006, at the request of DEQ, IP conducted a supplemental investigation around the outfeed chain area to test the soil for dioxin which is often associated with PCP treatment. Dioxin was found above the residential soil risk levels, but below industrial soil risk levels. Although the property is currently zoned for industrial use

only, the EE&S that will be recorded with the property deed as a condition of site closure will restrict residential property use around the outfeed chain area where dioxin could be above residential risk levels.

Conclusion and Recommendation: With the implementation of an EE&S to restrict residential property use around the outfeed chain area where dioxin is present and control onsite use of groundwater, the contamination remaining at the site no longer poses an unacceptable risk to human health or the environment. DEQ considers the investigation and cleanup at the IP Gardiner sawmill site to be complete and is recommending no further action be required at the site.

HOW TO COMMENT: Project reports and files may be reviewed by appointment at DEQ's Salem office, 750 Front Street N.E., Suite 120, Salem 97301, beginning August 1, 2006. To schedule an appointment in Salem, call (503)-378-8240.

Written comments should be sent to the attention of the project manager, Nancy Sawka, at the address listed above, by August 30, 2006. Questions may also be directed to Ms. Sawka at the Salem address or by calling her at (503)378-8240, extension 262 (TYY 503-378-3684).

A public meeting will be held to discuss the DEQ's proposed decision if there is significant public interest

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

NOTICE OF SELECTED CLEANUP ACTION PORT OF PORTLAND FORMER WRECKING YARD SITE

PROJECT LOCATION: Portland International Center, between Alderwood Rd, the Columbia Slough, I205, and NE 82nd Ave, Portland, OR

REMEDIAL ACTION: The Department of Environmental Quality (DEQ) has selected the cleanup approach for contaminated soils at the former wrecking yard site. Previous cleanup at the site included removal of contaminated soil. The selected action includes capping remaining contamination and institutional controls to prevent disturbance of the caps.

HIGHLIGHTS: Prior to the Port of Portland's purchase of the property in the early 1970s, the site was occupied by several automobile wrecking yards. Environmental investigations conducted between 1996 and 2002 revealed the presence of contamination likely resulting from these activities. Petroleum hydrocarbons, metals, polynuclear aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs) were detected in site soils. PAHs were detected in shallow groundwater.

In 1995, about 175 tons of petroleum-contaminated soil and automobile related debris were excavated from the eastern portion of the site and transported to Hillsboro Landfill for disposal. In 2001, about 40 cubic yards of lead-contaminated soil were excavated from two areas in the western portion of the site and transported to Hillsboro Landfill for disposal.

Characterization of remaining contaminated soil at the site was completed in 2002. DEQ proposes the following measures to address remaining contamination:

• Capping contaminated soil in the western portion of the site with an asphalt and concrete surface/parking lot

• Capping contaminated soil in the eastern portion of the site with clean imported fill

• Restrictions notifying property owners/operators of the presence of the cap and associated protocols for proper handling and disposal should the capped material be excavated for any reason

• Monitoring to ensure cap is properly maintained.

The DEQ's Record of Decision on the selected cleanup approach is available for review at the DEQ Northwest Region Office in Portland. To schedule an appointment to review files at the DEQ Northwest Region office, call (503) 229-6729. Questions on the project should be directed to the DEQ Project Manager, Jennifer Sutter, (503) 229-6148 or sutter.jennifer@deq.state.or.us

THE NEXT STEP: The Port of Portland will prepare a remedial action plan documenting the location of capped soil and associated long-term management/monitoring.

PROPOSED REMEDIAL ACTION AT THE BEND TRAP CLUB, BEND, OR

COMMENTS DUE: August 30, 2006

PROJECT LOCATION: 61400 Brosterhous Rd., Bend, OR 97701

Proposal: The Department of Environmental Quality is proposing to issue a decision regarding cleanup activities at the above referenced site based on approval of the investigation and evaluation of remedial action alternatives conducted to date. Public notification is required by ORS 465.320.

HIGHLIGHTS: Since November 2005, DEQ has been providing oversight under a Voluntary Cleanup Agreement to investigate the site formerly used as a skeet shooting range since 1932. The property is slated to be redeveloped into residential uses. The primary contaminants of concern are lead and polynuclear aromatic hydrocarbons (PAHs). The adjacent properties to the subject site are zoned for residential and industrial uses. The beneficial use of the groundwater is drinking water, however due to the contaminants of concern and the depth to groundwater, the groundwater pathway is not considered a complete pathway.

The investigation detected contaminated soil containing the constituents of concern above EPA risk-based screening levels for residential land uses, as well as lead shot and clay pigeon fragments (CPF) containing PAHs.

The goal of the Remedial Action is to remove lead shot and CPF from the shallow soils and reduce the concentration of lead and PAHs in soil to meet the EPA Region IX Preliminary Remediation Goal (PRG) for residential use scenarios.

As required under OAR 340-122-080 a range of remedial action alternatives have been considered based on the balancing criteria. The proposed remedy consists of:

• Soil Washing lead shot-impacted soil with onsite reuse of treated soil.

• Soil Washing lead shot and PAH-impacted soil with offsite disposal.

• Excavation and Offsite Disposal of soil containing lead and PAH and CPF.

In addition DEQ has proposed a contingency that will allow soil that does not meet the treatment standards to be stabilized prior to offsite disposal at an approved facility.

HOW TO COMMENT: The staff report recommending the proposed remedial action may be reviewed by appointment at DEQ's Eastern Regional Office in Bend, 2146 NE Fourth Street, Suite 104, Bend, OR 97701. To schedule an appointment contact Lisa Clark at (541) 388-6146, extension 321.

Written comments should be sent by August 30, 2006 to David Anderson, Project Manager, at the address listed above. Questions may also be directed to Mr. Anderson at that address or by calling him at (541) 388-6146 extension 258.

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

PUBLIC NOTICE FOR WASTE DISPOSAL

PROJECT LOCATION: The generator is Rhone-Poulenc, Portland, Oregon. The disposal location is the Chemical Waste Management hazardous waste landfill in Arlington, Oregon.

HIGHLIGHTS: The Oregon Department of Environmental Quality (DEQ) proposes that approximately 202 cubic yards of listed hazardous waste be designated a Corrective Action Management

Unit (CAMU) eligible waste under CFR 264.552 and disposed of at the Chemical Waste Management (CWM) hazardous waste landfill in Arlington, Oregon. The waste is accumulated sludge from a water treatment plant at the former Rhone-Poulenc manufacturing facility located at 6200 NW St. Helens Road in Portland, Oregon. The sludge is generated from implementation of an interim remedial measure for the extraction and treatment of contaminated groundwater, stormwater runoff, and other remedial action derived waters. The waste contains organochlorine pesticides and polychlorinated dibenzo-p-dioxins and furans that exceed applicable treatment standards.

BACKGROUND: Starlink Logistics, Inc. (SLLI) has proposed that the Rhone-Poulenc waste be disposed of at the CWM Subtitle C landfill in Arlington. CAMU eligible waste may only be placed in a hazardous waste landfill that is authorized to receive it. The Regional Administrator with regulatory oversight where the cleanup is taking place (the DEQ Northwest Region) may approve placement of CAMU eligible wastes in hazardous waste landfills not located at the site from which the wastes originated. Treatment standards may be adjusted where treatment has been used to significantly reduce the toxicity or mobility of the principle hazardous constituents in the waste. In this case, most of the principle hazardous waste constituents in the sludge tested below applicable treatment standards. For the organochlorine pesticides and dioxin/furan constituents which exceeded treatment standards, SLLI demonstrated that these compounds have very low mobility through sludge test results by the toxic characteristic leaching procedure (TCLP). TCLP results were low for the organochlorine pesticides and non-detectable for dioxin/furans.

HOW TO COMMENT: Under CFR 264.555 (c) DEQ's Northwest Region office must provide a reasonable opportunity for public comment before approving CAMU eligible waste for placement in an offsite permitted hazardous waste landfill. If approved as CAMU eligible waste, the landfill operator will additionally provide an opportunity for public comment prior to accepting the waste for disposal. Comments to DEQ are due by August 15th, no later than 5:00 pm and may be submitted in writing to DEQ's Northwest Region office, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201, attention Tom Roick, or by email to roick.tom@deq.state.or.us, telephone 503-229-5502.

PROPOSED NO FURTHER ACTION DETERMINATION
COLUMBIA FOREST PRODUCTS SITE
KLAMATH FALLS, OREGON

COMMENTS DUE: August 31, 2006

PROJECT LOCATION: Highway 97 and the Klamath River, Klamath Falls, Klamath County, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a No Further Action determination following investigation and cleanup of hydraulic oil contamination at the Columbia Forest Products site. Public notification is required by ORS 465.320. Highlights: In September 2002, a DEQ inspector observed hydraulic oil contamination near a cherry picker hydraulic unit at this site. The cherry picker, which is along the Klamath River, is used to maneuver logs. To address this contamination, Columbia Forest Products removed about 42 tons of contaminated soil and hauled it to the Klamath County Landfill in December 2002 and January 2003. Groundwater samples in the excavation confirmed that some petroleum contamination had impacted groundwater. Columbia Forest Products addressed the residual contamination by mixing an oxygen release compound with the soil in the excavation prior to backfilling. The additional oxygen stimulates the activity of naturally occurring microbes, and thereby increases the rate at which these microbes breakdown the petroleum contaminants. This work was done in October 2004. Groundwater was sampled in October 2005 and February 2006 to evaluate the effectiveness of this treatment. Contamination was found to be below acceptable risk levels. DEQ therefore proposes to issue a No Further Action determination related to this portion of the site.

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

Bob Schwarz, Project Manager
Phone: 541-298-7255, ext. 30
Fax: 541-298-7330
Email: Schwarz.bob@deq.state.or.us

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz. Written comments should be sent by Thursday, August 31, 2006.

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

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 disabilibities are available upon advance request.* Contact the agency Rules Coordinator listed in the notice information.

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Board of Architect Examiners
Chapter 806

Rule Caption: Architectural Agreements/Contracts.

Date:	**Time:**	**Location:**
8-25-06	8:30 a.m	OBAE Conference Room 205 Liberty St. NE. #A Salem, OR

Hearing Officer: Gary Afseth
Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 671.010, 671.020, 671.030, 671.100, 671.220
Proposed Amendments: 806-010-0075
Proposed Repeals: 806-010-0075(T)
Last Date for Comment: 8-24-06, 4:30 p.m.
Summary: The purpose of this rule amendment is to elaborate on with whom the agreement or contract may be between for providing architectural services.
Rules Coordinator: Carol Halford
Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301
Telephone: (503) 763-0662

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Board of Nursing
Chapter 851

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

Date:	**Time:**	**Location:**
9-14-06	9 a.m.	Portland State Office Bldg. Rm. 120-C 800 NE Oregon Street Portland, OR 97232

Hearing Officer: Saundra Theis, Brd. President
Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.370, 678.372, 678.375, 678.380
Proposed Adoptions: 851-056-0000, 851-056-0004, 851-056-0006, 851-056-0008, 851-056-0010, 851-056-0012, 851-056-0014, 851-056-0016, 851-056-0018, 851-056-0020, 851-056-0022, 851-056-0024, 851-056-0026
Last Date for Comment: 9-12-06, 5 p.m.
Summary: These rules cover dispensing and prescribing by Nurse Practitioners and Clinical Nurse Specialists.
Rules Coordinator: KC Cotton
Address: Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162
Telephone: (971) 673-0638

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Rule Caption: Rules for Clinical Nurse Specialists Revised.

Date:	**Time:**	**Location:**
9-14-06	9 a.m.	Portland State Office Bldg. Rm. 120-C 800 NE Oregon Street Portland, OR 97232

Hearing Officer: Saundra Theis, Brd. President
Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.370, 678.372, 678.385, 678.390
Proposed Amendments: 851-054-0010, 851-054-0020, 851-054-0040, 851-054-0050, 851-054-0100
Last Date for Comment: 9-12-06, 5 p.m.
Summary: These rules cover the standards and scope of practice for Clinical Nurse Specialists.
Rules Coordinator: KC Cotton
Address: Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162
Telephone: (971) 673-0638

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Rule Caption: Nurse Practitioner Rules Revised.

Date:	**Time:**	**Location:**
9-12-06	9 a.m.	Portland State Office Bldg. Rm. 120-C 800 NE Oregon Street Portland, OR 97232

Hearing Officer: Saundra Theis, Brd. President
Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.375, 678.380, 678.385, 678.390
Proposed Amendments: 851-050-0000, 851-050-0001, 851-050-0005, 851-050-0006, 851-050-0138
Proposed Repeals: 851-050-0120, 851-050-0125, 851-050-0130, 851-050-0131, 851-050-0140, 851-050-0155, 851-050-0160, 851-050-0162, 851-050-0163, 851-050-0164, 851-050-0170
Last Date for Comment: 9-12-06, 5 p.m.
Summary: These rules cover the standards and scope of practice for nurse practitioners.
Rules Coordinator: KC Cotton
Address: Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162
Telephone: (971) 673-0638

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Rule Caption: Re-entry rules revised.

Date:	**Time:**	**Location:**
9-14-06	9 a.m.	Portland State Office Bdg. Rm. 120-C 800 NE Oregon Street Portland, OR 97232

Hearing Officer: Saundra Theis
Stat. Auth.: ORS 678.050
Stats. Implemented: ORS 678.021, 678.040, 678.050, 678.101, 678.113, 678.150, 678.410
Proposed Amendments: 851-031-0005, 851-031-0070, 851-031-0080
Last Date for Comment: 9-12-06, 5 p.m.
Summary: These rules establish the standards for licensure of Registered Nurses and Licensed practical Nurses. These amendments update the rules for re-entry into nursing.
Rules Coordinator: KC Cotton
Address: Board of Nursing, 800 NE Oregon St. - Suite 465, Portland, OR 97232-2162
Telephone: (971) 673-0638

Board of Psychologist Examiners
Chapter 858

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

Date:	Time:	Location:
8-23-06	9 a.m.	3218 Pringle Rd SE 1st Floor Conf. Rm. Salem, OR

Hearing Officer: Kathy Mann
Stat. Auth.: ORS 675.010 - 675.150
Other Auth.: ORS 675.010 - 675.150
Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065
Proposed Amendments: 858-010-0030, 858-050-0125
Last Date for Comment: 8-22-06, 5 p.m.
Summary: Changes the oral examination construct in psychologist/psychologist associate licensure by moving to an oral jurisprudence exam format, eliminating the current requirement to test the domain of psychological principles and techniques.
Rules Coordinator: Martin Pittioni
Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE - Suite 130, Salem, OR 97302
Telephone: (503) 378-4154

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Bureau of Labor and Industries
Chapter 839

Rule Caption: Would permanetly amend rule to conform injured worker' reinstatement rights with statutes.
Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.043
Proposed Amendments: 839-006-0131
Last Date for Comment: 8-24-06
Summary: OAR 839-006-0131(1)(d) is amended to conform the rule with ORS 659A.043 which provides that an injured worker's right to reinstatement terminates if the worker refuses a bona fide offer from the employer of light duty or modified employment that is suitable prior to becoming medically stationary. OAR 839-006-0131(1)(d) was temporarily amended on March 13, 2006. The temporary rule would expire September 8, 2006.
Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

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Construction Contractors Board
Chapter 812

Rule Caption: Enforcement — Amendments to set out and clarify when increased bond is required and establish appeal rights.

Date:	Time:	Location:
8-22-06	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd, Salem, OR

Hearing Officer: Cliff Harkins
Stat. Auth.: ORS 670.301, 701.085, 701.085(8) & 701.235
Stats. Implemented: ORS 701.005, 701.077, 701.085 & 701.085(8)
Proposed Adoptions: 812-003-0175, 812-005-0250
Proposed Amendments: 812-005-0210
Last Date for Comment: 8-22-06, 11 a.m.
Summary: • OAR 812-003-0175 is adopted to establish the responsible parties for past unresolved activity requiring an increased bond amount. Because consumers protected by the construction contractor laws may have inadequate protection from contractors previously associated with businesses with unpaid debts, and because ORS 701.102, as amended, may not adequately provide protection where inconsistent with federal bankruptcy law, the Board adopts this rule to require, under certain circumstances, increased bonds for contractors. This rule, authorized by ORS 701.085(8), provides immediately necessary consumer protection without imposing restrictions on contractor applicants and licensees that may be impermissible under federal bankruptcy law.

• OAR 812-005-0210 is amended to set out the amounts of increased bond required and add unpaid construction debt that exceeds the amount of the bond to the conditions to require a larger bond. Requiring a larger bond will provide for additional funds available to consumers who are damaged by construction contractors and hopefully reduce the number of unpaid final orders of the Board.

• OAR 812-005-0250 is adopted to clarify when an applicant/licensee may petition the Board for a reduced bond amount and establishes the procedure to appeal the agency's decision to deny the petition for a reduced bond amount.
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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Rule Caption: Revision of Devision 3 rules regarding minimum insurance requirements, providing social security numbers, and notice of criminal convictions.

Date:	Time:	Location:
8-22-06	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd, Salem, OR

Hearing Officer: Cliff Harkins
Stat. Auth.: ORS 25.990, 183.310, 670.310 & 701.235
Stats. Implemented: ORS 25.270, 25.785, 25.990, 183.310, 701.035, 701.072, 701.075, 701.085, 701.105, 701.125 & 701.135
Proposed Adoptions: 812-003-0440
Proposed Amendments: 812-003-0200, 812-003-0260, 812-003-0410
Last Date for Comment: 8-22-06, 11 a.m.
Summary: 812-003-0200 is amended to clarify the minimum insurance requirements based on advice from agency's legal counsel.

812-003-0260 and 812-003-0410 are amended to clarify the types of entities that are required to provide social security numbers based on advice from agency's legal counsel.

812-003-0440 is adopted to require sole proprietors or partners in a partnership to notify the agency within 30 days if they are convicted of a crime listed in ORS 701.135(1)(h).
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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Rule Caption: The home Inspector rule amendments are regarding education provider requirements and approval.

Date:	Time:	Location:
8-22-06	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd, Salem, OR

Hearing Officer: Cliff Harkins
Stat. Auth.: ORS 670.310, 701.235 & 701.350
Stats. Implemented: ORS 701.350 & 701.355
Proposed Amendments: 812-008-0072, 812-008-0074
Last Date for Comment: 8-22-06, 11 a.m.
Summary: 812-008-0072 and 815-008-0074 are amended to clarify that CCB should only approve education providers for home inspector continuing education units; eliminates the course approval requirements; and strengthens the criteria used for education provider approval. The amendments also require education providers to provide completion certificates to course attendees within 30 days from date of course completion.
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

Rule Caption: Rewrite and reorganization of Division 6 rules for clarity and to implement HB 2200 (2005).

Date:	Time:	Location:
8-22-06	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd, Salem, OR

Hearing Officer: Cliff Harkins
Stat. Auth.: ORS 670.310, 701.072 & 701.235
Other Auth.: Ch. 432 OL 2005 (HB 2200)
Stats. Implemented: ORS 701.072 & 701.078
Proposed Adoptions: 812-002-0345, 812-006-0150, 812-006-0400
Proposed Amendments: Rules in 812-006
Proposed Renumberings: 812-006-0011 to 812-006-0100, 812-006-0012 to 812-006-0300, 812-006-0015 to 812-006-0350, 812-006-0020 to 812-006-0450, 812-006-0030 to 812-006-0200, 812-006-0050 to 812-006-0250
Last Date for Comment: 8-22-06, 11 a.m.
Summary: Division 6 rules are amended and renumbered to implement HB 2200 (chapter 432 OR Laws 2005). The amendments are made to clarify CCB's authority to establish education/training requirements; change the word "education" to "training"; the training and testing rule is moved into two separate rules, establishes training and testing periods, moves the responsible managing individual (RMI) rules into its own section and defines who can be the RMI; establishes RMI experience in lieu of training and testing; and is amended to allow one language translation book to be used during testing.
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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Rule Caption: Defines terms "means" and manner" as used in ORS 670.600(2)(a) relating to independent contractors.

Date:	Time:	Location:
9-15-06	11 a.m.	City Hall, Council Chambers 710 NW Wall St. Bend, OR
9-22-06	1 p.m.	Dept. of Revenue Fishbowl Conf. Rm. 955 Center St. NE Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 670.310, 670.605, 701.235
Other Auth.: Ch. 533 OL 2005 (SB 323)
Stats. Implemented: ORS 670.600, 670.605, 701.075
Proposed Amendments: 812-003-0240
Last Date for Comment: Oral: 9-22-06, 1 p.m.; Written 11-1-06, 5 p.m.
Summary: OAR 812-003-0240 is amended to describe how agencies will carry out the new independent contractor law (ORS 670.600) and provide definitions for the "means" and "manner" of providing services, as used in ORS 670.600(2)(a).
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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Department of Agriculture
Chapter 603

Rule Caption: Biofuel specifications, dispenser labeling, delivery documentation, and motor fuel quality regulation updates.

Date:	Time:	Location:
8-29-06	10 a.m.	ODA Hearings Rm. 635 Capitol Street NE Salem, OR 97301-2532

Hearing Officer: Staff
Stat. Auth.: 646.925 & 646.957
Stats. Implemented: 646.905 - 646.925, 646.945 - 646.990
Proposed Amendments: 603-027-0410, 603-027-0420, 603-027-0430, 603-027-0440, 603-027-0490
Last Date for Comment: 9-8-06, 5 p.m.
Summary: Adopt the 2006 Edition ASTM International specifications for gasoline, diesel fuel, biodiesel, E85 fuel methanol; biofuel dispenser labeling requirements; delivery documentation requirements; and update Oregon's motor fuel quality regulations based upon the national model regulations published in the 2006 Edition of the Nation Institute of Standards and Technology (NIST) Handbook 130 entitled *Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality*.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

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Rule Caption: Expand Umatilla Management Area on landowners' request; housekeeping for consistency with other Columbia basin rules.

Date:	Time:	Location:
8-21-06	7 p.m.	City Hall Council Chambers 201 SW Emigrant Pendleton, OR

Hearing Officer: Dave Wilkenson
Stat. Auth.: OAR 561.090 - 561.191, 568.912
Stats. Implemented: ORS 568.900 - 568.933
Proposed Amendments: 603-095-0300, 603-095-0320, 603-095-0340, 603-095-0380
Proposed Repeals: 603-095-0360
Last Date for Comment: 8-31-06
Summary: The most significant proposed revision adds additional land to the Umatilla Management Area. The addition was requested by local landowners and covers all lands draining into the Umatilla River and all lands in Oregon that drain directly to the Columbia and which lie between the Umatilla and Walla Walla rivers. Other proposed changes are largely housekeeping measures, revising the soil erosion requirements, eliminating some rules that are outside the agency's scope of authority or are redundant, and changing the rules' effective date from 2010 to 2008. Additionally, some rule language is proposed for revision to make it more consistent with other Columbia basin area rules.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

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Rule Caption: Inspection fee increase for fertilizer, agricultural minerals, and agricultural amendment products.

Date:	Time:	Location:
8-24-06	1:30 p.m.	635 Capitol Street NE Salem, OR

Hearing Officer: Ron McKay
Stat. Auth.: ORS 633
Other Auth.: ORS 633.461(2)(a)
Stats. Implemented:
Proposed Amendments: 603-059-0020
Last Date for Comment: 9-8-06
Summary: Increase the inspection fee for fertilizer, agricultural amendment, and agricultural mineral products from $0.35 per ton of material to $0.45 per ton. Increase inspection fee for gypsum products from $0.03/ton to $0.05/ton.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4552

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Department of Community Colleges and Workforce Development
Chapter 589

Rule Caption: Establish the Employer Workforce Training Account; adopt rules to implement the administration of the account.

Stat. Auth.: ORS 600.318
Other Auth.: Executive Order #03-16
Stats. Implemented:
Proposed Amendments: 589-020-0225
Last Date for Comment: 8-21-06
Summary: Executive Order #03-16 established the Employer Workforce Training Account and directed the Department of Community Colleges and Workforce Development to develop and adopt rules to implement the administration of the Account. This rule established the role of the Workforce Response Teams; establishes the amount of funds and manner of distribution of funds; the criteria for the use of the funds earmarked for Regional disbursement and the 100% non-federal match requirement for such funds; the use of funds earmarked for Statewide Opportunity areas; responsibilities of the designated organization or entity serving as the fiscal agent; and performance and reporting requirements. This amendment is necessary because over 80% of the rule is being transferred to agency policy and procedures.
Rules Coordinator: Linda Hutchins
Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-8649, ext. 474

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Rule Caption: Implements procedures for distribution of Strategic Fund; correction of grammer and capitalization.
Stat. Auth.: ORS 326.051 & 341.626
Stats. Implemented:
Proposed Amendments: 589-002-0100
Last Date for Comment: 8-21-06
Summary: Although authority for distribution of the Community College Support Fund is already granted by OAR 589-002-0100, a mechanism for distribution of the Strategic Fund is not identified in current rule language. Amending the OAR is necessary to allow for the distribution of Strategic Funds monies and this rule amendment outlines the procedures to be used for disbursement of Strategic Fund monies. Non-substantive grammar and capitalization corrections are implemented.
Rules Coordinator: Linda Hutchins
Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 878-8649, ext. 474

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Department of Consumer and Business Services, Insurance Division
Chapter 836

Rule Caption: Insurance Division Rules Generally; Editiorial Corrections and Updating of Obsolete References and Material.

Date:	Time:	Location:
9-7-06	2 p.m.	Conference Rm. F, Basement 350 Winter St. NE Salem, OR

Hearing Officer: Lewis Littlehales
Stat. Auth.: ORS 183.341, 731.244, 731.385, 732.508, 731.554, 732.572, 742.009, 742.028, 742.450, 742.502, 743.526, 743.560, 743.562, 744.303, 744.635, 744.704, 744.706, 744.712, 744.726, 746.600, 746.620
Stats. Implemented: ORS 188.341, 731.264, 731.385, 731.854, 732.517 - 732.592, 733.210, 733.304, 735.315, 735.330, 737.205, 737.225, 737.265, 737.310, 737.320, 737.346, 742.009, 742.028, 742.450, 742.502, 743.560, 744.225, 744.706, 746.015, 746.085, 746.230, 746.240, 746.600, 746.620, 746.630, 750.515, 750.535, 750.545, 750.565, 750.575, 750.645, 750.685
Proposed Amendments: OAR 836-005-0105, 836-005-0400, 836-006-0010 736-013-0120, 836-014-0000, 836-014-0015, 836-014-0025, 836-014-0030, 836-014-0035, 836-014-0042, 836-027-0030, 836-028-0010, 836-028-0035, 836-031-0610, 836-042-0001, 836-042-0400, 836-051-0005, 836-051-0020, 836-052-0860, 836-054-0000, 836-058-0010, 836-074-0005, 836-075-0000, 836-080-0022, 836-080-0235, 836-080-0501, 836-081-0005, 836-081-0010, 836-081-0020, 836-081-0030
Proposed Repeals: 836-005-0500 – 836-005-0560, 836-006-0001, 836-011-0010, 836-011-0400, 836-011-0550, 836-012-0330, 836-042-0010, 836-050-0120, 836-051-0025, 836-052-0200, 836-052-0205, 836-058-0005, 836-085-0101, 836-085-0115, 836-085-0120, 836-086-0005
Last Date for Comment: 9-14-06
Summary: The purpose of this rulemaking is to correct and update erroneous or superseded statutory, rule and other references in OAR chapter 836, the chapter containing rules of the Insurance Division; to eliminate and replace obsolete material; and to make other editorial and nonsubstantive changes.
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

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Rule Caption: Service contracts; proof of financial stability.
Stat. Auth.: ORS 646.267 & 646.285
Stats. Implemented: ORS 646.263 - 646.285
Proposed Amendments: 836-200-0020
Last Date for Comment: 9-5-06
Summary: This rulemaking proposes to amend a rule governing service contract obligors and the required proof of financial stability in order to conform the rule to legislation enacted in 2005. This legislation allows certain obligors of service contracts that are home service agreements to provide an alternative proof of financial stability.
Rules Coordinator: Sue Munson
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301
Telephone: (503) 947-7272

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

Rule Caption: Propose to repeal rules for a program that is no longer administered by Oregon OSHA.
Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.095
Proposed Repeals: 437-001-0905, 437-001-0910, 437-001-0915, 437-001-0920, 437-001-0925, 437-001-0930, 437-001-0935, 437-001-0940
Last Date for Comment: 8-21-06
Summary: Oregon OSHA proposes to repeal eight rules in Division 1, General Administrative Rules, originally created to help administer the Farm Worker Housing Tax Credits program. Oregon Housing and Community Services now administers this program, therefor we are repealing our administrative rules relating to this program.
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

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

Rule Caption: Defines terms "means" and "manner" as used in ORS 670.600(2)(a) relating to independent contractors.

Date:	Time:	Location:
9-15-06	11 a.m.	City Hall; Council Chambers 710 NW Wall Street Bend, OR 97701
9-22-06	1 p.m.	Oregon Dept. of Revenue; Fishbowl Conference Rm. 955 Center St NE Salem, OR 97301-2555

Hearing Officer: Bill Boyd
Stat. Auth.: ORS 656.726, 670.605

Other Auth.: OL 2005, ch. 533 (Enrolled SBl 323)
Stats. Implemented: ORS 316.162, 670.600
Proposed Adoptions: 436-170-0002, 436-170-0005
Last Date for Comment: 11-1-06
Summary: The agency proposes to adopt OAR chapter 436-170. These proposed rules:

Describe the factors agencies will consider in determining whether a person is free from direction and control over the "means" and "manner" of providing services, as those terms are used in ORS 670.600(2)(a).

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

Proposed rules are available on the Workers' Compensation Division's Web site: http://wcd.oregon.gov/policy/rules/rules.html#prop rules or from WCD Publications, 503-947-7627, fax 503-947-7630.
Rules Coordinator: Fred Bruyns
Address: Department of Consumer and Business Services, Workers' Compensation Division, 350 Winter St. NE, Salem, OR 97301-3879
Telephone: (503) 947-7717

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Amend rules regarding the harvest of game birds season dates, open areas, and bag limits.

Date:	Time:	Location:
8-4-06	8 a.m.	3406 Cherry Ave. N Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.232, 497.112
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232, 497.112
Proposed Amendments: Rules in 635-008, 045, 051, 052, 053, 054, 060 & 100
Last Date for Comment: 8-4-06
Summary: Amend rules regarding the harvest of game birds including 2006–2007 season dates, open areas, and bag limits.

Corrections to Hearing Notice filed on June 15, 2006. Erroneously published wrong divisions cited on the Amends line.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6035

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

Date:	Time:	Location:
9-8-06	8 a.m.	3406 Cherry Avenue NE Salem, OR 97303

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 506.036, 506.109, 506.119
Stats. Implemented: ORS 506.129
Proposed Adoptions: Rules in 635-006
Proposed Amendments: Rules in 635-006
Proposed Repeals: Rules in 635-006
Last Date for Comment: 9-8-2006
Summary: Amend rules for limited entry permits for bay clams to allow unrestricted transfers up to two times per year. Housekeeping and technical correction to the regulations may occur to ensure rule consistency.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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

Rule Caption: October 2006 rule updates for the DMEPOS program.

Date:	Time:	Location:
8-18-06	10:30 a.m.–12 p.m.	DHS Bldg. Rm 137C Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010, 409.110, 409.050
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-122-0055, 410-122-0200, 410-122-0202, 410-122-0205, 410-122-0210, 410-122-0520, 410-122-0540, 410-122-0560, 410-122-0620, 410-122-0625, 410-122-0630, 410-122-0660
Last Date for Comment: 8-18-06, 12 p.m.
Summary: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to certain clients. OMAP will amend 410-122-0200 (Pulse Oximeter) and 410-122-0520 (Glucose Monitors and Diabetic Supplies) to reflect current evidence-based clinical practice guidelines and coverage criteria. OMAP will amend other rules as follows: 410-122-0055: Adds K0462 (temporary replacement for client-owned equipment being repaired, any type) only for equipment specified in this rule; 410-122-0202: Clarifies that prior authorization is required for CPAP and accessories beginning the third date of service; 410-122-0205: Changes respiratory assist device (E0471) to capped rental item; 410-122-0210: Changes respiratory assist device (E0472) to capped rental item; 410-122-0540: Adds A4421 (ostomy supply; misc.) and A5061 (ostomy pouch, drainable; with barrier attached (one piece), each; 410-122-0560: Replaces A4325 with A4349 (male external catheter, with or without adhesive, disposable, each) and removes tape codes (A4450 and A4452); 410-122-0620: Moves L8501 (tracheostomy speaking valve) to 410-122-0660; 410-122-0625: Adds A6407 (packing strips, non-impregnated, up to 2 inches in width, per linear yard); 410-122-0630: Deletes Category II (protective underwear since these codes are already included in Category I); 410-122-0660: Adds L8501 (tracheostomy speaking valve) from 410-122-0620.
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 945-6927

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Rule Caption: October 2006 rule updates for the Hospice Services program.

Date:	Time:	Location:
8-18-06	10:30 a.m.–12 p.m.	DHS Bldg. Rm 137C Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010, 409.110, 409.050
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-142-0060, 410-142-0300
Last Date for Comment: 8-18-06 p.m.
Summary: The Hospice Services Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payments for services provided to certain clients. OMAP will amend and rename 410-142-0060 to update eligibility and certification requirements. OMAP will amend and rename 410-142-0300 to update hospice payment rates in compliance with federal regulations pursuant to communications received from the Centers for Medicare and Medicaid Services (CMS). Medicaid hospice payment rates are calculated based on the annual hospice rates established by CMS. These rates are authorized by section 1814 of the Social Security Act. Billing information and hospice payment rates will be removed from rule.
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 945-6927

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Rule Caption: Pharmaceutical Rule Revisions for September 1, 2006 (PMPDP and PA rules).

Date:	Time:	Location:
8-18-06	10:30 a.m.–12 p.m.	DHS Bldg. Rm 137C Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010, 409.110, 409.050
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0030, 410-121-0040
Proposed Repeals: 410-121-0040(T)
Last Date for Comment: 8-18-06, 12 p.m.
Summary: The Pharmaceutical Services Program administrative rules govern Office of Medical Assistance Programs payment for pharmaceutical products and services provided to certain clients. OMAP will revise rules a follows:

410-121-0030: The Practitioner Managed Prescription Drug Plan (PMPDP) Plan Drug List (PDL) will be updated by adding and deleting certain drugs to the PDL.

410-121-0040: Recently, the Health Services Commission (HSC) determined that Psoriasis will be covered under certain circumstances and updated the Prioritized List of Covered Services accordingly. 410-121-0040, the Office of Medical Assistance Programs' (OMAP) prior authorization rule, will be amended to prior authorize psoriasis drugs for conditions that are covered under the Oregon Health Plan (OHP) as determined by the Prioritized List of Covered Services. The prior authorization administrative rule will also be amended to add the drug Actiq to the list for patient safety and to ensure that the drug is being prescribed for conditions that are covered by OHP. Having temporarily amended this rule, this is Notice to permanently amend, and repeal the temporary rule on or before it expires, September 7, 2006.
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 503-945-6927

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Rule Caption: Outpatient Services for In-State DRG Hospitals and Supplemental Reimbursement for Public Academic Teaching University Practitioners.

Date:	Time:	Location:
8-18-06	10:30 a.m.–12 p.m.	Rm. 137C DHS Bldg. Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010, 409.110, 409.050
Stats. Implemented: ORS 414.065
Proposed Adoptions: 410-125-0146, 410-125-0196
Proposed Amendments: 410-125-0195, 410-120-0000, 410-120-1280
Last Date for Comment: 8-18-06, 12 p.m.
Summary: The Hospital Services program and the General Rules govern payments and services for the Office of Medical Assistance Programs' (OMAP) provided to certain clients.

OMAP will revise OAR 410-125-0195 to include emergency room triage screening fee methodology for non-emergent services. The effective date for this rule will be on or after September 1, 2006, but will not be operational until OMAP determines federal approval has been obtained. Following CMS approval, OMAP will implement and file the rules permanently.

OMAP will adopt OAR 410-125-0196 to establish the policy behind the reimbursement revisions in OAR 410-125-0195. OMAP clients will have no change in their ability to access hospital emergency departments for emergency medical conditions, but the emergency department is not the appropriate setting for obtain treatment for non-emergency conditions. The emergency department triage screening fee reimburses hospitals for Oregon Health Health (OHP) clients to receive medical screening examinations in emergency departments to determine whether emergency medical services are needed.

OMAP will revise OAR 410-120-0000 and 410-120-1280 to include Emergency Triage Screening Examination within the definitions.

OMAP will adopt OAR 410-125-0146 to establish supplemental reimbursement methodology for public academic teaching University medical practitioners. This rule will be effective on or after September 1, 2006 however, implementation for reimbursement will be April 1, 2005. On or before the effective date, the permanent rules will be available on OMAP's website at: http://www.dhs.state.or.us/policy/healthplan/guides/main.html
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 945-6927

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Department of Human Services,
Public Health
Chapter 333

Rule Caption: Inclusion of mumps as a reportable disease.

Date:	Time:	Location:
8-22-06	1 p.m.	Portland State Office Bldg. 800 NE Oregon Street Rm. 120B Portland, OR

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 433.004
Stats. Implemented: ORS 433.001, 433.004, 433.006, 433.012, 433.106, 433.110, 433.130, 433.235 - 433.284, 437, 616, 624
Proposed Amendments: 333-018-0015
Last Date for Comment: 8-22-06, 5 p.m.
Summary: The Oregon Department of Human Services, Public Health Division is proposing to adopt temporary Oregon Administrative Rule, 333-018-0015, to include mumps as a reportable disease.
Rules Coordinator: Christina Hartman
Address: Department of Human Services, Public Health, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

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

Date:	Time:	Location:
8-24-06	1:30 p.m.	Chemeketa Community College Bldg. 6, Auditorium 4000 Lancaster Drive NE Salem, OR
8-30-06	1:30 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 120BC Portland, OR

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441.160 - 441.192
Proposed Adoptions: 333-510-0002, 333-510-0046, 333-510-0047
Proposed Amendments: 333-500-0057, 333-510-0030, 333-510-0045
Last Date for Comment: 8-24-06, 5 p.m.
Summary: The Oregon Department of Human Services (DHS), Public Health Division (Division) is proposing to adopt and amend rules implementing HB 2800 (2005 Legislative Session).

The Division is proposing to adopt 333-510-0002, 333-510-0046, and 333-510-0047 to define terms, clarify the procedures used when the Division's Office of Health Care Licensure and Certification (HCLC) performs an audit of facility implementation of the nurse staffing requirements and the procedures used when HCLC performs a complaint investigation that includes evaluation of the nurse staffing requirements.

The Division is proposing to amend 333-500-0057 including Table 1 to more closely represent the verbiage in the statute; and to amend 333-510-0030 to include the requirements for a circulating nurse in operating rooms of hospitals.

The Division temporarily amended 333-510-0045 on January 1, 2006 to implement HB 2800 (2005 Legislative Session). These temporary rule amendments expired June 29, 2006. The Division is now

proposing to permanently amend this rule to implement HB 2800 (2005 Legislative Session).
Rules Coordinator: Christina Hartman
Address: Department of Human Services, Public Health, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

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Department of Human Services,
Self-Sufficiency Programs
Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Date:	Time:	Location:
8-22-06	10 a.m.	Rm 255 500 Summer St. NE Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.095, 411.700, 411.710, 411.816, 414.042, 418.040, 418.100
Other Auth.: 7 CFR 273.8(c)(2); 7 CFR 273.8(e)(3); 7 CFR 273.8(f); 7 CFR 273.8(h)(4); 7 CFR 273.9(c)(5); 7 CFR 273.9(c)(8); 7 CFR 273.9(d)(3)(iv); 7 CFR 273.9(d)(6)(iii); 7 CFR 273.11(n); 7 CFR 273.15(k); 7 CFR 273.16; 7 CFR 274.10(e); 42 CFR 431.230; 42 CFR 431.231; 42 CFR 435.930, 45 CFR 205.10(a)(6); 45 CFR 263.2(b)(3); Waiver #2060039 to 7 CFR 273.5(b)(5) dated 5/31/06; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193; Section 1924 of the Social Security Act (42 U.S.C. 1396r-5(d)) as amended by the Deficit Reduction Act (DRA) of 2005 (sections 6011, 6012, 6013, 6014, and 6016); Sections 402(1)(B)(iii) and 408 of the Social Security Act; 7 USC 2014(d), (Farm Security and Rural Investment Act of 2002, section 4102); 7 USC 2014(g) (Farm Security and Rural Investment Act of 2002, section 4107); 7 USC 2015(k); 42 USC 608(a)(9); 42 USC 1396p(c)(1)(E); Farm Security and Rural Investment Act of 2002, section 4104; USDA Food and Nutrition Service Handbook 310 section 848 and Administrative notices 97-03, 97-63, 98-56 and 98-93; Oregon Medicaid/State Children's Health Insurance Program (SCHIP) Health Insurance Flexibility and Accountability (HIFA) Section 1115 Demonstration, SCHIP State Plan Amendment (SPA) #6; Department of Health and Human Services Title XIX Agency Letter Number — 06-03, dated May 2, 2006
Stats. Implemented: ORS 409.050, 410.070, 411.060, 411.070, 411.095, 411.117, 411.632, 411.700, 411.710, 411.795, 411.816, 414.042, 414.055, 418.040, 418.100, 418.125, 2006 OL ch. 5
Proposed Adoptions: 461-135-0560, 461-180-0044
Proposed Amendments: 461-001-0000, 461-025-0300, 461-025-0305, 461-025-0310, 461-025-0311, 461-025-0316, 461-025-0350, 461-025-0371, 461-110-0370, 461-110-0630, 461-115-0030, 461-115-0530, 461-120-0125, 461-135-0570, 461-135-0580, 461-135-0844, 461-135-0850, 461-135-1175, 461-140-0010, 461-140-0020, 461-140-0070, 461-140-0110, 461-140-0120, 461-140-0250, 461-140-0260, 461-140-0270, 461-140-0296, 461-145-0040, 461-145-0090, 461-145-0120, 461-145-0150, 461-145-0170, 461-145-0190, 461-145-0250, 461-145-0320, 461-145-0330, 461-145-0360, 461-145-0380, 461-145-0420, 461-145-0433. 461-145-0540, 461-145-0590, 461-145-0910, 461-155-0190, 461-155-0250, 461-160-0030, 461-160-0055, 461-160-0120, 461-160-0420, 461-160-0430, 461-160-0610, 461-160-0620, 461-170-0130, 461-175-0220, 461-175-0310, 461-180-0085, 461-185-0050, 461-195-0611, 461-195-0621
Proposed Repeals: 461-007-0124, 461-135-0710, 461-140-0050, 461-140-0100, 461-140-0123, 461-140-0430, 461-140-0440, 461-145-0350
Proposed Ren. & Amends: 461-140-0410 to 461-135-0708, 461-140-0420 to 461-145-0405
Last Date for Comment: 8-22-06, 5 p.m.
Summary: OAR 461-001-0000 is being amended to include in one rule and update several definitions currently located in separate rules in other parts of Chapter 461. The definition of "countable" is being moved from OAR 461-140-0010(2). The definition of "equity value" is being moved from OAR 461-140-0050(1)(a). The definition of "fair market value" is being moved from OAR 461-140-0050(1)(b). The definitions of "lump sum income" and "periodic income" are being moved from OAR 461-140-0100. The definition of "real property" is being moved from OAR 461-145-0420.

OAR 461-007-0124 which covers the payment of attorney fees on SSI appeals is being repealed because the rule is obsolete. These fees are now paid by the federal government. This repeal makes permanent a temporary rule suspension which was effective on July 1, 2006.

OAR 461-025-0300 regarding contested case hearings is being amended to clarify the contested cases covered by the rules in division 461-025 and to correct a cross-reference to a rule whose sections were renumbered.

OAR 461-025-0305, 461-025-0310, 461-025-0350, and 461-025-0371 are being amended to reference the Office of Administrative Hearings and remove outdated references to hearings officers and the Hearings Officer Panel.

OAR 461-025-0311 — which sets out whether a client is entitled to continuing benefits for public assistance, medical assistance, and food stamps while a hearing is pending — is being amended to include some mass change notices.

OAR 461-025-0316 about Intentional Program Violation hearings in the Food Stamp program is being amended to use terms consistently within the rule, to cross-reference other rules, to indicate that the Department initiates the hearing, and to update terminology. OAR 461-195-0611 and 461-195-0621 about Intentional Program Violations are being amended to indicate that the Department initiates the hearing, clarify references to the ERDC and child care programs, and resolve an inconsistency between the two rules about the notice process requirements.

OAR 461-110-0370, 461-155-0190 and 461-160-0430 are being amended to reflect the annual increase in the standards for the Food Stamp Program as published by the Food and Nutrition Service in July or August. In addition, OAR 461-160-0420 is being amended to reflect the annual change in the Standard Utility Allowances. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the Food Stamp Program State Plan. There are three utility allowances. The full utility allowance (FUA) is for those households that have heating and cooling costs. The limited utility allowance (LUA) is for those households with more than one non-heating/cooling utility cost. The Single utility allowance (TUA) is for those households with only one utility non-heat/cooling cost. This is most commonly a telephone.

OAR 461-110-0630 is being amended to cross-reference a new rule being adopted about persons who are fleeing felons or are in violation of parole, probation, or post-prison supervision and to reorganize the rule so it is easier to follow. OAR 461-135-0560 is being adopted to identify in one rule the federal law requiring persons who are fleeing felons or are in violation of parole, probation, or post-prison supervision to be ineligible for food stamps and TANF benefits. OAR 461-175-0220 is being amended to describe the due process notices sent to fleeing felons and persons disqualified due to being in violation of parole, probation or post-prison supervision.

OAR 461-115-0030 about the date of request to start the application process is being amended so that the title of the rule is a closer match to its content. This rule is also being amended to indicate that the section about contacting the Department applies in the Food Stamp program.

OAR 461-115-0530 is being amended to state that the certification period for the Children's Health Insurance Program (CHIP or OHP-CHP) is 12 months. The certification period is the period for which a client is certified eligible for the program. Previously, the certification period was set at 6 months. This amendment makes permanent a temporary rule adopted on June 1, 2006.

OAR 461-120-0125 is being amended to make permanent a temporary rule adopted on July 1, 2006 that adds the Medicare Savings Programs — QMB, SMB and SMF — to programs that evaluate citizenship and legal alien status when determining eligibility. Under this amendment, the Department will use the same criteria as it does for the Oregon Supplementary Income Program (OSIPM) when doing this evaluation.

OAR 461-135-0570 is being amended to facilitate eligibility for higher education students by allowing them to qualify for the Food Stamp program when working an average of 20 hours per week, rather than requiring at least 20 actual hours of work in each work.

OAR 461-135-0580 is being amended to update its language about individuals with disabilities. No policy changes are included in this amendment.

OAR 461-135-0708, which is currently OAR 461-140-0410 and concerns the criteria for a Department-approved Plan for Self Support, is being amended and renumbered to incorporate requirements related to segregated resources in a Plan for Self Support from OAR 461-140-0420, requirements for cooperation with the Plan for Self Support from OAR 461-140-0430 and requirements for a new or revised Plan for Self Support from OAR 461-140-0440. OAR 461-140-0430 and 461-140-0440 are being repealed. OAR 461-135-0708 is also being amended to make it more concise and to improve clarity. These rules affect clients in the General Assistance (GA—currently closed), GA Medical (GAM—currently closed), Oregon Supplemental Income Program (OSIP, providing cash and medical to the elderly and people with disabilities), OSIP Medical (OSIPM, providing medical to the elderly and people with disabilities) and Qualified Medicare Beneficiary (QMB) programs.

OAR 461-135-0710 about specific eligibility requirements in the OSIP (Oregon Supplemental Income Program) and OSIPM (Oregon Supplemental Income Program – Medical) programs is being repealed. These topics are covered in other rules.

OAR 461-135-0844 is being amended to clarify that the rule applies to hardship waivers under OAR 461-135-0841, reference the Office of Administrative Hearings, and remove outdated references to hearings officers, AFSD, and a repealed rule.

OAR 461-135-0850 about the Repatriate Program is being amended so that the rule is consistent with the Oregon State Emergency Repatriation Plan. This amendment updates the eligibility requirements, benefit levels, and terminology for individuals with disabilities.

OAR 461-135-1175 which concerns the Senior Farm Direct Nutrition Program is being amended so that this rule cross-references the rule which states that these benefits do not affect other benefits, instead of repeating that rule. OAR 461-145-0190 is being amended to update the name of one of the food programs to the new name chosen by DHS and to add a cross reference to that new rule.

OAR 461-140-0010 regarding the availability of assets is being amended to cross-reference other pertinent rules and to clarify the rule and the terms used. This rule affects all Department clients whose eligibility is determined under the rules in chapter 461.

OAR 461-140-0020 about the availability of resources for consideration in the eligibility process for public assistance, medical assistance, and food stamp programs is being amended to clarify when jointly owned resources are considered available and to incorporate language from other rules that belongs in this rule and to remove language that belongs in other rules.

OAR 461-140-0050 about determining the value of a resource for consideration in the eligibility process for public assistance, medical assistance, and food stamps is being repealed. The subsections about equity and fair market value are being moved to OAR 461-001-0000. The subsection about life insurance is being moved to OAR 461-145-0320. The section about vehicles is being moved to OAR 461-145-0360. The section about real property is being moved to OAR 461-145-0420.

OAR 461-140-0070 about the treatment of excluded income as part of the eligibility process for food stamps, public assistance, and medical assistance is being amended to remove items that are covered in other administrative rules (OAR 461-145-0140 and 461-145-0460).

OAR 461-140-0100 is being repealed. This rule concerns definitions of periodic and lump-sum income for consideration in the eligibility process for public assistance, medical assistance, and food stamps. These definitions are being moved to OAR 461-001-0000.

OAR 461-140-0110 about periodic income is being amended to move the definition of periodic income from this rule to OAR 461-001-0000 and then cross-reference this new definition.

OAR 461-140-0120 about the treatment of lump-sum income in the eligibility process for food stamps, public assistance and medical assistance is being amended to clarify the rule, update cross-references to other rules, incorporate language from OAR 461-140-0123 which is being repealed, and update state policy on the treatment of lump sum income for the food stamp program by complying with federal regulations that count lump-sum income under $30 as a resource. OAR 461-140-0123 is being repealed and its topics consolidated into OAR 461-140-0120.

OAR 461-140-0250 — which concerns the determination of uncompensated value upon which a disqualification period is based for clients of food stamps, public assistance, and medical assistance — was amended by temporary rule effective July 1, 2006 to clarify the rule and to make the rule consistent with other rules amended due to implementation of the Deficit Reduction Act of 2005 that apply to clients in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. The rule was amended to cover the calculation of uncompensated value for any asset, regardless of whether the asset is income or a resource (currently the rule only mentions transfers of resources). This rule also was amended to allow for exclusion in the calculation of the client's resource limit amount and to clarify what constitutes the fair market value of an annuity. This rule amendment would make the temporary changes permanent.

OAR 461-140-0260 which concerns disqualification of Food Stamp clients due to resource transfers is being amended to cross-reference other rules, clarify the date the disqualification starts, and clarify to whom the disqualification applies.

OAR 461-140-0270 about disqualification due to a resource transfer in the MAA (Medical Assistance Assumed), MAF (Medical Assistance to Families), REF (Refugee Assistance), REFM (Refugee Assistance Medical), SAC (Medical Coverage for Children in Substitute or Adoptive Care), and TANF (Temporary Assistance to Needy Families) programs is being amended to cross-reference other rules and update terminology.

OAR 461-140-0296 is being amended update the amount used to calculate the number of months of ineligibility due to a disqualifying transfer of assets in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. This amount is calculated by using the average monthly cost to a private patient of nursing facility services in the State.

OAR 461-145-0040 is being amended to clarify how burial funds and burial arrangements are treated in the eligibility process for food stamps, public assistance, and medical assistance, state that only one burial arrangement per filing group member is excluded in some programs, and align food stamp policy with TANF policy on this topic.

OAR 461-145-0090 about the treatment of disability benefits in the eligibility process for public assistance, medical assistance, and food stamps is being amended to identify the public and private disability benefits that are covered by other rules instead of this rule. This rule is also being amended to remove a reference to OAR 461-145-0120 regarding the treatment of temporary employer-sponsored disability payments received monthly or more frequently and to state how employer-sponsored disability payments (the reference to "temporary" has been removed as there is no distinction between "temporary" employer-sponsored disability payments and employer-sponsored disability payments for the purposes of this rule) payments are treated in the ERDC (Employment or Education-Related Day Care), FS (Food Stamps), OHP (Oregon Health Plan), REF (Refugee Assistance), REFM (Refugee Assistance Medical), and SAC (Medical Coverage for Children in Substitute or Adoptive Care) programs.

OAR 461-145-0120 about what is considered earned income in the eligibility process for food stamps, public assistance, and medical assistance, is being amended to update cross-references to other rules

and the remove the reference about temporary income from employer funded disability insurance and worker's compensation which is addressed in another rule.

OAR 461-145-0150 — which concerns the treatment of educational income as part of the eligibility process for food stamps, public assistance, and medical assistance — is being amended to align food stamp policy with TANF. This amendment allows Food Stamp clients to exclude all educational loans as well as all educational income authorized by the Carl D Perkins Vocational and Applied Technology Education Act.

OAR 461-145-0170 is being amended clarify the rule and to exclude from consideration in the eligibility process for the Food Stamp program all energy assistance payments made under any federal, state or local law except those issued in the TANF program.

OAR 461-145-0250, which concerns the treatment of income-producing property for clients of public assistance, medical assistance, and food stamps, is being amended to cross-reference the definition of equity value being added to OAR 461-001-0000. OAR 461-145-0910, which concerns whether clients of public assistance, medical assistance, and food stamps are considered self-employed, is being amended to resolve an apparent conflict with OAR 461-145-0250 about clients receiving income from income-producing property.

OAR 461-145-0320 about the treatment of life insurance as part of the eligibility process for clients of food stamps, public assistance, and medical assistance, is being amended to incorporate language about the value of a life insurance policy that is currently part of OAR 461-140-0050. This rule is also being amended to make the rule consistent with OAR 461-145-0040 about the treatment of life insurance for grandfathered OSIP (Oregon Supplemental Income Program) and OSIPM (Oregon Supplemental Income Program Medical) clients.

OAR 461-145-0330, about the treatment of loan income in the eligibility process for food stamps, public assistance, and medical assistance is being amended to clarify how loan income will be counted for food stamps.

OAR 461-145-0350 is being repealed and its text is being moved to OAR 461-145-0360 to use a single rule cover the treatment of motor vehicles in determining eligibility for food stamps, public assistance, and medical assistance. OAR 461-145-0360 is being amended to incorporate language from OAR 461-140-0050(3) and 461-145-0350, revise the description of how fair market value for a motor vehicle is determined, change the treatment of motor vehicles by the Food Stamp program to align with the TANF program, comply with ORS 411.700, and cross-reference other rules that define terms used in this rule.

OAR 461-145-0380 is being amended to indicate that if funds from specific retirement plans authorized under the Internal Revenue Service Code of 1986 are used to purchase trusts or annuities, the trusts and annuities are treated as retirement plans under this rule in the determination of eligibility for public assistance, medical assistance, and food stamp benefits. The Department has been treating these assets as retirement plans and excluding them from treatment as annuities by providing staff guidance in a policy manual. The Department is now filing a rule to formalize the existing policy.

OAR 461-145-0405 regarding the treatment of assets under a Plan for Self Support is being renumbered (from OAR 461-140-0420) and amended to clarify that this rule applies to both Department-approved plans and to plans developed by the Social Security Administration. This is not a change in policy, but has not previously been clear in the rule. This rule is also being amended to remove the requirements for segregated resources, which are being moved to OAR 461-135-0708 (renumbered from OAR 461-140-0410). This rule affects clients with a Plan for Self-Support, who are primarily located in the General Assistance (GA—currently closed), GA Medical (GAM—currently closed), Oregon Supplemental Income Program (OSIP, providing cash and medical to the elderly and people with disabilities), OSIP Medical (OSIPM, providing medical to the elderly and people with disabilities) and Qualified Medicare Beneficiary (QMB) programs.

OAR 461-145-0420 regarding the treatment of real property, mobile and manufactured homes as part of the eligibility process for public assistance, medical assistance, and food stamps is being amended to clarify that mobile and manufactured homes are treated in the same manner as real property, remove the definition of "real property" which will be adopted in another rule, cross-reference definitions of "fair market value", "equity value", and "real property", clarify how to determine the value of real property, incorporate one provision for excluding real property in the Food Stamp program which is currently part of OAR 461-140-0020, and cross-reference other pertinent rules when the real property is income-producing or a home of the financial group. This rule is also being amended to make permanent a temporary rule change adopted on July 1, 2006 that makes this rule consistent with the requirement in the Deficit Reduction Act of 2005 (DRA) for clients in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs which requires that certain clients who have equity value in excess of $500,000 in their homes are no longer eligible for long-term care and in-home and community-based services.

OAR 461-145-0433 about the treatment of recreational vehicles in the eligibility process for food stamps, public assistance, and medical assistance is being amended clarify the rule by describing a recreational vehicle in more detail, adding cross-references, and incorporating some language currently in other rules.

OAR 461-145-0540 and 461-160-0620 are being amended to cross-reference OAR 461-160-0030 because these are the pertinent rules that use the deductions in OAR 461-160-0030 to specify the allowable deductions when calculating the amount of an OSIPM client's liability payment in order for the client to receive long-term care or home- or community-based care services. OAR 461-160-0030 which covers medical costs that can be deducted is being amended for the OSIPM program (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities) to no longer allow a medical deduction when the cost was incurred while a client was serving a disqualification from Medicaid eligibility due to a transfer of assets for less than fair market value.

OAR 461-145-0590 about the treatment of worker's compensation payments in the eligibility process for food stamps, public assistance, and medical assistance is being amended to include the treatment of worker's compensation paid to a client who is still employed while recuperating from an illness or injury. Treatment of this income was previously addressed in OAR 461-145-0120, but was referenced as "temporary" worker's compensation (the reference to "temporary" has been removed as there is no distinction between "temporary" worker's compensation and worker's compensation for the purposes of this rule). This rule is also being amended to state how worker's compensation payments received monthly or more frequently are treated in the ERDC (Employment or Education-Related Day Care), FS (Food Stamps), OHP (Oregon Health Plan), REF (Refugee Assistance), REFM (Refugee Assistance Medical), and SAC (Medical Coverage for Children in Substitute or Adoptive Care) programs.

OAR 461-155-0250 about income and payment standards in the OSIP (Oregon Supplemental Income Program) and OSIPM (Oregon Supplemental Income Program – Medical) programs is being amended to clarify that cash payments are not made to bring non-SSI clients up to the OSIPM income standard, to clarify the countable income limit for clients in long-term care and waivered nonstandard living arrangements. This rule is also being amended to clarify the non-SSI adjusted income limit for OSIP and OSIPM, and remove a confusing reference to the calculation of cash benefits. This rule is also being amended to state certain OSIP eligibility requirements which are now stated in OAR 461-135-0710 (which is being repealed).

OAR 461-160-0055 is being amended to adjust the medical costs are deductible from income in the eligibility process for the Food Stamp and OSIPM (Oregon Supplemental Income Medical) programs. The rule is being amended to allow deduction long-term care insurance premiums and adjust the circumstances in which a deduc-

tion is allowed for nursing care, nursing home care, and hospitalization payments.

OAR 461-160-0120 is being amended to clarify current policy regarding the treatment of income of an ineligible non-citizen and a father of an unborn in the Medical Assistance to Families (MAF) program. In MAF program, when an ineligible non-citizen or a father of an unborn is excluded from the need group, the income of the excluded person is deemed to the need group. Additionally, this rule is being amended to correct a rule reference, clarifying that deeming for ineligible non-citizens in the MAF program applies to those non-citizens who do not meet alien status requirements of OAR 461-120-0125. An incorrect version of this rule amendment and summary was originally included in the April 2006 Notice of Rulemaking but the rule was not amended.

OAR 461-160-0610 is being amended to clarify which clients are exempt clients from this rule about client liability for clients in long-term care or receiving waivered services.

OAR 461-170-0130 is being amended to state that when an Oregon Health Plan (OHP) client, who is required to report a change in circumstances, makes a timely report of change that could reduce or end medical benefits, the Department must review the filing group for eligibility for other medical programs prior to reducing or ending medical benefits. If additional information is needed to act on the reported change by the OHP client, the benefit group remains eligible from the date the change was reported until the Department determines eligibility in accordance with application processing time frames. This amendment makes permanent a temporary rule adopted on June 1, 2006.

OAR 461-175-0220 is also being amended and 461-175-0310 is being amended to move information that was added to OAR 461-175-0220, a rule about notices required in certain disqualification situations, in error, to OAR 461-175-0310. The relevant information is what must be included in a notice of disqualification when clients transfer assets for less than fair market value in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. The requirement for what the notice must contain is not changing; it is simply being relocated to OAR 461-175-0310 which deals specifically with disqualifications for transfers of assets. OAR 461-175-0220 is also being amended so that its notice requirements for Intentional Program Violations (IPVs) also applies to ERDC (Employment or Education-Related Day Care) IPVs. OAR 461-175-0310 is also being amended so that the title of the rule is not limited to resource transfer disqualifications.

OAR 461-180-0044 is being adopted to specify when income eligibility is met for clients needing long-term care or waivered services under the Oregon Supplemental Income Program-Medical (OSIPM— providing medical coverage to the elderly and individuals with disabilities) who have income above the OSIPM income limit. These clients meet the OSIPM income limit, despite the fact that they have income above the OSIPM standard, by establishing an income cap trust as described at OAR 461-145-0540(10)(c).

OAR 461-180-0085 is being amended to state that when the Department initiates a redetermination of eligibility for the Oregon Health Plan (OHP), the filing group must be reviewed for eligibility for other medical programs prior to reducing or ending medical benefits. If additional information is needed to redetermine eligibility, the benefit group remains eligible from the date the review is initiated until the Department determines eligibility in accordance with application processing time frames. This amendment makes permanent a temporary rule adopted on June 1, 2006.

OAR 461-185-0050 is being amended to state that clients in the OSIP-IC (Oregon Supplemental Income Program – Independent Choices) and OSIPM-IC (Oregon Supplemental Income Program Medical — Independent Choices) programs are not exempt from a service liability.

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

Rules Coordinator: Annette Tesch
Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E-48, Salem, OR 97301
Telephone: (503) 945-6067

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

Rule Caption: Amending rules for clarification and consistency across the Department.

Date:	**Time:**	**Location:**
8-21-06	9 a.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: 411-065-0005, 411-065-0015, 411-065-0020, 411-065-0025, 411-065-0030, 411-065-0035, 411-065-0040, 411-065-0045, 411-065-0046, 411-065-0047, 411-065-0048, 411-065-0049, 411-065-0050
Last Date for Comment: 8-21-06, 12 p.m.
Summary: These rules are being amended for consistency with other rules under the Department of Human Services, Seniors and People with Disabilities Chapter. These rules are also being amended for grammatical and housekeeping purposes.
Rules Coordinator: Lisa Richards
Address: 500 Summer St. NE, E10, Salem, OR 97301-1076
Telephone: (503) 945-6398

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Department of Justice
Chapter 137

Rule Caption: Amends Child Support Program rules to bring into line with current practice and for clarification.
Stat. Auth.: ORS 25.080, 25.125, 25.427, 25.625, 107.108, 180.345, ORS 293
Stats. Implemented: ORS 18.225, 25.020, 25.080, 25.125, 25.372 - 25.427, 25.625, 107.108, 107.135, 183.415, 416.407, 656.234, 657.780, 657.855
Proposed Amendments: 137-055-1090, 137-055-1100, 137-055-2160, 137-055-2165, 137-055-4060, 137-055-4540, 137-055-5110, 137-055-5520, 137-055-6023, 137-055-6200, 137-055-6220, 137-055-6260
Last Date for Comment: 9-22-06, 5 p.m.
Summary: Amendment to OAR 137-055-1090 provides process for the Program when a case has not had a "good cause" determination and benefits are being provided by partner agencies; amendment to OAR 137-055-1100 brings rule into line with current practice to show that the Program will not satisfy arrears assigned to the Oregon Youth Authority when a "good cause" determination is made on a case; amendment to OAR 137-055-2160 clarifies when a party will need to send in another request for hearing after the order was amended; amendment to OAR 137-055-2165 changes process to reflect that a request to reschedule a hearing is not late until after the final order has been entered in the circuit court; amendment to OAR 137-055-4060 provides an example of a "periodic recurring income" which is not monthly; amendments to OAR 137-055-4540 reflect the change in federal law that lowers the threshold for passport restriction to $2500 in arrears and clarifies when an obligor does not qualify for a modification and has requested a hardship exception that the exception will terminate after three-months; amendments to OAR 137-055-5520 clarify that a lump sum payment may be the result of a culmination of monthly payments, clarify that the obligor's request for credit must be in writing, extends the time frame for requesting credit to two years from the time the obligor receives notice and makes it permissive that the request may be made in conjunction with a request for a modification; amendments to OAR 137-055-6023 and 137-055-6260 clarify that support payments received as a result of a judgment lien or as overcollected support may be applied to parentage test judgments or genetic test fees; amendment

to OAR 137-055-6200 clarifies that the Program will not open a closed case for an adult child until the child qualifies as a child attending school; amendment to OAR 137-055-6220 brings rule into line with practice to allow threshold of reference to be permissive instead of mandatory.

Copies of the proposed rules can be found on our web page at http://www.dcs.state.or.us/oregon_admin_rules/default.htm
Rules Coordinator: Shawn Brenizer
Address: 494 State St.. Suite 300, Salem, OR 97301
Telephone: (503) 986-6240

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Update Standards and Qualifications for NFPA Fire Apparatus Driver/Operator.

Date:	Time:	Location:
8-23-00	1–4 p.m.	4190 Aumsville Hwy SE, Salem, OR 97306

Hearing Officer: Bonnie Salle
Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Proposed Amendments: 259-009-0062
Last Date for Comment: 8-24-06, 12 p.m.
Summary: Revises provisions of the NFPA Standard 1002 from 1998 Edition to 2003 Edition relating to Fire Apparatus Driver/Operator Professional Qualifications.
Rules Coordinator: Bonnie Salle
Address: 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2431

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Department of Revenue
Chapter 150

Rule Caption: Relating to the interest rate applied to refunds and to tax deficiencies.

Date:	Time:	Location:
11-15-06	10 a.m.	Revenue Building 955 Center St. NE Salem, OR. 97301

Hearing Officer: Staff
Stat. Auth.: ORS 305.100, 305.220
Stats. Implemented: ORS 305.220
Proposed Amendments: 150-305.220(1), 150-305.220(2)
Last Date for Comment: 11-15-06, 5 p.m.
Summary: These proposed changes are to amend administrative rules relating to the change of interest rates charges on refunds and deficiencies.
Rules Coordinator: Debra L. Buchanan
Address: 955 Center Street NE Salem, OR. 97301
Telephone: (503) 945-8653

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Rule Caption: Defines terms "means" and "manner" as used in ORS 670.600(2)(a) relating to independent contractors.

Date:	Time:	Location:
9-15-06	11 a.m.	City Hall, Council Chambers 710 NW Wall St. Bend OR
9-22-06	1 p.m.	Dept of Revenue Fishbowl Conf. Rm. 955 Center St NE Salem OR

Hearing Officer: Staff
Stat. Auth.: ORS 305.100, 670.605
Stats. Implemented: ORS 670.600; 316.162
Proposed Adoptions: 150-670.600
Proposed Amendments: 150-316.162(2)(j)
Last Date for Comment: 11-1-06, 5 p.m.
Summary: 150-316.162(2)(j) is amended to add a reference to a new rule, 150-670.600.

150-670.600 describes the factors agencies will consider in determining whether a person is free from direction and control over the "means" and "manner" of providing services, as those terms are used in ORS 670.600(2)(a).
Rules Coordinator: Debra L. Buchanan
Address: 955 Center St NE Salem OR 97301-2555
Telephone: (503) 945-8653

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Department of Transportation,
Board of Maritime Pilots
Chapter 856

Rule Caption: Amends continuing professional development training to include electronic navigation system.

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

Hearing Officer: Board of Maritime Pilots
Stat. Auth.: ORS 776.115
Stats. Implemented: ORS 776.115(4)(a)
Proposed Amendments: 856-010-0015
Last Date for Comment: 8-027-06
Summary: Amends the continuing professional development requirement from a course in automatic radar plotting aids to any course in electronic navigation systems.
Rules Coordinator: Susan Johnson
Address: Department of Transportation, Board of Maritime Pilots, 800 NE Oregon St., #507, Portland, OR 97232
Telephone: (503) 731-4044

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

Rule Caption: Establishing standards for protective headgear (helmets) for bicyclists and other non-motorized sports.
Stat. Auth.: ORS 184.616, 184.619 & 815.052
Stats. Implemented: ORS 815.052
Proposed Amendments: 735-102-0030
Last Date for Comment: 8-21-06
Summary: This proposed rule amendment deletes standards for bicycle protective headgear (helmets) that are no longer in effect and inserts the current national standards for protective headgear for people operating bicycles, for passengers on bicycles and for people riding on skateboards or scooters or using in-line skates.

Text of proposed and recently adopted rules can be found at the web site http://www.oregon.gov/ODOT/CS/RULES/
Rules Coordinator: Brenda Trump
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 1905 Lana Ave. NE, Salem, OR 97314
Telephone: (503) 945-5278

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Rule Caption: Proof of identity required prior to reissuance or reinstatement after cancellation/suspension that involves fraud.
Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 807.220, 807.230, 807.400, 809.310 & 809.320
Proposed Amendments: 735-070-0010
Last Date for Comment: 8-21-06
Summary: OAR 735-070-0010 establishes how a person may reinstate or regain driving privileges, a driver license, driver permit or an identification card following a cancellation or specific suspension by DMV. DMV proposes to amend the rule to specify that when a person's driving privileges or identification card are suspended under ORS 809.310(3) indicating a possible fraudulent act regarding the application for or use of a driver permit, driver license or identification card, that the person must submit the same proof of identification required of a fist time applicant. This amendment is proposed to help make certain that the person is properly identified before being reinstated and being issued a replacement driver license, driver permit or identification card. DMV also proposes to amend the rule to allow DMV to rescind a cancellation or suspension under this rule, if no other Oregon requirements exist, when DMV can verify that the person is applying for a driver permit, driver license or identification

card in another jurisdiction and is not eligible for driving privileges unless DMV rescinds or reinstates the cancellation or suspension.

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

Rules Coordinator: Brenda Trump
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 1905 Lana Ave. NE, Salem, OR 97314
Telephone: (503) 945-5278

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Department of Transportation,
Motor Carrier Transportation Division
Chapter 740

Rule Caption: Amendment of intrastate motor carrier hours-of-service rules regarding off-duty time and logbooks.

Date:	Time:	Location:
8-16-06	2 p.m.	ODOT Bldg, Rm. 122 355 Capitol St. NE Salem, OR

Hearing Officer: Craig Bonney
Stat. Auth.: ORS 823.011, 825.137, 825.232 & 852.252
Stats. Implemented: ORS 825.210, 825.250 & 825.252
Proposed Amendments: 740-100-0010, 740-100-0060
Last Date for Comment: 8-21-06
Summary: Oregon adopts the Federal Motor Carrier Safety Regulations to apply to both interstate and intrastate motor carriers. Exceptions to federal regulations are governed by tolerance guidelines found in 49 CFR Part 350. The Federal Motor Carrier Safety Administration has determined that current Oregon rules regarding intrastate hours of service are no longer compatible with federal tolerance guidelines. Oregon stands to lose approximately $2.4 million of Motor Carrier Safety Assistance Program (MCSAP) funds if it fails to amend the incompatible rules. Proposed changes result in an increase from 8 hours to 10 hours the amount of time a driver transporting property in intrastate service must be off-duty before being allowed to drive. The proposed changes also decrease the on-duty hours from 16 to 12 for determining if a driver may qualify to use a time card versus a logbook.

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

Rules Coordinator: Brenda Trump
Address: Department of Transportation, Motor Carrier Transportation Division, 1905 Lana Ave. NE, Salem, OR 97314
Telephone: (503) 945-5278

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Employment Department
Chapter 471

Rule Caption: This adoption defines the terms "means," "manner," and "free from direction and control" as used in ORS 670.600(2)(a) relating to independent contractors.

Date:	Time:	Location:
9-15-06	11 a.m.	City Hall Council Chambers 710 NW Wall St. Bend, OR
9-22-06	1 p.m.	Dept. of Revenue, 955 Center St. NE, Salem, OR

Hearing Officer: Bill Boyd, CCD
Stat. Auth.: ORS 305.100, 670.600 & 657
Stats. Implemented: ORS 670.600
Proposed Adoptions: 471-031-0180
Last Date for Comment: 11-1-06, 5 p.m.
Summary: The 2005 Legislative Assembly instructed five agencies (Department of Revenue, Employment Department, Department of Consumer and Business Services, Construction Contractors Board, and Landscape Contractors Board) to engage in joint rulemaking to clarify how agencies will determine whether a business in an "independent contractor". This proposed rule is designed to respond to that legislative directive by explaining some of the terms used in the definition of "independent contractor" in ORS 670.600.

This rule adoption will provide the above agencies with the opportunity of applying the law consistently.

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

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Landscape Contractors Board
Chapter 808

Rule Caption: Defines terms "means" and "manner" as used in ORS 670.600 relating to independent contractors.

Date:	Time:	Location:
9-15-06	11 a.m.	City Hall, Council Chambers 710 NW Wall Street Bend, OR
9-22-06	1 p.m.	Dept. of Revenue Fishbowl Conf. Rm., 955 Center St. Salem OR

Hearing Officer: Staff
Stat. Auth.: ORS 670.310, 670.605 & 671.670
Other Auth.: Ch. 533, OL 2005 (SB 323)
Stats. Implemented: ORS 670.600, 670.605 & 671.525
Proposed Amendments: 808-003-0260
Last Date for Comment: 11-1-06, 5 p.m.
Summary: OAR 808-003-0260 is amended to describe the factors the LCB will consider in determining whether a person is free from direction and control over the "means" and "manner" of providing services, as those terms are used in ORS 670.600.
Rules Coordinator: Kim Gladwill-Rowley
Address: 235 Union Street NE, Salem, OR 97301
Telephone: (503) 986-6570

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Oregon Department of Education
Chapter 581

Rule Caption: Amendment of OAR 581-022-1130 implementing HB 3129 to increase graduation requirements.

Date:	Time:	Location:
8-16-06	3 p.m.	Public Services Bldg. Room 251A Salem, OR

Hearing Officer: Randy Harnisch
Stat. Auth.: ORS 326.051
Stats. Implemented: Ch. 827, 2005 OL
Proposed Amendments: 581-022-1130
Last Date for Comment: 8-16-06, 5 p.m.
Summary: The proposed amendments to OAR 581-022-1130 will increase the diploma requirements for, 1) mathematics from 2 credits to 3 credits and 2) English from 3 credits to 4 credits.
Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

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Rule Caption: The proposed amendment will adopt by reference the 2006 Budgeting and Accounting Manual.

Date:	Time:	Location:
8-16-06	3 p.m.	Public Services Bldg. Room 251A Salem, OR

Hearing Officer: Randy Harnisch
Stat. Auth.: ORS 326.051, 327.125
Stats. Implemented: ORS 294.356, 327.125
Proposed Amendments: 581-023-0035
Last Date for Comment: 8-16-06, 5 p.m.
Summary: The proposed amendment changes the reference in the rule from the 2002 Budgeting and Accounting Manual to the 2006 Budgeting and Accounting Manual.
Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

Rule Caption: Clarifies process for allocating state school funds for home schooled and alternative education program sudents.

Date:	Time:	Location:
8-16-06	3 p.m.	Public Services Bldg. Room 251A Salem, OR

Hearing Officer: Randy Harnisch
Stat. Auth.: ORS 326.051, 326.310, 327.125
Other Auth.: 2004 Oregon Student Personnel Accounting Manual
Stats. Implemented: ORS 326.125
Proposed Amendments: 581-023-0006
Last Date for Comment: 8-16-06, 5 p.m.
Summary: The proposed amendments to OAR 581-023-0006 will clarify the application of the appropriate funding method for non-public students attending public school part-time and for public school students placed in an alternative education program. The proposed amendment will be made retroactive to July 1, 2006 and will serve to ratify the clarification given in the ODE Executive Memoranda #022-2005-06.
Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

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Oregon Housing and Community Services
Chapter 813

Rule Caption: Provides assistance to qualified tenant organizations in purchasing manufactured dwelling parks.

Date:	Time:	Location:
8-22-06	8 a.m.	725 Summer Street NE Conference Rm. 124B Salem, OR

Hearing Officer: Shelly Cullin
Stat. Auth.: ORS 90.800 - 90.840; 90.630, 183.446, 456.723 & 458.210 - 458.650
Stats. Implemented: ORS 456.579 - 456.581
Proposed Adoptions: 813-009-0030
Proposed Amendments: 813-009-0001, 813-009-0005, 813-009-0010, 813-009-0015, 813-009-0020
Last Date for Comment: 8-22-06, 5 p.m.
Summary: 813-009-0001 sets forth the purpose for the rules. Clarification is provided to the entities eligible to participate within the Manufactured Dwelling Purchase Program. 813-009-0005 clarifies the common definitions and terms found within the rules. Amendments to 813-009-0010 update the application procedure and requirements for entities to participate in the program. The rule also sets the aggregate amount at $100,000. Amendments to 813-009-0015 update the review process for applications received for participation in the program. 813-009-0020 defines the loan assistance available and the requirements of applicants prior to formal approval. The amendments also clarify the rights and remedies available under law regarding revocation of the loan funds. 813-009-0030 adds waiver language already provided for by statute.
Rules Coordinator: Sandy McDonnell
Address: 725 Summer Street NE, Suite B (PO Box 14508), Salem, OR 97301
Telephone: (503) 986-2012

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Rule Caption: Clarify terms, eligibility requirements, lending criteria, application process. Adds waiver requirements. Increases max financing limit.

Date:	Time:	Location:
8-23-06	1:30 p.m.	725 Summer Street NE, Conference Rm. 124B Salem, OR

Hearing Officer: Loren Shultz
Stat. Auth.: ORS 458.705 - 458.740
Stats. Implemented: ORS 458.705 - 458.740
Proposed Adoptions: 813-140-0120
Proposed Amendments: 813-140-0010, 813-140-0020, 813-140-0030, 813-140-0040, 813-140-0050, 813-140-0060, 813-140-0080, 813-140-0090, 813-140-0110
Proposed Renumberings: 813-140-0070 to 813-140-0105
Last Date for Comment: 9-8-06, 5 p.m.
Summary: The rules within 813-140 implement the Community Development Incentive Project Fund, which holds the proceeds of the lottery bonds issued to make grants or loans to Oregon municipalities, businesses and individuals; provides credit enhancements to commercial banks and private lenders in order to encourage real estate development that promotes downtown and community center areas, provides affordable housing and other infill developments, or funds projects that promote business opportunities in Oregon's distressed areas and rural communities.

Proposed amendments are as follows:

813-140-0010 provides clarification of common terms and definitions within the program.

813-140-0020 defines the intent of the program is as a resource to achieve one or more of the Six Budget Proposals.

813-140-0030 provides references to the Program Overview document and application materials.

813-140-0040 defines eligible uses and costs that can be applied against the Fund and stipulates when a grant may be made instead of a loan.

813-140-0050 provides clarification on eligible applicants and projects.

Amendments in 813-140-0060 clarify the criteria for eligible projects and how the agency will address applications when insufficient funds are available.

813-140-0070 is suspended and renumbered to 813-140-0105.

813-140-0080(7) is amended to define the terminology "appropriateness and uniqueness" of the design of a project.

813-140-0090 provides additional clarification on documentation required by an applicant to demonstrate an ability to repay a loan. Additional clarification is provided on eligible predevelopment expenses in 814-140-0090(2)(a).

813-140-0110(1) increases the maximum amount of financing for the Small Community Incentive Fund from $50,000 to $80,000.

813-140-0110(4) designates the Regional Economic Revitalization Team to determine the process for evaluating applications.

813-140-0120 adds waiver language already provided for by statute.

Rules Coordinator: Sandy McDonnell
Address: 725 Summer Street NE, Suite B, Salem, Oregon 97301
Telephone: (503) 986-2012

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amend rule regarding lewd activities, restrictions on entertainers, unlawful activities.

Date:	Time:	Location:
8-24-06	10 a.m.–12 p.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Katie Hilton
Stat. Auth.: ORS 471, 471.030, 474.040 & 730(1) & (5)
Stats. Implemented: ORS 471.425(2)
Proposed Amendments: 845-006-0347
Last Date for Comment: 9-7-06
Summary: This rule describes various activities which licensees may not permit at their licensed premises, including disorderly activity, noisy activity, and drinking alcohol outside the premises. The rule currently contains language regulating lewd activities and restrictions on entertainers. Based on decisions in two recent court cases, the Commission intends to amend the rule to remove all language referring to lewd activities and restrictions on entertainers to prevent lewd activity, and to add language describing how the agency will regulate unlawful activities on licensed premises.
Rules Coordinator: Katie Hilton
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
Telephone: (503) 872-5004

Oregon State Marine Board
Chapter 250

Rule Caption: Periodic Rule Update for rules governing the Agency's Boating Facility Program.
Stat. Auth.: ORS 830.110, 830.137, 830.140, 830.150 & 830.170
Stats. Implemented: ORS 830.110, 830.137 ,830.140, 830.150 & 830.170
Proposed Amendments: Rules in 250-014
Last Date for Comment: 8-31-06
Summary: At the June meeting of the Marine Board staff was directed to initiation of a formal rulemaking to seek public comment on proposed revisions to OAR Chapter 250, Division 14 governing many aspects of the agency's Facility Grant program, Maintenance Assistance program (MAP), Vessel waste Collection (CVA) and Boating Infrastructure Grant (BIG program). Many minor housekeeping revisions have been identified. A number of substantive changes are proposed to modify state rules to comply with federal rules for facilities funded with federal grants; allow certain permit fees to be used as "soft" match; require grant recipients to provide public notice and project signs; accommodate eligibility of private participants under the BIG program. Proposed amendments will be distributed to the Facility Program mailing list for comments.
Rules Coordinator: Jill E. Andrick
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309
Telephone: (503) 378-2617

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Rule Caption: Proposed rule amendment limiting boat anchoring near the McCormick & Baxter industrial site at RM 7 on the Willamette River.
Stat. Auth.: ORS 830.110, 830.175 & 830.195
Stats. Implemented: ORS 830.110, 830.175 & 830.195
Proposed Amendments: 250-020-0280
Last Date for Comment: 8-31-06
Summary: A request was received from the Department of Environmental Quality for boating restrictions near superfund cleanup sites on the Willamette River. After dredging and removing large volumes of contaminated submerged sediments a cap covers approximately 21 acres of submerged land. The area is not heavily used by recreational boats but the DEQ requested anchoring restricting with signs and buoys marking the closed area. The Board considered the request and instructed Staff to initiate a rulemaking process to consider rule language and marking for the McCormick & Baxter clean-up site.
Rules Coordinator: Jill E. Andrick
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309
Telephone: (503) 378-2617

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Rule Caption: Proposed rule amendment limiting boating on Elk Lake to Slow-No Wake, Maximum 5 MPH or electric motor only.
Stat. Auth.: ORS 830.110, 830.175 & 830.195
Stats. Implemented: ORS 830.110, 830.175 & 830.195
Proposed Amendments: 250-020-0259
Proposed Repeals: 250-020-0265, 250-020-0266
Last Date for Comment: 8-31-06
Summary: A request was received from Clackamas River Trout Unlimited to restrict motorized boating on Elk Lake in Marion County. There is currently little use because of historically poor road access. Recent restroom improvements undertaken by the Willamette National Forest, Detroit Ranger District were accomplished after the access road was graded and leveled. Petitioners are concerned that the improved access road may attract people with larger and faster watercraft. They seek to restrict use to less intrusive recreation impact. At the meeting in June the marine Board accepted the petition and directed Staff to initiate rulemaking to determine the need for a rule limiting boat speed to slow-no wake, maximum 5 mph or to the use of electric motors only on Elk Lake in Marion County. While the rule is open housekeeping revisions will repeal two rules and incorporate necessary language into OAR 250-020-0259.
Rules Coordinator: Jill E. Andrick
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309
Telephone: (503) 378-2617

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Oregon State Treasury
Chapter 170

Rule Caption: Allocation of Private Activity Bond Limit.
Stat. Auth.: ORS 286.615
Stats. Implemented: ORS 286.615
Proposed Amendments: 170-071-0005
Last Date for Comment: 8-22-06
Summary: The rule change clarifies the Private Activity Bond Committee's policy of allowing both state agencies and local agencies to apply for pilot activity bond cap allocations.
Rules Coordinator: Sally Furze
Address: Oregon State Treasury, 350 Winter St. NE , Suite 100, Salem, OR 97301
Telephone: (503) 378-4990

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Oregon University System,
University of Oregon
Chapter 571

Rule Caption: Amendment to Immunization Policy.

Date:	Time:	Location:
8-22-06	3 p.m.	University of Oregon EMU, Metolius & Owyhee Rms. Eugene, OR

Hearing Officer: Connie Tapp
Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 351.070
Proposed Amendments: 571-004-0016
Last Date for Comment: 8-23-06, 12 p.m.
Summary: The University of Oregon requires that all entering students eligible for services at the University Health Center demonstrate evidence of immunity to measles and mumps. This amendment will require entering students to have documentation of two doses of MMR (Measles/Mumps/Rubella) vaccine.
Rules Coordinator: Connie Tapp
Address: Oregon University System, University of Oregon, 1226 University of Oregon, Eugene, OR 97403
Telephone: (541) 346-3082

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Parks and Recreation Department
Chapter 736

Rule Caption: Amendment to OAR 736-018-0045 for adoption of the Thompson's Mills State Heritage Site Master Plan.
Stat. Auth.: ORS 390.180 & 390.124
Stats. Implemented: ORS 390.180(1)
Proposed Amendments: 736-018-0045
Last Date for Comment: 8-22-06
Summary: ORS 390.180(1)(c) authorizes the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a master plan for Thompson's Mills State Heritage Site. Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt the new master plan as a state rule.

This Notice of Proposed Rulemaking was previously published in the June 2006 publication of the Oregon Bulletin. It is now being republished due to a procedural error in sending notice to OPRD's mailing list for the Thompson's Mills State Heritage Site Master Plan.

The master plan for Thompson's Mills State Heritage Site responds to the most current information on park resource conditions and public recreation needs as they pertain to this park. The plan was formulated through OPRD's mandated master planning process involving meetings with the general public, and advisory committee, affected interest groups, and affected state and federal agencies and local government.
Rules Coordinator: Pamela Berger

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301
Telephone: (503) 986-0719

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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:
8-23-06	9 a.m.	Public Utility Commission Main Hearing Rm., First Flr. 550 Capitol Street 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, 860-024-0016
Proposed Amendments: 860-024-0001, 860-024-0050
Last Date for Comment: 8-23-06 5 p.m.
Summary: This rulemaking is a continuation of 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 own or operate power line and communication line facilities. 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 continuation of the first phase will address new and amended safety rules associated with the construction, operation, and maintenance of power lines and communication lines. The proposed rules focus on inspection and compliance work, vegetation clearance requirements, and other safety 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

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Secretary of State,
Archives Division
Chapter 166

Rule Caption: Revision to County and Special District Records Retention Schedule.
Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192 & 357
Proposed Amendments: 166-150-0015
Last Date for Comment: 8-21-06
Summary: Amendments to OAR 166-150-0015 are to update and clarify retention periods found in this rule.
Rules Coordinator: Julie Yamaka
Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310
Telephone: (503) 378-5199

Appraiser Certification and Licensure Board
Chapter 161

Rule Caption: To adopt latest edition of Uniform Standards of Professional Appraisal Practice (USPAP) which takes effective July 1, 2006.
Adm. Order No.: ACLB 1-2006(Temp)
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 7-1-06 thru 12-28-06
Notice Publication Date:
Rules Amended: 161-002-0000, 161-025-0060
Subject: Proposed changes to Division 2 regarding definitions, and Division 25 regarding Appraisal Standards and USPAP.
Rules Coordinator: Karen Turnbow—(503) 485-2555

161-002-0000
Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(34) "**Transaction Value**" means:

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

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

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

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

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

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

(36) "**Workfile**" means "workfile" as defined in USPAP.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 674.305 & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert.e f. 7-27-94; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(TEMP), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06

161-025-0060
Appraisal Standards and USPAP

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

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

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

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

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

(6) The "Uniform Standards of Professional Appraisal Practice", 2006 Edition, approved and adopted by the Appraisal Standards Board of the Appraisal Foundation, dated April 27, 1987, as amended on July 1, 2006, are incorporated into the Administrative Rules of the Appraiser Certification and Licensure Board as the standards of professional conduct which shall guide the behavior of licensed and certified appraisers in the State of Oregon. Copies of the Uniform Standards of Professional Appraisal Practice may be obtained from the Appraisal Foundation located at 1029 Vermont Avenue, N.W., Suite 900, Washington D.C. 20005-3517.

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

(8) All licensees must comply with USPAP in all valuation work as provided in ORS 674.100(2), (3).

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

(a) Board member;

(b) employee; or

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

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 674.305(8) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-1994; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-89; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 3-2000(Temp), f. 11-9-00, cert. ef. 11-9-00 thru 5-8-01; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06

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Board of Examiners for Engineering and Land Survey
Chapter 820

Rule Caption: Amendment of this rule is essential to the validity of all sebsequently adopted rules.
Adm. Order No.: BEELS 1-2006(Temp)
Filed with Sec. of State: 6-23-2006
Certified to be Effective: 6-23-06 thru 12-12-06
Notice Publication Date:
Rules Amended: 820-001-0000
Subject: The proposed rule clarifies that prior to adoption, amendment or repeal of any permanent rule adopted on or after January 1, 2006, the Board shall provide notice, by mail or electronic mail, to persons on the agency's mailing list established pursuant to ORS 183.335(8) and those specified in ORS 183.335(15) at least 28 days before the effective date of the rule.
Rules Coordinator: Mari Lopez—(503) 362-2666

820-001-0000
Notice Rule

Before permanently adopting, amending or repealing any rule, the Oregon Board of Examiners for Engineering and Land Surveying will give notice of the intended action:

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

(2) By mailing or electronic mailing a copy of the notice to persons on the agency's mailing list established pursuant to ORS 183.335(8) at least twenty-eight (28) days before the effective date of the rule.

(3) By mailing or electronic mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least forty-nine (49) days before the effective date of the rule; and

(4) By mailing, electronic mailing, or furnishing a copy of the notice to:

(a) Publications:

(A) The Associated Press; and

(B) Portland Business Today.

(b) State Societies:

(A) American Council of Engineering Companies of Oregon;

(B) Professional Engineers of Oregon;

(C) Professional Land Surveyors of Oregon;

(D) Structural Engineers Association of Oregon; and

(E) Oregon Association of County Engineers and Surveyors.

(c) Local branches and chapters of the national societies listed below:

(A) American Society of Heating, Refrigeration, and Air Conditioning Engineers;

(B) American Institute of Industrial Engineers;

(C) American Society of Civil Engineers;

(D) American Society of Mechanical Engineers;

(E) Institute of Electrical and Electronic Engineers;

(F) Illuminating Engineers Society; and

(G) American Institute of Chemical Engineers.

(d) Colleges, universities and community colleges within the State with an engineering and/or land surveying degree program.

(e) Capitol Press Room.

(5) The agency may update the mailing list described in section (2) of this rule annually by requesting persons to confirm that they wish to remain on the mailing list. If a person does not respond to a request for confirmation within twenty-eight (28) days of the date that the agency sends the request, the agency will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list upon request, provided that the person provides a mailing address or electronic mailing address to which notice may be sent.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 18, f. & ef. 1-13-76; EE 1-1981, f. 5-19-81, ef. 6-1-81; EE 2-1985, f. 12-4-85, ef. 12-16-85; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 1-2006(Temp.), f. & cert. ef. 6-23-06 thru 12-12-06

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Board of Examiners of Nursing Home Administrators
Chapter 853

Rule Caption: Clarifies guidelines and provides greater flexibility in the AIT program; incorporates needed housekeeping changes.
Adm. Order No.: BENHA 1-2006
Filed with Sec. of State: 7-14-2006
Certified to be Effective: 7-14-06
Notice Publication Date: 6-1-06
Rules Amended: 853-010-0010, 853-010-0015, 853-010-0060
Subject: Revisions to OAR 853-010-0010 and 863-010-0015 are primarily housekeeping changes needed to update the examination fee, remove outdated language, and to reorganize information by relocating some areas to 853-010-0060. Revisions to OAR 853-010-0060 are to clarify the Administrator-in-Training (AIT) program requirements and expectations while incorporating greater flexibility into the program, to remove outdated language, and to reorganize subsections in order to provide a logical flow of information.
Rules Coordinator: Janet Bartel—(503) 673-0196

853-010-0010
Definitions

(1) "Board" means the Board of Examiners of Nursing Home Administrators.

(2) "Continuing Education" means post-licensure education in health care administration undertaken to maintain professional competency to practice nursing home administration, improve administration skills and effect standards of excellence in the interest of safety, health and welfare of the people served.

(3) "Experience" means prior performance in administration, including planning, organizing, directing, staffing, and budgeting of a licensed long-term care facility.

(4) "Licensee" means a person who is issued a nursing home administrator license upon making application and meeting training, experience, and education requirements; or a person who is issued a provisional license.

(5) "Long-Term Care Facility" means a licensed facility as defined in ORS 441.005.

(6) "Nursing Home Administrator" means an individual responsible for planning, organizing, directing, and controlling the operation of a nursing home.

(7) "One Year" when related to employment means a period equivalent to 40 hours a week for 48 weeks.

(8) "Trainee"; "Administrator-in-Training"; or "AIT" means a person who is completing the training requirements leading to licensure as a nursing home administrator.

(9) "Experience in health care management" means experience in administration, planning, organizing, directing, staffing and budgeting of a licensed health care facility.

Stat. Auth.: ORS 678
Stats. Implemented: ORS 678.710, 678.730, 678.760, 678.780 & 678.820
Hist.: NHA 1(Temp), f. & ef. 9-29-71; NHA 4, f. 1-5-72, ef. 1-28-72; NHA 8, f. 2-6-74, ef. 2-25-74; NHA 9(Temp), f. & ef. 3-6-75; NHA 10, f. 7-3-75, ef. 7-25-75; NHA 1-1982, f. 12-15-82, ef. 1-1-83; NHA 1-1989, f. & cert. ef. 2-15-89; NHA 1-1996, f. & cert. ef. 7-31-96; BENHA 1-2003, f. & cert. ef. 11-12-03; BENHA 1-2006, f. & cert. ef. 7-14-06

853-010-0015
Application for Examination and Licensure

(1) An applicant for the nursing home administrator examination shall:

(a) Apply to the Board on a form approved by the Board;

(b) Submit the required $125 examination fee or $300 reciprocity fee.

(2) Any individual is qualified for licensure as a nursing home administrator who:

(a) Is of good moral character;

(b) Is in good physical and mental health;

(c) Has a baccalaureate degree or higher from an accredited school of higher education. The educational requirement will not apply to any person who was a licensed administrator in any jurisdiction of the United States prior to January 1, 1983; or to any person who meets the training, experience, and other standards in a supervised internship.

(d) In lieu of any residency or intern requirement, the Board shall accept one year of experience as a hospital administrator, chief operating officer, president, vice president, or administrative director who is responsible for the operation of a nursing facility physically attached to a hospital.

(3) An applicant for examination who has been convicted of a felony by any court in this state, or by any court of the United States shall not be permitted to take the examination provided herein, unless the applicant first files with the Board a parole termination certificate and restoration of forfeited rights of citizenship issued by the Board of Parole and Post-Prison Supervision, or in the case of a conviction in any jurisdiction, wherein the laws do not provide for the issuance of a parole termination certificate, an equivalent written statement or document.

(4) At the discretion of the Board an applicant for licensure by endorsement may be personally interviewed by the Board. An applicant for endorsement who has not worked as an administrator of a nursing facility for a minimum of six months within five years of the application for endorsement to Oregon, shall be interviewed by the Board.

(5) An application for endorsement from an individual who is certified by the American College of Health Care Administrators and who meets the education requirement in 853-010-0015(2)(c) may be approved for the state examination by the Executive Officer of the Board.

(6) Administrators-in-Training shall be personally interviewed by the Board prior to examination.

(7) An Administrator-in-Training applicant may be disqualified from taking the examination. Reasons for disqualification from taking the examination includes but is not limited to the following:

(a) Failure to graduate from an accredited university except as stated in paragraph (2)(c) of this rule.

(b) Failure to submit application and fee by deadline date.

(c) Failure to submit college transcript and reference letters.

(d) Applicant does not demonstrate adequate training.

(e) Preceptor does not recommend that applicant take the examination.

(f) Failure to appear for personal interview unless excused with good reason by an authorized representative of the Board.

(8) An Administrator-in-Training applicant for licensure who has been disqualified shall be given written notification by the Board of applicant's disqualification and the reasons therefore and of the right to a hearing:

(a) An applicant for licensure who has been disqualified, may petition the Board in writing within 30 days of notification of disqualification for a hearing and an application review.

(b) When an applicant for licensure has been disqualified, the applicant may submit a new application to qualify for licensure; however, the applicant shall be required to meet the requirements for licensure as shall be in force at the time of such re-examination.

(9) An applicant shall be deemed to have abandoned the application if the applicant does not take such examination within 180 days after Board approval to take such examination.

(10) An application submitted subsequent to the abandonment of a former application shall be treated as a new application and the rules in force at the time of such new application shall apply.

Stat. Auth.: ORS 678.740(1), 678.760(1), 678.760(2), 678.760(3), 678.770(2) 678.775
Stats. Implemented: ORS 678.740(1), 678.760(1), 678.760(2), 678.760(3), 678.770(2) 678.775
Hist.: NHA(Temp), f. & ef. 9-29-71; NHA 4, f. 1-5-72, ef. 1-28-72; NHA 8, f. 2-6-74, ef. 2-25-74; NHA 1-1978, f. & ef. 1-31-78; NHA 4-1978, f. & ef. 8-29-78; NHA 1-1982, f. 12-15-82, ef. 1-1-83; NHA 1-1983, f. & ef. 3-17-83; NHA 1-1989, f. & cert. ef. 2-15-89; NHA 1-1991, f. & cert. ef. 5-3-91; NHA 1-1993(Temp), f. 6-30-93, cert. ef. 10-1-93; NHA 5-1993, f. 10-15-93, cert. ef. 11-4-93; NHA 1-1994, f. & cert. ef. 1-26-94; NHA 2-1996, f. & cert. ef. 7-31-96; BENHA 1-1999, f. & cert. ef. 2-25-99; BENHA 2-2001, f. & cert. ef. 8-10-01; BENHA 1-2002, f. 1-31-02, cert. ef. 2-1-02; BENHA 1-2006, f. & cert. ef. 7-14-06

853-010-0060
Registration of Trainees and Supervising Preceptors

(1) Any trainee who begins to accumulate experience as defined in OAR 853-010-0010(3), shall register with the Board within 15 working days and submit a registration fee of $100. Acceptance into the AIT program in no way authorizes a trainee to serve in the capacity of a nursing home administrator; such action by the trainee is a violation to ORS 678.720(1), and the Board may disqualify part or the entire period of the AIT program.

(2) Every trainee shall undergo a training program and be supervised by a preceptor as defined in OAR 853-010-0060(9). The Board may grant exceptions to the supervision requirement for good reasons such as, but not limited to geographical location.

(3) "Training" means the completion of a supervised program/internship comprised of a minimum 960 hours. Training shall be directed by a preceptor and conducted regularly for a six month to one year period averaging 40 hours per week, with no fewer than 20 hours and no more than 50 hours per week, except at the discretion of the Board.

(4) The outline of the training curriculum shall be submitted to the Board for approval at the time the trainee registration form is submitted. This outline shall include 40 hours participation in a CNA training course for the AIT or a comparable review of the CNA training manual coupled with a minimum of 40 hours spent shadowing a CNA. If the CNA training or manual review is not completed prior to the end of the training period, proof of such completion must be submitted prior to taking the national examination. Exceptions to this training requirement would be:

(a) AIT is or has been an RN, LPN, or CNA in a long-term care facility; or

(b) AIT is training in a facility that does not have a CNA class or is not located within 60 miles of a facility with a CNA class.

(5) Every trainee shall submit periodic reports on forms provided by the Board, outlining specifically all aspects of training. These reports shall be submitted every two to four months based on the length of the training program. The preceptor shall countersign each report. If the trainee does not submit the required reports, the Board may discontinue the training.

(6) A hospital administrator who has less than one year experience in a hospital with a physically attached nursing home shall receive credit of 80 hours of AIT experience for every month of prior experience accumulated in the hospital/nursing home facility. Additional training required to meet the minimum of 960 hours AIT training shall be gained in an Administrator-in-Training program in a long-term care facility or under the supervision of a preceptor in the hospital/nursing home facility.

(7) Accredited university or college coursework in advanced degree programs specializing in long-term care may replace no more than 480

hours of the 960 hours of training. Such coursework must be approved by the Board.

(8) A trainee with significant experience within the long-term care field may petition the Board for credit hours. The Board may grant credit for relevant experience gained within a qualifying long-term care facility. Such experience may replace no more than 480 hours of the 960 hours of training.

(9) "Preceptor" means a person who:

(a) Holds a current Oregon nursing home administrator license; and

(b) Has been a licensed nursing home administrator for at least three years. The Board may grant exceptions to the three-year requirement for good reason, but not limited to experience in long-term care; and

(c) Has attended a Board-approved workshop for preceptors in Oregon and actively engaged as a preceptor within five years of completing the workshop; and

(d) Has not been disciplined by the Board in the prior five (5) years. The Board may grant exceptions to this requirement based on the type and severity of the violation related to the discipline.

(10) The preceptor shall:

(a) Possess sufficient training, knowledge, and ability.

(b) **Have a facility or organizational setting at their disposal to participate actively in the development of trainees.**

(c) Meet with the AIT and make a pre-training assessment of the AIT applicant's background, including both education and experience. Based on the assessment, the preceptor and AIT shall prepare a detailed curriculum of the training program to be completed.

(d) Identify the nursing home that will serve as the primary facility for the AIT's training activities, recognizing that the AIT may be dispatched to other training sites—as needed—to gain experience in the required training areas.

(e) Ensure that all nursing home training sites employ an on-site, licensed administrator with facility teaching staff comprised of personnel who are proficient in the field of practice to which they devote themselves and who are willing to assume responsibility individually and as a group for imparting instruction to the AIT.

(f) Provide the AIT a minimum of eight (8) hours a week of face-to-face supervision, to apprise the AIT of areas of competency and/or weakness, to identify problem areas and to modify the plan to reflect changes which meet altered needs.

(g) Train only one AIT at any one time unless otherwise approved by the Board.

(h) Provide a letter to the Board at the completion of a training program that evaluates the AIT's professional competence and general suitability for the profession.

(i) Participate as a preceptor in the AIT program within five (5) years of completing the preceptor training workshop. A preceptor who fails to participate in the AIT program within the five (5) year timeframe must re-complete the preceptor training workshop prior to commencing an AIT program.

(11) An AIT may be disqualified from continuing training. Reasons for disqualification from training includes but is not limited to the following:

(a) Failure to submit a training plan.

(b) Failure to submit timely and satisfactory training reports.

(c) Submitting false training reports.

(d) Interruption of training exceeding the period established in 853-010-0060(12).

(e) Inadequate training or supervision.

(12) Discontinued and Interrupted Programs

(a) The preceptor or AIT will notify the Board if the AIT's training is discontinued or interrupted at the long-term care facility. A traineeship that has been discontinued or interrupted for six months or longer may not be resumed without Board approval.

(b) The Board will approve an interruption of an AIT program for the compulsory service of the AIT in the armed forces of the United States. The AIT may resume training at any time within six months of discharge from active duty.

(13) The Board reserves the right to take appropriate action if a preceptor fails to provide the trainee with adequate training and supervision or to comply with the training program requirements. The Board may disqualify a preceptor from training until such time the preceptor completes additional training or other requirements as prescribed by the Board.

(14) At the Board's discretion the preceptor may be required to appear before the Board.

Stat. Auth.: ORS 678.740(1), 678.760(1), (2) & (3), 678.770(2) & 678.775
Stats. Implemented: ORS 678.740(1), 678.760(1)-(3), 678.770(2) & 678.775
Hist.: NHA 1-1978, f. & ef. 1-31-78; NHA 4-1978, f. & ef. 8-29-78; NHA 1-1982, f. 12-15-82, ef. 1-1-83; NHA 1-1988, f. & cert. ef. 4-27-88; NHA 1-1989, f. & cert. ef. 2-15-89; NHA 1-1990(Temp), f. & cert. ef. 5-4-90; NHA 2-1990, f. & cert. ef. 10-26-90; NHA 1-1991, f. & cert. ef. 5-3-91; NHA 2-1996, f. & cert. ef. 7-31-96; BENHA 1-2002, f. 1-31-02, cert. ef. 2-1-02; BENHA 1-2004, f. & cert. ef. 1-30-04; BENHA 1-2006, f. & cert. ef. 7-14-06

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Board of Geologist Examiners
Chapter 809

Rule Caption: Provide additional information about the seal's parameters and the use of the registration seal.
Adm. Order No.: BGE 2-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 4-1-06
Rules Amended: 809-050-0000
Subject: This rule revision provides dimensions for the seal used by the Registered Geologists and Certified Engineering Geologists to stamp final documents. This rule revision also clarifies the types of documents that must be stamped with the registrant seal.
Rules Coordinator: Susanna R. Knight—(506) 566-2837

809-050-0000
Use of Seal

A facsimile of a registrant's seal shall be affixed to final geology products in the course of the public practice of geology.

(1) A Registered Geologist shall use a seal bearing the Registered Geologist's name, certificate number, and registration title, as shown in Exhibit 1 of this rule. The Registered Geologist seal must be at least 1.5 inches in diameter from point to point. A Registered Geologist may use an electronic seal that meets these requirements.

(2) A Certified Engineering Geologist shall use a seal bearing the Certified Engineering Geologist's name, certificate number, and registration title, as shown in Exhibit 2 of this rule. The Certified Engineering Geologist seal must be at least 1.5 inches in diameter from point to point. A Certified Engineering Geologist may use an electronic seal that meets these requirements.

(3) Draft geology or specialty geology products or documents clearly marked as draft do not require a geologist's seal.

(4) If a bound report is sealed by the registrant in responsible charge of the work, geology figures, maps, plates, logs, and products bound within that final report or document do not need to be individually sealed. A geology product within that report that is not prepared by the registrant responsible for that bound report shall be individually sealed by the registrant who prepared that geology product.

(5) Unbound final geology products, including boring logs, shall be individually sealed, signed, and dated.

(6) Any registrant who seals and signs a final version of a geology product takes full responsibility for the geology content of that product.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 183, 192 & 672
Stats. Implemented: ORS 672.605
Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 8-2004, f. & cert. ef. 8-5-04; BGE 2-2006, f. & cert. ef. 6-26-06

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Board of Nursing
Chapter 851

Rule Caption: Nurse Practioner Formulary Updated.
Adm. Order No.: BN 9-2006
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 6-29-06
Notice Publication Date: 5-1-06
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 May and June 2006 updates to Drug Facts and Comparisons to the formulary.
Rules Coordinator: KC Cotton—(971) 673-0638

851-050-0131
Formulary for Nurse Practitioners with Prescriptive Authority

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

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

(b) "Formulary" means a specific list of drugs determined by the Board. The formulary for nurse practitioners with prescriptive authority shall be all the drugs in the Drug Facts and Comparisons dated June 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 June 2006:

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

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

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

(A) I 131;

(B) Gallium Nitrate; and

(C) Mifepristone (Mifeprex); and

(D) Abarelix (Plenaxis).

(d) Cardiovasculars — all drugs except:

(A) Cardioplegic Solution;

(B) Fenoldopam Mesylate (Corlopam);

(C) Dofetilide (Tikosyn); and

(D) Bosentan (Tracleer).

(e) Renal and Genitourinary Agents — all drugs;

(f) Respiratory Agents — all drugs;

(g) Central Nervous System Agents:

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

(i) Tincture of opium;

(ii) Codeine;

(iii) Hydromorphone;

(iv) Morphine;

(v) Oxycodone, Oxymorphone;

(vi) Topical Cocaine Extracts and Compounds;

(vii) Fentanyl;

(viii) Meperidine;

(ix) Amphetamines;

(x) Methylphenidates;

(xi) Pentobarbital;

(xii) Secobarbital;

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

(xiv) Levorphanol.

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

(C) Chymopapain is excluded.

(D) Ziconotide (Prialt) is excluded.

(E) Sodium Oxybate (Xyrem) is excluded.

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

(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) Fomivirsen 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; BN 4-1998, f. & cert. ef. 3-13-98; BN 5-1998, f. & cert. ef. 5-11-98; BN 8-1998, f. & cert. ef. 7-16-98; BN 12-1998, f. & cert. ef. 9-22-98; BN 13-1998, f. & cert. ef. 12-1-98; BN 1-1999, f. & cert. ef. 3-4-99; BN 3-1999, f. & cert. ef. 5-4-99; BN 5-1999, f. & cert. ef. 7-1-99; BN 9-1999, f. & cert. ef. 10-20-99; BN 13-1999, f. & cert. ef. 12-1-99; BN 3-2000, f. & cert. ef. 2-25-00; BN 5-2000, f. & cert. ef. 4-24-00; BN 8-2000, f. & cert. ef. 7-3-00; BN 9-2000, f. & cert. ef. 9-18-00; BN 10-2000, f. & cert. ef. 12-15-00; BN 2-2001, f. & cert. ef. 2-21-01; BN 6-2001, f. & cert. ef. 4-24-01; BN 9-2001, f. & cert. ef. 7-9-01; BN 13-2001, f. & cert. ef. 10-16-01; BN 4-2002, f. & cert. ef. 3-5-02; BN 11-2002, f. & cert. ef. 4-25-02; BN 14-2002, f. & cert. ef. 7-17-02; BN 19-2002, f. & cert. ef. 10-18-02; BN 21-2002, f. & cert. ef. 12-17-02; BN 2-2003, f. & cert. ef. 3-6-03; BN 4-2003, f. & cert. ef. 4-23-03; BN 8-2003, f. & cert. ef. 7-7-03; BN 10-2003, f. & cert. ef. 10-2-03; BN 13-2003, f. & cert. ef. 12-9-03; BN 6-2004, f. & cert. ef. 2-26-04; BN 10-2004, f. & cert. ef. 5-4-04; BN 12-2004, f. & cert. ef. 7-13-04; BN 15-2004, f. & cert. ef. 10-26-04; BN 16-2004, f. & cert. ef. 11-30-04; BN 2-2005, f. & cert. ef. 2-17-05; BN 3-2005, f. & cert. ef. 4-26-05; BN 4-2005, f. & cert. ef. 6-30-05; BN 8-2005, f. & cert. ef. 10-13-05; BN 11-2005, f. & cert. ef. 12-21-05; BN 2-2006, f. & cert. ef. 2-22-06; BN 8-2006, f. & cert .ef. 5-8-06; BN 9-2006, f. & cert. ef. 6-29-06

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Bureau of Labor and Industries
Chapter 839

Rule Caption: Amendment to January 1, 2006 PWR Comparison Rate Publication.
Adm. Order No.: BLI 20-2006
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 6-16-06
Notice Publication Date: 3-1-06
Rules Amended: 839-025-0700
Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 1, 2006 to include amendments effective June 16, 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).

(e) Amendment to Oregon Determination 2006-01 (effective April 1, 2006).

(f) 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 June 16, 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, 651.060
Stats. Implemented: ORS.279C.815
Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99: BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, .f & cert. ef. 6-16-06

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Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2006.
Adm. Order No.: BLI 21-2006
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 3-1-06
Rules Amended: 839-025-0700
Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2006.
Rules Coordinator: Marcia Ohlemiller—(917) 673-0784

839-025-0700
Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act dated July 1, 2006, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2006, and the effective dates of the applicable special wage determination and rates amendments: Marine Rates for Public Works Contracts in Oregon (effective September 20, 2005).

(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) are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 279C.815, 651.060
Stats. Implemented: ORS.279C.815
Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99: BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, .f & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06

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Rule Caption: Amends and Extends Residential Rates for Specified Residential Projects.
Adm. Order No.: BLI 22-2006
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 3-1-06
Rules Amended: 839-025-0750
Subject: This rule adopts prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the specified residential projects for the dates specified.
Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0750
Residential Prevailing Wage Rate Determinations

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the following residential rate determinations are the prevailing rates of wage for workers upon said public works projects for the periods of time specified:

(a) *Special Prevailing Wage Rate Determination Extension for Residential Project, Tri-Harbor Landing Apartments, Project #2005-06*, dated July 18, 2005, Rate Extension dated June 15, 2006, for the period of July 1, 2006 through December 31, 2006.

(b) *Special Prevailing Wage Rate Determination Extension for Residential Project, Clark Center Annex, Project #2006-01*, dated March 10, 2006, Rate Extension dated June 15, 2006 for the period of July 1, 2006 through June 30, 2007.

(c) *Special Prevailing Wage Rate Determination-Second Rate Extension-for Residential Project, Headwaters Apartments, Project #2004-06*, dated October 14, 2004. Rate Extension dated June 15, 2006, for the period of July 1, 2006 through June 30, 2007.

(2) Copies of the rates referenced in section (1) of this rule are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and listed in the blue pages of the phone book. Copies may also be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 279C.815
Stats. Implemented: ORS 279C.815
Hist.: BLI 5-1999, f. 6-30-99, cert. ef. 7-1-99; BLI 7-1999, f. 8-26-99, cert. ef. 9-15-99; BLI 8-1999, f. & cert. ef. 9-8-99; BLI 10-1999, f. 9-14-99, cert. ef. 9-17-99; BLI 11-1999, f. 9-22-99, cert. ef. 9-27-99; BLI 6-2000, f. 2-14-00, cert. ef. 2-15-00; BLI 12-2000, f. 5-24-00, cert. ef. 7-1-00; BLI 18-2000, f. & cert. ef. 9-1-00; BLI 21-2000, f. 9-15-00, cert. ef. 9-22-00; BLI 23-2000, f. & cert. ef. 9-25-00; BLI 24-2000, f. 10-30-00, cert. ef. 11-1-00; BLI 2-

2001, f. & cert. ef. 1-24-01; BLI 6-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 7-2001, f. 7-20-01, cert. ef. 7-24-01; BLI 9-2001, f. 7-31-01, cert. ef. 8-1-01; BLI 10-2001, f. 8-14-01, cert. ef. 8-15-01; BLI 11-2001, f. & cert. ef. 8-22-01; BLI 13-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 6-2002, f. 3-14-02, cert. ef. 3-15-02; BLI 7-2002, f. 3-22-02, cert. ef. 3-25-02; BLI 11-2002, f. & cert. ef. 5-23-02; BLI 13-2002, f. 6-26-02 cert. ef. 7-1-02; BLI 14-2002, f. 8-23-02, cert. ef. 10-1-02; BLI 2-2003, f. & cert. ef. 3-28-03; BLI 2-2004, f. 4-23-04, cert. ef. 5-1-04; BLI 3-2004, f. 5-18-04, cert. ef. 5-19-04; BLI 4-2004, f. & cert. ef. 5-24-04; BLI 5-2004, f. 6-23-04, cert. ef. 6-24-04; BLI 7-2004, f. 7-14-04, cert. ef. 7-15-04; BLI 13-2004, f. & cert. ef. 10-19-04; BLI 14-2004, f. 10-29-04 cert. ef. 11-1-04; BLI 16-2004, f. 11-8-04, cert. ef. 11-10-04; Renumbered from 839-016-0750, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 9-2005, f. 4-15-05, cert. ef. 4-18-05; BLI 10-2005, f. & cert. ef. 5-2-05; BLI 11-2005, f. 5-31-05, cert. ef. 6-1-05; BLI 12-2005, f. & cert. ef. 6-21-05; BLI 13-2005, f. 6-30-05, cert. ef. 7-1-05; BLI 14-2005, f. & cert. ef. 7-22-05; BLI 15-2005, f. 8-9-05, cert. ef. 8-10-05; BLI 17-2005, f. 8-26-05, cert. ef. 8-29-05; BLI 23-2005, f. 10-26-05, cert. ef. 10-28-05; BLI 25-2005, f. 12-22-05, cert. ef. 12-23-05; BLI 6-2006, f. 3-9-06, cert. ef. 3-13-06; BLI 22-2006, f. 6-16-06 cert. ef. 7-1-06

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Rule Caption: Amends the prevailing rates of wage for the period beginning January 1, 2006.
Adm. Order No.: BLI 23-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 6-29-06
Notice Publication Date: 3-1-06
Rules Amended: 839-025-0700
Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 1, 2006.
Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700
Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated 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 June 16, 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 June 23, 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, 651.060
Stats. Implemented: ORS.279C.815
Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99: BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, .f & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06

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Rule Caption: Correcting inaccurate reference in rule to conform to statutory language.
Adm. Order No.: BLI 24-2006(Temp)
Filed with Sec. of State: 7-5-2006
Certified to be Effective: 7-7-06 thru 1-3-07
Notice Publication Date:
Rules Amended: 839-003-0020
Subject: The current rule at OAR 839-003-0020(6) states that filing a complaint with the bureau's Civil Rights Division does not toll the one year period allowed by ORS 659A.875 for filing a civil suit alleging whistleblowing discrimination by a public employer. This is not accurate. ORS 659A.875(6) states that a civil action under 659A.885 against a public body based on a unlawful employment practice must be commenced within one year unless a complaint has been timely filed with the Civil Rights Division under ORS 659A.820. The rule affects at least one pending lawsuit and must be changed immediately to prevent possible loss of right for filing civil suits by plaintiffs who have timely filed complaints with the Civil Rights Division.
Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-003-0020
Civil Suit

(1) A person alleging unlawful discrimination under state law may file a civil suit as provided in ORS 659A.870 to 659A.885, or ORS 30.680.

(a) A person is not required to file a complaint of a violation of state law with the division before filing a civil suit.

(b) A person filing a civil suit in state or federal court waives the right to file a complaint with the division with respect to those matters alleged in the civil suit.

(2) After filing a complaint with the division, a complainant may file a civil suit in state or federal court alleging the same matters as those alleged in the complaint filed with the division. The complainant should notify the division of the civil suit. When the division receives notice from the complainant or complainant's attorney, or court documents indicating that such a suit has been filed, the division will dismiss the complaint. The division will notify the complainant and respondent that the division has dismissed the complaint and will take no further action.

(3) A civil suit alleging a violation of ORS 659A.145 or 659A.421, regarding discrimination in real property transactions, may be filed no later than two years after the occurrence or termination of an alleged discriminatory housing practice. The two-year period may not include any time during which an administrative proceeding was pending with respect to the housing practice.

(4) Notwithstanding OAR 839-003-0020(2), if a complainant files a complaint with the division alleging a violation of ORS 659A.145 or 659A.421 regarding discrimination in real property transactions:

(a) And the complainant also files a civil suit with respect to such allegations, the division will not dismiss the complaint until the civil trial commences;

(b) If Formal Charges have been issued with respect to a housing discrimination complaint, and an administrative law judge has commenced a hearing on the record under ORS Chapter 659A, the complainant may not commence a civil action in court that alleges the same matters.

(5) The commissioner will notify the complainant in writing of the right to file suit in state court, as provided in ORS 659A.870 to 659A.885, when a complaint is dismissed by the division or on the one-year anniversary of the complaint filing, whichever occurs first. The complainant will have 90 days from the notice mailing date to file a civil suit. A complainant filing suit against a public body must also file a tort claim notice as required by ORS 30.275.

(6) A civil action under ORS 659A.885 against a public body, as defined in ORS 30.260, or any officer, employee or agent of a public body as defined in ORS 30.260, based on an unlawful employment practice must be commenced within one year after the occurrence of the unlawful employment practice unless a complaint has been timely filed under ORS 659A.820.

(7) An action alleging breach of a division settlement agreement, entered into under ORS 659A.001 to 659A.030, 659A.233, 659A.303, 659A.409, 659A.420, 659A.421, 659A.150 to 659A.224 and 659A.800 to 659A.890, may be filed under 659A.860 in accordance with the applicable statute of limitations.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 30.275, 30.680, 659A.001 - 659A.030, 659A.233, 659A.303, 659A.409, 659A.420, 659A.421, 659A.150 - 659A.224 & 659A.800 - 659A.890
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 12-1982, f. & ef. 8-10-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 9-2006, f. 3-16-06, cert. ef. 3-20-06; BLI 24-2006(Temp), f. 7-5-06, cert. ef. 7-7-06 thru 1-3-07

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Rule Caption: Amends the prevailing rates of wage for the period beginning January 1, 2006.
Adm. Order No.: BLI 25-2006
Filed with Sec. of State: 7-11-2006
Certified to be Effective: 7-11-06
Notice Publication Date:
Rules Amended: 839-025-0700
Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 1, 2006.
Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700
Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated 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 June 16, 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 June 23, 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 June 30, 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, 651.060
Stats. Implemented: ORS.279C.815
Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99: BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, .f & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-2006

Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2006.
Adm. Order No.: BLI 26-2006
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 7-13-06
Notice Publication Date:
Rules Amended: 839-025-0700
Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2006.
Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700
Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2006, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2006, and the effective dates of the applicable special wage determination and rates amendments:

(a) Marine Rates for Public Works Contracts in Oregon (effective September 20, 2005).

(b) Amendments/Corrections to July 1, 2006 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and the federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 30, 2006).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2006, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 279C.815, 651.060
Stats. Implemented: ORS.279C.815
Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99: BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, .f & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-2006; BLI 26-2006, f. & cert. ef. 7-13-6

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Columbia River Gorge Commission
Chapter 350

Rule Caption: Amending the Commissions's Land Use Ordinance, Implementing the Special Uses in Historic Buildings Plan Amendment.
Adm. Order No.: CRGC 2-2006
Filed with Sec. of State: 6-22-2006
Certified to be Effective: 8-1-06
Notice Publication Date: 4-1-06
Rules Adopted: 350-081-0114
Rules Amended: 350-081-0108, 350-081-0190, 350-081-0270, 350-081-0370, 350-081-0450, 350-081-0490
Subject: 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—(509) 490-3323

350-081-0108
Commercial Events

(1) Commercial events include weddings, receptions, parties and other small-scale gatherings that are incidental and subordinate to the primary use on a parcel.

(2) Commercial events may be allowed in the GMA except on lands designated Open Space or Commercial Forest, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:

(a) The use must be in conjunction with a lawful winery, wine sales/tasting room, bed and breakfast inn, or commercial use. If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to the guidelines in "Special Uses in Historic Buildings" (350-081-0114), and not the guidelines of this section.

(b) The owner of the subject parcel shall live on the parcel and shall operate and manage the use.

(c) A single commercial event shall host no more than 100 guests.

(d) The use shall comply with the following parking requirements:

(A) A single commercial event shall include no more than 50 vehicles for guests.

(B) All parking shall occur on the subject parcel.

(C) At least 200 square feet of parking space shall be required for each vehicle.

(D) Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited.

(E) All parking areas shall be fully screened from key viewing areas.

(e) The owner of the subject parcel may conduct 18 single events up to one day in length per year.

(f) The owner of the subject parcel shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

(g) Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event. Alternatively, temporary structures may remain in place for up to 90 days if they are fully screened from key viewing areas.

(h) The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:

(A) The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands.

(B) The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in 350-081-0076 or designated Commercial Forest Land or Large or Small Woodland, as required in 350-081-0310.

(C) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland.

(D) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(i) Counties may impose additional requirements to address potential impacts to surrounding neighbors. For example, they may limit noise, lighting and operating hours.

(j) Land use approvals for commercial events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)
Stats. Implemented: ORS 196.150
Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06

350-081-0114
Special Uses in Historic Buildings

(1) Special uses in historic buildings may be allowed as follows and subject to "Additional Resource Protection Guidelines for Special Uses in Historic Buildings" (350-081-0114(2)).

(a) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines (350-081-0114(2)(a)(B)(i) and (ii), and 350-081-0114(2)(a)(C) through 350-081-0114(2)(a)(E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (350-081-0114(2)(b) through 350-081-0114(2)(d)). Voluntary donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.

(b) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places, and which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines (350-081-0114(2)(a)(B)(i) and (ii), and 350-081-0114(2)(a)(C) through 350-081-0114(2)(a)(E)); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (350-081-0114(2)(b) through 350-081-0114(2)(d)). The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.

(c) Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Special Uses in Historic Buildings": Cultural Resources Guidelines 350-081-0114(2)(a)(B) through (E); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines (350-081-0114(2)(b) through 350-081-0114(2)(d)).

(d) The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture-Special on a property with a building either on or eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and "Additional Resource Protection Guidelines for Special Uses in Historic Buildings":

(A) Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use.

(B) Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006.

(C) Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property

(D) Wineries upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.

(E) Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006.

(F) Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006.

(G) Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.

(H) Gift shops within a historic building, as the building existed as of January 1, 2006 that are:

(1) Incidental and subordinate to another approved use included in 350-081-0114(1)(d); and

(2) No larger than 100 square feet in area.

(I) Interpretive displays, picnic areas or other recreational day use activities on the subject property.

(J) Parking areas on the subject property to support any of the above uses.

(e) For the purposes of the guidelines in this section, the term "historic buildings" refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Cultural Resources Guideline 350-081-0114(2)(a)(A) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings."

(f) Uses listed in 350-081-0114(1)(c) and 350-081-0114(1)(d)(C) are not subject to the "Commercial Events" provisions in 350-81-108. Commercial events at historic properties will be regulated by the guidelines contained in this section. Applications for commercial events shall include all information in the "Operational Plan for Commercial Events" as specified in 350-81-114(2)(B)(iv) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings". The following apply to commercial events at historic properties:

(A) Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel.

(B) The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

(g) Uses listed in 350-081-0114(1)(a) and 350-081-0114(1)(d)(I) are not subject to the parking limits and associated "Facility Design Guidelines" in the Recreation Intensity Classes.

(h) Land use approvals for special uses in historic buildings shall be subject to review by the local government every five years from the date the original approval was issued. As part of this review, the applicant shall submit documentation to the local government on the progress made in implementing the "Protection and Enhancement Plan" required in Cultural Resources (350-081-0114(2)(a)) of "Additional Resource Protection Guidelines for Special Uses in Historic Buildings". The local government shall submit a copy of the applicant's documentation to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion. The local government shall revoke the land use approval if the owner has failed to implement the actions described in the "Protection and Enhancement Plan" according to the schedule for completing such actions in this plan. The local government may, however, allow such a use to continue for up to one additional year from the date a local government determines the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule, what progress the applicants have made towards completing such actions, and a proposed revised schedule for completing such actions.

(2) Additional Resource Protection Guidelines for Special Uses in Historic Buildings. The following guidelines apply to proposed uses listed under "Special Uses for Historic Buildings" in addition to all other relevant guidelines for protection of scenic, cultural, natural and recreation resources:

(a) Cultural Resources:

(A) All applications for uses listed in 350-081-0114(1)(d), shall include a historic survey and evaluation of eligibility for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in "Historic Surveys and Reports" (350-081-0540(1)(c)(H). The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation". Eligibility determinations shall be made by the local government, based on input from the state historic preservation Agency (SHPA). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPA. The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion.

(B) Applications for Special Uses for Historic Buildings shall include a "Protection and Enhancement Plan" which shall include the following:

(i) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completion of such actions.

(ii) A statement addressing consistency of the proposed use with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties.

(iii) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.

(iv) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:

(I) Number of events to be held annually.

(II) Maximum size of events, including number of guests and vehicles at proposed parking area.

(III) Provision for temporary structures, including location and type of structures anticipated.

(IV) How the proposed commercial events will contribute to protection and enhancement of the historic resource.

(C) The local government shall submit a copy of the "Protection and Enhancement Plan" to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPA comments shall address consistency of the proposed use with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties, and the effect of the proposed use on the historic resource.

(D) Any alterations to the building or surrounding area associated with the proposed use have been determined by the local government to be consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Properties and the Secretary of the Interior's Standards for Preservation of Historic Properties. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(E) The proposed use has been determined by the local government to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(b) Scenic Resources:

(A) New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials shall be prohibited.

(B) New parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordinance. New screening vegetation may be used if existing topography and vegetation are insufficient to help make the parking area visually subordinate from Key Viewing Areas, if such vegetation would not adversely affect the historic character of the building's setting.

(C) Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days after the event if the local government determines that they will be visually subordinate from Key Viewing Areas.

(c) Recreation Resources:

(A) The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

(d) Agricultural and Forest Lands:

(A) The proposed use is compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.

(B) The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.

(C) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland.

(D) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland that are within 500 feet of the perimeter of the subject property on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision on an application for a Special Use for a Historic Building.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544e
Stats. Implemented: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544e
Hist.: CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06

350-081-0190
Review Uses — Agricultural Land

(1) The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-081-0620):

(a) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-081-0540) and natural resources (350-081-0560 through 350-081-0590).

(b) Agricultural structures, except buildings, in conjunction with agricultural use.

(c) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-081-0090).

(d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.

(e) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(g) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use — Hardship Dwelling" (350-081-0092).

(h) On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricul-tural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (h)(C)(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its constituent parcels, must be capable of producing at least $40,000 in gross annual income. This determination can be made using the following formula:

(A)(B) (C) = I where:
A = Average yield of the commodity per acre or unit of production
B = Average price of the commodity
C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
I = Income capability

(i) On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwell-ing that is included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria listed in 350-081-0540(1)(e).

(j) On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

(k) On lands designated Large-Scale Agriculture, a single — family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator.

(C) The operation is a commercial enterprise, as determined by an evaluation of the factors described in 350-081-0190(1)(h)(C).

(l) Construction, reconstruction, or modifications of roads not in conjunction with agriculture.

(m) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(n) Structures associated with hunting and fishing operations.

(o) Towers and fire stations for forest fire protection.

(p) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops or livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Large-Scale Agriculture, on a parcel that was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on sur-rounding lands.

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location, and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be used in conjunction with other agricultural operations in the area.

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required by 350-081-0076, or designated Commercial Forest Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (350-081-0310).

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, Large or Small Woodland.

(E) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(r) On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-081-0124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger.

Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(s) Life estates, subject to the guidelines in "Approval Criteria for Life Estates," (350-81-210).

(t) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(u) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-081-0126).

(v) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(w) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-081-0114).

(2) The following uses may be allowed on lands designated SMA Agriculture subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines (350-081-0520 through 350-081-0620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

(a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-081-0270(2)(x).

(b) Forest uses and practices, as allowed for in 350-081-0270.

(c) A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy C(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least $40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

(A)(B)(C) = I

where: A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch I =Income capability

(D) Minimum parcel size of 40 contiguous acres.

(d) Farm labor housing on a parcel with an existing dwelling under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use, and the operation is a commercial agricultural enterprise as determined by 350-081-0190(2)(c)(C).

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to mini-mize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(e) Agricultural structures, except buildings, in conjunction with agricultural use.

(f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-081-0090).

(g) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 2(h) or 2(i), below.

(h) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(j) Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (350-081-0098). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(k) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-081-0100). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(l) Fruit stands and produce stands, upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(m) Aquaculture.

(n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA.

(o) Utility facilities necessary for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(p) Temporary asphalt/batch plant operations related to public road projects, not to exceed 6 months.

(q) Community facilities and nonprofit facilities related to agricultural resource management.

(r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(s) Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(t) Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in 350-81-620.

(u) Road and railroad construction and reconstruction.

(v) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use — Hardship Dwelling" (350-081-0092).

(x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(z) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-081-0106).

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06

350-081-0270
Review Uses — Forest Land

(1) The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(a) On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate local government. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(E) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-081-0300).

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(b) On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the appropriate state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-081-0300). A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

(c) One single-family dwelling if shown to be in conjunction with and substantially contributing to the current agricultural use of a farm. Guideline 350-081-0190(1)(h) shall be used to determine whether a dwelling is a farm dwelling. The siting of the dwelling shall comply with the "Approval Criteria for Fire Protection" in 350-081-0300.

(d) Temporary onsite structures that are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located onsite, is temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(e) Temporary portable facility for the primary processing of forest products grown on a parcel of land or contiguous land in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

(f) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(g) Structures associated with hunting and fishing operations.

(h) Towers and fire stations for forest fire protection.

(i) Agricultural structures, except buildings, in conjunction with agricultural use, subject to the "Approval Criteria for Fire Protection" (350-081-0300).

(j) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the "Approval Criteria for Fire Protection" (350-081-0300) and the standards in "Agricultural Buildings" (350-081-0090).

(k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(l) or (1)(m) below.

(l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-081-0300) and the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-081-0300) and the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(n) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use – Hardship Dwelling" (350-081-0092) and the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-031-0300).

(o) A second single-family dwelling for a farm operator's relative, subject to 350-081-0190(1)(k) and the "Approval Criteria for Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-081-0300).

(p) Private roads serving a residence, subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-081-0300).

(q) Recreation development, subject to the guidelines established for the recreation intensity classes (350-081-0610) and the Recreation Development Plan (Management Plan, Part III, Chapter 1).

(r) Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

(s) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(t) On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or to protect the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" (350-081-0310) and "Approval Criteria for Fire Protection" (350-081-0300).

(u) On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to guidelines for cluster development in "Land Divisions and Cluster Development" (350-081-0124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

(v) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-081-0540) and natural resources (350-081-0560 through 350-081-0590).

(w) On lands designated Large or Small Woodland, life estates, subject to the guidelines in "Approval Criteria for Life Estates" (350-081-0320).

(x) Land divisions in Small Woodland, subject to the minimum lot sizes designated on the Land Use Designation Map. Land divisions in Commercial Forest Land and Large Woodland, subject to the standards and minimum lot sizes in Policies 4 through 9 in the "Land Use Policies" in Part II, Chapter 2: Forest Land of the Management Plan.

(y) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-081-0126).

(z) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(aa) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(bb) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(cc) Commercial events on lands designated Large Woodland or Small Woodland, subject to the guidelines in "Commercial Events" (350-081-0108).

(dd) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-081-0114).

(2) The following uses may be allowed on lands designated SMA Forest subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines (350-081-0520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of forest products:

(a) All review uses allowed for in 350-081-0190(2).

(b) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of subsection (2)(x), below.

(c) Railroad and road construction or reconstruction.

(d) Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the SMA.

(e) Silvicultural nurseries.

(f) Utility facilities for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Forest Land.

(B) The size is the minimum necessary to provide the service.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Fish hatcheries and aquaculture facilities.

(i) Public recreation, commercial recreation, interpretive and educational developments, and uses consistent with the provisions of 350-81-620.

(j) One single family dwelling on a parcel of 40 contiguous acres or larger if an approved forest management plan demonstrates that such a dwelling is necessary for and accessory to forest uses. The forest management plan shall demonstrate the following:

(A) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement indicates a relationship between ongoing forest management and the need for a dwelling on the subject property.

(B) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(C) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate county. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute toward the successful management of the property.

(D) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(E) The dwelling complies with county dwelling, siting, and state/county fire protection guidelines.

(F) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

(k) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(l) or (2)(m), below.

(l) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(m) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(n) Home occupations and cottage industries, subject to the "Home Occupations and Cottage Industries" guidelines in 350-081-0098.

(o) Temporary portable facilities for the processing of forest products.

(p) Towers and fire stations for forest fire protection.

(q) Community facilities and nonprofit facilities related to forest resource management.

(r) Expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

(s) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use – Hardship Dwelling" (350-081-0092).

(t) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(u) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(v) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(w) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-081-0106).

(x) Clearing trees for new agricultural use with the following steps and subject to the following additional guidelines:

(A) A Stewardship Plan shall be submitted and deemed complete by the Executive Director and submitted to the Forest Service for review. (350-081-0270(2)(y)(C).

(B) Clearing trees for new agricultural use shall be limited to 15 acres.

(C) If the Stewardship Plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of 350-081-0270(2)x)(D)(i-iv) below and subject to guideline 350-081-0270(2)(x)(I).

(D) After a 30-day public comment period, the Forest Service shall review the Stewardship Plan using the following criteria:

(i) Scenic Resource guidelines in 350-081-0270(2)(y)(D)(i) and (vii).

(ii) Applicable guidelines of 350-081-0550, 350-081-0600 and 350-081-0620.

(iii) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.

(iv) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.

(E) The Forest Service shall send the review statement to the Executive Director. The Forest Service shall state whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the Executive Director.

(F) The Executive Director will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.

(G) The forest practice portion of the new agricultural use shall not be approved by the state forestry department or Executive Director until a decision on the new agricultural use is issued by the Executive Director.

(H) The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.

(I) New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially. After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.

(y) Forest practices in accordance with an approved forest practices application (see 350-081-0032) and subject to the additional guidelines in 350-081-0270.

(A) The following information, in addition to general site plan requirements (350-081-0032) shall be required:

(i) Delineate the following on a recent aerial photo or detailed map:

(I) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be used, code each on the photo.

(II) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.

(III) Road and structure construction and/or reconstruction location.

(IV) Location of proposed rock or aggregate sources.

(V) Major skid trails, landings, and yarding corridors.

(VI) Commercial firewood cutting areas.

(VII) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(ii) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(iii) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in 350-081-0270(2)(y)(D) and 350-081-0270(2)(y)(E).

(iv) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(v) Road and structure construction and/or reconstruction design.

(vi) Existing and proposed rock pit development plans.

(vii) A discussion of slash disposal methods.

(viii) A reforestation plan as reviewed by the appropriate state forest practices agency.

(B) As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.

(C) Stewardship Plan Requirements: The following information, in addition to the applicable portions of the forest practice application requirements above and general site plan requirements (350-081-0032) shall be provided:

(i) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.

(ii) Describe the time frame and steps planned to reach the long term goals.

(iii) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and/or forest health. The following shall be addressed:

(I) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.

(II) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.

(III) Give a clear explanation how a deviation from the applicable guidelines may better achieve forest health objectives

(IV) Give a clear explanation how and why the proposed activities will lead the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.

(iv) For clearing trees for new agricultural use, the following shall be addressed in addition to 350-081-0270(2)(y)(C)(i) and (ii) above:

(I) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.

(II) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in 350-081-0270(2)(x)(D)(i-iv).

(III) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.

(IV) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.

(D) For forest practices, the following scenic resource guidelines shall apply:

(i) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone (See Required SMA Scenic Standards table in 350-081-0530-(2)(c).

(ii) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will also help (as available) in calculating and delineating the percentage of the composite KVA viewshed which maybe created in forest openings at one time.

(iii) In the western portion (to the White Salmon River) of the SMA Gorge Walls, Canyonlands and Wildlands Landscape Setting, no more than 4% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service. The Forest Service will also help (as available) in calculating and delineating the percentage of the composite KVA viewshed which maybe created in forest openings at one time.

(iv) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in Natural Resources guidelines in 350-081-0270(2)(y)(E)(i) through (iii).

(v) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in Natural Resources guidelines in 350-081-0270(2)(y)(E)(i) through (iii).

(vi) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table.

(I) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.

(II) If the Stewardship Plan proves that the above guideline is detrimental to either forest health or ecosystem function, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(vii) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from a key viewing area.

(E) Forest practices shall maintain the following in addition to applicable natural resources guidelines in 350-081-0600.

(i) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(ii) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in 350-081-0270(2)(y)(D)(vi).

(iii) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(iv) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

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

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06

350-081-0370

Review Uses — Residential Land

(1) The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-081-0520 through 350-081-0620):

(a) One single-family dwelling per legally created parcel. If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, the use shall comply with the buffer and notification requirements for agricultural land, or forest land. If the subject parcel is located within a

Residential designation that is adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines in "Approval Criteria for Fire Protection" (350-081-0300).

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) The temporary use of a mobile home in the case of a family hardship, subject to guidelines for hardship dwellings in "Temporary Use — Hardship Dwelling" (350-081-0092).

(e) Construction or reconstruction of roads.

(f) On parcels 10 acres or larger in the 5-acre Residential designation, or 20 acres or larger in the 10-acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-081-0124).

(g) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-081-0540) and natural resources (350-081-0560 through 0590).

(h) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(i) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-081-0126).

(j) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(k) Agricultural structures, except buildings, in conjunction with agricultural use.

(l) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-081-0090).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(o) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Commercial events, subject to the guidelines in "Commercial Events" (350-081-0108).

(q) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-081-0114).

(2) The following uses may be allowed on lands designated SMA-Residential subject to review for compliance with scenic, cultural, natural, and recreation resources guidelines (350-081-0520 through 350-081-0620):

(a) One single-family dwelling per legally created lot or consolidated parcel. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with Management Plan SMA Policy 13 in Part II, Chapter 2: Forest Land.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) New utility facilities.

(e) Fire stations.

(f) Home occupations and cottage industries subject to the guidelines in "Home Occupations and Cottage Industries" (350-081-0098).

(g) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-081-0100).

(h) Community parks and playgrounds.

(i) Road and railroad construction and reconstruction.

(j) Forest practices, as specified in 350-081-0270(2).

(k) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(l) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use — Hardship Dwelling" (350-081-0092).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(o) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(p) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-081-0270(2)(x).

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)
Stats. Implemented: ORS 196.150
Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06

350-081-0450
Review Uses — Commercial Designations

The following uses may be allowed on lands designated Commercial, subject to compliance with the appropriate scenic, cultural, natural, and recreation resource guidelines (350-081-0520 through 350-081-0620) and "Approval Criteria for Specified Review Uses," (350-081-0460):

(1) Travelers' accommodations, bed and breakfast inns.

(2) Restaurants.

(3) Gift shops.

(4) Home occupations or cottage industries in an existing residence or accessory structure, subject to guidelines in "Home Occupations and Cottage Industries" (350-081-0098).

(5) One single-family dwelling per legally created parcel.

(6) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed as accessory buildings larger than 200 square feet in area or 10 feet in height.

(7) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel, subject to the following standards:

(a) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(b) The height of any individual accessory building shall not exceed 24 feet.

(8) Utility facilities and railroads.

(9) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(10) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-081-0126).

(11) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(12) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(13) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(14) Commercial events, subject to the guidelines in "Commercial Events" (350-081-0108).

(15) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-081-0114).

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)
Stats. Implemented: ORS 196.150
Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06

350-081-0490

Review Uses — Public Recreation and Commercial Recreation

(1) The following uses may be allowed on lands designated GMA-Public Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources (350-081-0520 through 350-081-0620) and compliance with 350-081-0610(5)(a) and (c) through (g), where applicable, of the "Approval Criteria for Recreation Uses" contained in the recreation intensity class guidelines (350-081-0610):

(a) Publicly-owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-081-0610).

(b) Commercial uses and non-resource based recreation uses that are part of an existing or approved resource-based public recreation use, consistent with the guidelines for such uses contained in this section.

(c) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-081-0540) and natural resources (350-081-0560 through 350-081-0590).

(d) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-081-0114).

(2) The following uses may be allowed on lands designated GMA Public Recreation, subject to compliance with the "Approval Criteria for Non-Recreation Uses in Public Recreation designations," (350-081-0500), and (350-081-0520 through 350-081-0620):

(a) One single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 350-081-0490(2)(c).

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures, except buildings, in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-081-0090).

(f) Utility transmission, transportation, communication, and public works facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-081-0108).

(3) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural and recreation resources (350-081-0520 through 350-081-0620) and compliance with 350-081-0610(5)(a) and (c) through (g) of the "Approval Criteria for Recreation Uses" guidelines (350-081-0610):

(a) Commercially owned, resource-based recreation uses, consistent with recreation intensity class guidelines (350-081-0610).

(b) Overnight accommodations that are part of a commercially owned, resource-based recreation use, where such resource-based recreation use occurs on the subject site or on adjacent lands that are accessed through the site, and that meet the following standards:

(A) Buildings containing individual units shall be no larger than 1,500 square feet in total floor area and no higher than 2-1/2 stories.

(B) Buildings containing more than one unit shall be no larger than 5,000 square feet in total floor area and no higher than 2-1/2 stories.

(C) The total number of individual units shall not exceed 25, unless the proposed development complies with standards for clustered accommodations in subsection (4) of this guideline.

(D) Clustered overnight travelers accommodations meeting the following standards may include up to 35 individual units:

(i) Average total floor area of all units is 1,000 square feet or less per unit.

(ii) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas).

(iii) The facility is in an area classified for high-intensity recreation (Recreation Intensity Class 4).

(c) Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and non--resource based recreation uses that are part of an existing or approved resource-based commercial recreation use, consistent with the policies, guidelines, and conditional use criteria for such uses contained in this section.

(d) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-081-0540) and natural resources (350-081-0560 through 350-081-0590).

(e) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-081-0114).

(4) The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with the "Approval Criteria for Non-Recreational Uses in Commercial Recreation," (350-81-510), and the guidelines for the protection of scenic, natural, cultural, and recreation resources (350-081-0520 through 350-081-0620):

(a) One single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 2.C below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) Agricultural structures, except buildings, in conjunction with agricultural use.

(e) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-081-0090).

(f) Utility transmission, transportation, and communication facilities.

(g) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(h) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(i) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

(j) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(k) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(5) Land divisions may be allowed in GMA-Public Recreation, subject to compliance with 350-081-0500(1)(c), and in GMA Commercial Recreation, subject to compliance with 350-081-0510(1)(c).

(6) Lot line adjustments may be allowed in GMA Public Recreation and GMA Commercial Recreation, subject to compliance with the guidelines in "Lot Line Adjustments" (350-081-0126).

(7) The following uses may be allowed on lands designated SMA-Public Recreation subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines:

(a) Forest uses and practices, as allowed for in 350-081-0270(2).

(b) Public trails, consistent with the provisions in 350-081-0620.

(c) Public recreational facilities, consistent with the provisions in 350-081-0620.

(d) Public nonprofit group camps, retreats, conference or educational centers, and interpretive facilities.

(e) One single-family dwelling on a parcel of 40 contiguous acres or larger when it meets the conditions described for Agricultural Land (350-

081-0190) or Forest Land (350-081-0270(2)), or when shown to be necessary for public recreation site management purposes.

(f) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(g) below.

(g) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(h) Home occupation and cottage industries, as specified in "Home Occupations and Cottage Industries" (350-081-0098).

(i) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-081-0104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(j) Road and railroad construction and reconstruction.

(k) Utility facilities for public service upon a showing that:

(A) There is no alternative location with less adverse effect on Public Recreation land.

(B) The size is the minimum necessary to provide the service.

(l) Agricultural review uses, as allowed for in 350-081-0190(2).

(m) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (350-081-0092).

(n) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(o) Demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-081-0096).

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)
Stats. Implemented: ORS 196.150
Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06

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Construction Contractors Board
Chapter 812

Rule Caption: Update/correct cite references.
Adm. Order No.: CCB 7-2006
Filed with Sec. of State: 6-23-2006
Certified to be Effective: 6-23-06
Notice Publication Date: 6-1-06
Rules Amended: 812-002-0537, 812-005-210, 812-005-800, 812-006-0012, 812-006-0015, 812-006-0030, 812-008-0020
Subject: OAR 812-002-0537, OAR 812-005-210, OAR 812-005-800, OAR 812-006-0012, OAR 812-006-0015, OAR 812-006-0030, and OAR 812-008-0020 are amended to update/ correct the cite references.
Rules Coordinator: Catherine Dixon—(503) 378-4621

812-002-0537
Owner

"Owner", as used in ORS 701.078 and 701.102, means:

(1) A person described as an "owner" in ORS 701.077;

(2) A general partner in a limited partnership;

(3) A majority stockholder in a corporation;

(4) A manager in a manager-managed limited liability company;

(5) A member in a member-managed limited liability company; or

(6) A person who has a financial interest in a business and manages or shares in the management of the business.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.078
Hist.: CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06

812-005-0210
Excessive CCB Dispute Resolution Section (DRS) Complaints Under ORS 701.139

Under ORS 701.085(8), the agency may require a bond of up to five times the normally required amount, if it determines that a current or previous license of an owner or officer as defined in ORS 701.005 and 701.077 or OAR 812-002-0537 and 812-002-0533, has:

(1) A history of unpaid final orders consisting of two or more final orders unpaid for longer than thirty (30) days following the date of issuance; or

(2) Five or more claims filed by five or more separate claimants within a one-year period.

Stat. Auth.: ORS 670.310, 701.085 & 701.235
Stats. Implemented: ORS 701.005, 701.077 & 701.085
Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; Renumbered from 812-003-0170(3)(a)-(c), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06: CCB 7-2006, f. & cert. ef. 6-23-06

812-005-0800
Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) $600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.055(1) and OAR 812-003-0120, which may be reduced to $200 if the respondent becomes licensed or to $50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) $700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.055(1) and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) $1,000 per offense for performing work as a contractor in violation of ORS 701.055(1) when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to $700 if the respondent becomes licensed within a specified time; and

(4) $5,000 per offense for performing work as a contractor in violation of ORS 701.055(1), when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to $700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner; and

(5) $5,000 per offense for performing work as a contractor in violation of ORS 701.055(1), when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) $500 per offense for failure to respond to the agency's request for the list of subcontractors required in ORS 701.055(11); and

(7) $1,000 per offense for hiring a unlicensed subcontractor; and

(8) For failing to provide an "Information Notice to Owners about Construction Liens" as provided in ORS 87.093, when no lien has been filed, $200 for the first offense, $400 for the second offense, $600 for the third offense, $1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, $1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense $100, second offense $200, subsequent offenses $400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense $50, second offense $100, subsequent offenses $200.

(11) Failure to use a written contract as required by ORS 701.055(14), $200; when a claim has been filed, $400; second and subsequent offenses, $1,000.

(12) Violation of ORS 701.055(13), failure to provide a Consumer Notification form; $100 first offense; $500 second offense; $1,000 third offense; and $5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below $100.

(13) Failure to conform to information provided on the application in violation of ORS 701.075(4), issuance of a $1,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application.

(a) If the violator is a limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130, the licensee shall be permanently barred from licensure in the Limited Contractor category.

(b) If the violator is a licensed developer working in violation of the conditions established pursuant to ORS 701.005(8), the licensee shall be permanently barred from licensure in the Licensed Developer category.

(14) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, $1,000.

(15) Failure to comply with any part of ORS chapters 316, 656, or 657, 701.035, 701.075, or 701.078, as authorized by ORS 701.100, $1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(16) Violating an order to stop work as authorized by ORS 701.225(3), $1,000 per day.

(17) Working without a construction permit in violation of ORS 701.135, $1,000 for the first offense; $2,000 and suspension of CCB license for three (3) months for the second offense; $5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(18) Failure to comply with an investigatory order issued by the Board, $500 and suspension of the license until the contractor complies with the order.

(19) Violation of ORS 701.135(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, $1,000, suspension of the license or both; second and subsequent offenses, $5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(20) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840:

$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(21) Violation of ORS 701.135(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in subparagraphs (19) or (20), where more than two violations have occurred: $5,000 and revocation of the license.

(22) When, as set forth in ORS 701.135(1)(g), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: $1,000 for the first offense, $2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(23) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): $5,000.

(24) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): $5,000.

(25) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: $750 per offense.

(26) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(8): $750 per offense.

(27) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: $5,000 per offense.

(28) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0201(4): $400 per offense.

(29) Violation of work practice standards for lead-based paint activity pursuant to OAR 812-007-0070; $5,000 per violation and suspension of the lead-based paint business endorsement for up to one year.

(30) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or $15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to $1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(31) Violation of ORS 701.175, inclusion of provisions in a contract that preclude a homeowner from filing a claim with the Board: $1,000 for the first offense, $2,000 for the second offense, and $5,000 for the third and subsequent offenses.

(32) Violation of ORS 701.055(11)(a), failure to maintain the list of subcontractors: $1,000 for the first offense; $2,000 for the second offense, and $5,000 for the third and subsequent offenses.

(33) Violation of ORS 701.135(1)(f), knowingly providing false information to the Board: $1,000 and suspension of the license for up to three months for the first offense; $2,000 and suspension of the license for up to one year for the second offense; and $5,000 and permanent revocation of license for the third offense.

Stat. Auth.: ORS 183.310 - 183.500, 670.310, 701.235 & 701.992

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

Hist.: 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f.& ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87, BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98 ; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; ; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06

812-006-0012
Testing Requirements

(1) The agency shall arrange for the development and administration of a test covering the topics listed in OAR 812-006-0060.

(2) No business may be licensed unless the business' responsible managing individual has:

(a) Passed a test approved by the agency with a passing score approved by the agency; or

(b) Documented an exemption to the testing requirements to the agency's satisfaction under OAR 812-006-0020.

(3) A person seeking to take the test shall:

(a) Pay any fees required by the test administrator;

(b) Provide approved government-issued picture identification to the test administrator;

(c) Pay for any state-certified interpreter needed to take the test; and

(d) Complete the test within a time limit approved by the agency.

(4) A person taking the test shall be allowed to use an Oregon Contractor's Reference Manual during the test.

(5) A person taking the test shall not:

(a) Retake the same version of the test on consecutive attempts; and

(b) Be accompanied by anyone while taking the test, except a state-certified interpreter.

(6) After the test is completed, a person shall not review the test questions or answers.

(7) There are no reciprocal agreements with other states or organizations that test contractors.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.072

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2001(Temp), f. & cert. ef. 5-18-01 thru 11-13-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06

812-006-0015
Testing Subversion

(1) Testing subversion is the use of any means to alter the results of a test to cause the results to inaccurately represent the competency of an examinee. Testing subversion includes, but is not limited to:

(a) Communication between examinees inside the testing room;

(b) Giving or receiving any unauthorized assistance on the test while the test is in process;

(c) Having any printed or written matter or other devices except the Oregon Construction Contractor's Reference Manual in the examinee's possession during the test;

(d) Obtaining, using, buying, selling, distributing, having possession of, or having unauthorized access to secured test questions or other secured examination material prior to, during or after the administration of the examination;

(e) Copying another examinee's answers or looking at another examinee's materials while a test is in process;

(f) Permitting anyone to copy answers to the test;

(g) Copying or removing any test questions from the testing area;

(h) Allowing another person to take the test in the examinee's place;

(i) Writing notes or questions in the Oregon Construction Contractor's Reference Manual during the test; or

(j) Leaving the room during the test.

(2) At the discretion of the agency or its designees, if there is evidence of testing subversion by an examinee prior to, during, or after the administration of the test, one or more of the following may occur:

(a) The examinee may be denied the privilege of taking the test if testing subversion is detected before the administration of the test;

(b) If the testing subversion detected has not yet compromised the integrity of the test, such steps as are necessary to prevent further testing subversion shall be taken, and the examinee may be permitted to continue with the test;

(c) The examinee may be requested to leave the testing facility if testing subversion is detected during the test. If the examinee does not leave the facility, the examinee will be deemed a trespasser;

(d) The examinee's test results may be invalidated and the application fee forfeited; or

(e) The examinee may not be allowed to sit for an examination for up to one year.

(3) If testing subversion is detected after the administration of the test, the agency or its designee shall make appropriate inquiry to determine the facts concerning the testing subversion and the agency or its designee may take any of the actions described in this rule.

Stat. Auth.: ORS 670.310, 701.072 & 701.235
Stats. Implemented: ORS 701.072
Hist.: CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06

812-006-0030
Education Provider Approval

(1) No education shall meet the requirements of ORS 701.072 unless it is offered by a provider approved by the agency.

(2) To receive agency approval, individuals and organizations shall make application and sign an agreement with the agency prior to offering the 16 hours of education.

(a) The provider application shall include, but will not be limited to, provisions for:

(A) Recording the name, address, and contact information, and name of responsible administrator of the provider.

(B) Submitting instructor resumes or work summaries that demonstrate that all its instructors have at least two years experience either teaching adults or working in subject areas outlined in the Oregon Contractors Reference Manual.

(b) No provider may instruct any part of the 16-hour course until there is a fully executed agreement.

(c) A provider must comply at all times with the following requirements:

(A) The provider will provide 16-hours of instruction which will exclude registration and breaks.

(B) The provider will verify that each student taking the 16-hour course has a current agency-approved manual.

(C) The provider will instruct using all the approved curriculum and the approved course manual.

(D) The provider will send electronic course completion records to the agency in a format approved by the agency and keep course completion records for a minimum of five years.

(E) The provider will communicate law changes and program procedural changes sent to them in writing from the agency to the provider's instructors and will implement these changes within 30 business days.

(F) The provider will only use approved instructors who have at least two years total experience either teaching adults or working in the instructor's subject area or a combination of the two.

(G) The provider will request and receive in writing agency approval of all instructors at least 10 business days before instructor is scheduled to teach.

(H) The provider will provide a mechanism for students to contact their instructor(s) outside of class for a minimum of one hour per week for 90 days from date of enrollment in course.

(I) The provider will give all students information about how to contact instructors and hours of availability before the end of the 16-hour course.

(J) The provider will comply with all applicable federal and state laws.

(K) The agency may publicize a provider's test passage rate for its students.

(3) The agency may revoke a provider's right to offer classes and terminate the agreement of a provider at any time the provider fails to:

(a) Meet any requirement of the agreement, and

(b) Comply with administrative rules in 812-006-0030.

(4) The agency may revoke a provider's right to offer classes and terminate the agreement of a provider:

(a) Whose students do not pass the agency test on their first attempt at least 70 percent of the time after the provider has provided classes for three months, and

(b) That fails to maintain the 70 percent first attempt test passing rate during the remaining period of the agreement.

(c) Who acquires or attempts to acquire agency test questions by unauthorized means, including but not limited to, photographing, photocopying or videotaping any part of the agency's test or paying or offering incentives to individuals or business entities to write down, photograph or videotape any part of the agency's test.

Stat. Auth.: ORS 670.310, 701.072 & 701.235
Stats. Implemented: ORS 701.072 & 701.085
Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 1-2005(Temp), f. & cert. ef. 1-5-05 thru 7-1-05; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06

812-008-0020
Definitions

The following definitions apply to Division 8 of OAR chapter 812:

(1) "Administrator" means the Administrator of the agency.

(2) "Agency" means the Oregon Construction Contractors Board.

(3) "Automatic safety controls" means the devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel, leaks, fire, freezing, or other unsafe conditions.

(4) "Central air conditioning" means a system that uses ducts to distribute cooled and/or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.

(5) "Certified individual" means an individual who successfully passes a test accredited by the agency, completes the education required for renewal, and satisfies any other requirements established by OAR chapter 812.

(6) "Component" means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component.

(7) "Conspicuous" as used in these regulations shall mean a term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(8) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.

(9) "Dangerous or adverse situations" means situations that pose a threat of injury to the Oregon certified home inspector, or damage to the property.

(10) "Describe" means report in writing a system or component by its type, or other observed characteristics, to distinguish it from other components or system used for the same purpose.

(11) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance.

(12) "Enter" means to go into an area and observe all visible components.

(13) "Functional drainage" means a drain is functional when it empties in a reasonable amount of time.

(14) "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

(15) "Home inspection" means an inspection of more than one inspection category as set forth in OAR 812-008-0205 through 812-008-0214. A home inspection is not a re-inspection of isolated repairs made as part of a real estate transaction.

(16) "Installed" means attached or connected such that the installed item requires tools for removal.

(17) "Normal operating controls" means homeowner-operated devices such as but not limited to thermostat, wall switch, or safety switch.

(18) "Observe" means the act of making a visual examination.

(19) "On-site water supply quality" means water quality based on the bacterial, chemical, mineral, and solids content of the water.

(20) "On-site water supply quantity" means the water quantity based on the rate of flow of water.

(21) "Operate" means to cause systems or equipment to function.

(22) "Oregon certified home inspector" means a person certified pursuant to chapter 814, 1997 Oregon Laws and OAR chapter 812.

(23) "Readily accessible panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted into place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.

(24) "Representative number" for multiple identical components such as windows and electrical outlets means one such component per room; for multiple identical exterior components, one such component on each side of the building.

(25) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(26) "Shut down" means a piece of equipment or a system is shut down when it cannot be operated by the device or control that a homeowner should normally use to operate it or detached from a plug source. If its safety switch or circuit is in the "off " position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.

(27) "Solid fuel heating device" means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.

(28) "Structural component" means a component that supports nonvariable forces or weights (dead loads) and variable forces or weights (live loads).

(29) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

(30) "Technically exhaustive" means an inspection involving the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.

(31) "Test" means a test administered by the agency.

(32) "Underfloor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

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 9-2004, f. & cert. ef. 12-10-04; CCB 7-2006, f. & cert. ef. 6-23-06

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Department of Agriculture
Chapter 603

Rule Caption: Establishes procedure for applying for property tax exemption for qualfied machinery and equipment.
Adm. Order No.: DOA 13-2006
Filed with Sec. of State: 6-21-2006
Certified to be Effective: 6-21-06
Notice Publication Date: 5-1-06
Rules Amended: 603-025-0150
Subject: Senate Bill 479, from the 2005 Legislature, authorizes the Oregon Department of Agriculture to establish rules to certify qualified machinery and equipment for tax exemption. These rules establish definitions and describe the process for application and determination of certification for qualified machinery and equipment. The rules also state that a contested case procedure for denial of certification is established in ORS Chapter 183.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-025-0150
Food Processing Establishments

In addition to the provisions of OAR 603-025-0020, a food processing establishment shall comply with the following:

(1) Construction and Repair of Equipment and Utensils: All plant equipment and utensils shall be suitable for their intended use, so designed and of such material and workmanship as to be adequately cleanable, and properly maintained. The design, construction and use of such equipment and utensils shall preclude the adulteration of foods with lubricants, fuel, metal fragments, contaminated water or any other contaminants. All equipment shall be installed and maintained so as to facilitate the cleaning of the equipment and of all adjacent spaces. Aisle or working spaces between equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food contact surfaces with clothing or personal contact.

(2) Sanitary Maintenance and Methods:

(a) Separate rooms shall be provided for those operations which may cause contamination of food products with undesirable microorganisms, chemicals, filth or other extraneous material. Building, fixtures and other physical facilities of the establishment shall be kept in good repair and in a sanitary condition. Cleaning operations shall be conducted so as to minimize the danger of contamination of food and food-contact surfaces. Detergents, sanitizers and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Cleaning and sanitizing agents shall be subject to approval by the department;

(b) All utensils and product-contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonproduct-contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) should be stored in appropriate containers and handled, dispensed, and disposed of in a manner that prevents contamination of food or food-contact surfaces. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment;

(c) All cleaned and sanitized portable equipment and utensils with product-contact surfaces should be stored in such a location and manner that product-contact surfaces are protected from splash, dust, and other contamination;

(d) Adequate and convenient facilities for handwashing and, where appropriate, hand sanitizing shall be provided at each location in the plant where good sanitary practices require employees to wash or sanitize and dry their hands. Such facilities shall be furnished with running water at a suitable temperature for handwashing, effective hand cleaning and sanitizing preparations, sanitary towel service or suitable drying devices and, where appropriate, easily cleanable waste receptacles;

(e) All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing and storage of food shall be conducted in accordance with adequate sanitation principles. Overall sanitation of the plant shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions, including the following, shall be taken to assure that production procedures do not contribute contamination such as filth, harmful chemicals, undesirable microorganisms, or any other objectionable material to the processed product:

(A) Raw material and ingredients shall be inspected and segregated as necessary to insure that they are clean, wholesome, and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination;

(B) Containers and carriers of raw ingredients shall be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products. When ice is used in contact with food products, it shall be made from potable water and shall be used only if it has been manufactured in accordance with adequate standards and stored, transported, and handled in a sanitary manner;

(C) Food processing areas and equipment shall not be used to process animal feed or inedible products unless human food will not be contaminated thereby;

(D) Processing equipment shall be maintained in a sanitary condition through frequent cleaning, including sanitization where necessary. If necessary, equipment shall be taken apart for thorough cleaning. All food processing, including packaging and storage, shall be conducted under such

conditions and controls as are necessary to minimize the potential for undesirable bacterial of other microbiological growth, toxin formation, or deterioration or contamination of the processed product or ingredients. This may require careful monitoring of such physical factors as time, temperature, humidity, pressure, flow-rate and such processing operations as freezing, dehydration, heat processing, and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations and other factors do not contribute to the decomposition or contamination of the processed products;

(E) Chemical, microbiological, or extraneous material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that have become contaminated shall be rejected, treated or processed to eliminate the contamination where this may be properly accomplished;

(F) Packaging processes and materials shall not transmit contaminants or objectional substances to the products, shall conform to any applicable food additive rules, and shall provide adequate protection from contamination;

(G) Coding of products sold or otherwise distributed from a manufacturing, processing, packing or repacking activity should be utilized to enable positive lot identification so as to facilitate the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records shall be retained for a period of time that exceeds the shelf life of the product, but need not be retained for more than two years.

(3) Processing Requirement for Retail Sale of Dehydrated Prunes: Dehydrated prunes shall not be sold at retail or offered or displayed for sale at retail, unless they have been subjected to heat treatment by water or steam to at least 180°F. long enough to remove adhering material and to obtain a uniform desired texture.

(4) Property Tax exemption for qualified machinery and equipment.

The Oregon Department of Agriculture is authorized to certify qualified machinery and equipment for the purposes of ORS 307.453–307.457.

(5) Definitions:

(a) For the purposes of this section, the definitions in ORS chapter 307.455 apply, unless the context requires otherwise. In addition, the following definitions apply:

(A) "Newly acquired property" means new or used machinery and equipment that is first purchased or leased by a food processor not more than two years (24 months) prior to placing it into service. Leased equipment may be exempt only if the food processor is responsible for the payment of the property taxes under the terms of the lease agreement. Newly acquired property does not include existing equipment that has been refurbished or reconditioned in the time frame provided by this rule.

(B) "Placed into service" means the date the machinery and equipment is first used or in such condition that it is readily available and operational for its intended commercial use. It does not include property that is being tested or is in the process of being erected or installed on the January 1 assessment date.

(C) "Real Market Value of the Property" for the purpose of determining the late filing penalty pursuant to ORS 307.455, means the invoice cost of the machinery and equipment, installation, engineering, and miscellaneous costs including machinery process piping, foundations, power wiring, interest during installation, and freight.

(b) The process for application and determination of certification for qualified machinery and equipment is as follows:

(A) Any food processor requesting certification must make a request for certification in writing on a form provided by the Oregon Department of Agriculture. Certification request forms are available on the Oregon Department of Agriculture web site and the Oregon Department of Revenue web site, or are available by mail from either agency upon request.

(B) Upon receiving a completed certification request form, the Food Safety Division of the Oregon Department of Agriculture may schedule a visit to the processing site for the purpose of inspecting and verifying the eligibility of machinery requested for certification as qualified machinery or equipment.

(C) After inspecting the food processing equipment requested to be certified, the Oregon Department of Agriculture shall make a determination as to property that is qualified for certification. This determination of certification shall be in writing and include a schedule of all machinery or equipment the Oregon Department of Agriculture has certified.

(c) Following certification, a food processor seeking continued exemption as described at ORS 307.455 must annually verify that equipment previously certified still constitutes qualified machinery or equipment as follows:

(A) By January 30th of each year following certification a food processor must submit to the Food Safety Division of the Oregon Department of Agriculture a signed form that includes a schedule of all equipment previously certified and provides sufficient information to the Oregon Department of Agriculture such that it can determine whether previously-certified machinery or equipment continues to meet certification requirements.

(B) The Oregon Department of Agriculture may inspect any equipment or machinery previously certified for the purposes of determining continued certification pursuant to ORS 307.455.

(C) If a food processor seeks to add additional machinery or equipment not previously certified to its annual certification verification list then the food processor must apply for certification of this additional equipment pursuant to the process for certifying qualified machinery or equipment provided in these rules.

(d) Denial of certification of certain property by the Oregon Department of Agriculture is a contested case for the purpose of ORS Chapter 183.

Stat. Auth.: ORS 561 & 616
Stats. Implemented: ORS 616.700
Hist.: AD 2-1987, f. & ef. 1-30-87;.DOA 19-2005(Temp), f. 12-23-05, cert. ef. 1-3-06 thru 5-31-06; DOA 13-2006, f.& cert. ef. 6-21-06

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Rule Caption: Cash assistance to eligible fishers in Oregon's commercial troll salmon fishery.
Adm. Order No.: DOA 14-2006(Temp)
Filed with Sec. of State: 7-10-2006
Certified to be Effective: 7-10-06 thru 1-5-07
Notice Publication Date:
Rules Adopted: 603-009-0100, 603-009-0110, 603-009-0120, 603-009-0130, 603-009-0140, 603-009-0150, 603-009-0160
Subject: This rule provides a framework and criteria to provide direct cash assistance payments to eligible fishers in the Oregon Commercial Troll Salmon Fleet.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-009-0100
Definitions

As used in this division of administrative rules, unless the context requires otherwise:

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

(2) "Director" means the director of the Oregon Department of Agriculture.

(3) "Fisher" means an Oregon resident holding a current Oregon Troll Salmon Permit issued by the Oregon Department of Fish and Wildlife.

(4) "Gross Landing Value" means monetary value of the food fish, or part thereof, including eggs and other by products, at the point of landing as usually determined by the first exchange between the harvester and the first purchaser.

(5) "Oregon Resident" means a person who resides permanently in Oregon; or a person who maintains a permanent place of residence in Oregon, spends more than 180 days per year in Oregon and files income taxes in Oregon.

(6) "Infrastructure" means the assets necessary to maintain the Oregon commercial troll salmon fishery; including but not limited to fishing boats, moorage, safety equipment, and fishers.

(7) "Commission" means the Oregon Salmon Commission

Stat. Auth.: ORS 561 576, and 285B.266
Stats. Implemented: ORS 561, 576, and 285B.266
Hist.: DOA 14-2006 (Temp.), f. & cert. ef. 7-10-06 thru 1-5-07

603-009-0110
Purpose

These rules provide criteria and procedures for administration of direct assistance to Oregon's commercial troll salmon fishers in order to aid in maintaining an efficient system of production and distribution of salmon in Oregon.

Stat. Auth.: ORS 561 576, and 285B.266
Stats. Implemented: ORS 561, 576, and 285B.266
Hist.: DOA 14-2006 (Temp.), f. & cert. ef. 7-10-06 thru 1-5-07

603-009-0120
Eligible Fishers

To receive financial assistance agreement payment, fishers must meet the following criteria:

(1) Fisher must be a current Oregon resident;

(2) Fisher must hold a current valid Oregon salmon troll fishing permit; and

(3) Fisher must have salmon vessel landings on record with the Oregon Department of Fish and Wildlife for the 2003, 2004, or 2005 commercial troll salmon seasons.

(4) Fishers with 2006 Oregon commercial troll salmon landings (up to the date of application) may not apply for financial assistance if the value of the current 2006 landings is greater than the highest value received in 2003, 2004, or 2005.

(5) Fishers with landings on multiple vessels during the 2003, 2004, 2005, or 2006 Oregon commercial troll salmon seasons must provide the vessel numbers and permit numbers for each year of the salmon season.

Stat. Auth.: ORS 561 576, & 285B.266
Stats. Implemented: ORS 561, 576, & 285B.266
Hist.: DOA 14-2006 (Temp.), f. & cert. ef. 7-10-06 thru 1-5-07

603-009-0130
Standards to Determine Eligibility

(1) The Director will consider applications for financial assistance agreement payment to cover direct expenses necessary to maintain the infrastructure of the Oregon's commercial troll salmon fishing fleet. Eligible direct expenses for the 2006 Oregon commercial troll salmon season may include:

(a) License Fees (Boat License/Crew License/Salmon License/ Personal License)

(b) Moorage Fees

(c) Vessel Loan and/or Interest Payments

(d) Vessel Insurance including Liability Insurance

(e) Repack Life Raft

(f) Survival Suit

(g) Fire Extinguisher

(h) Emergency Equipment

(i) Haul Out Costs

(j) Other expenses as approved by the Director related to maintaining the infrastructure of Oregon's commercial troll salmon fishery including but not limited to fishing boats, moorage, safety equipment, or gear store bills.

(2) Each application for financial assistance agreement payment will be evaluated based on the following criteria:

(a) Completed application meets criteria outlined in OAR 603-009-120

(b) Documentation of expenses projected or incurred to maintain the infrastructure of Oregon's commercial troll salmon fishery, as evidenced by receipts, billings, or other statements of record.

(c) Financial assistance agreement payments will not exceed a Fisher's highest gross landing value for the 2003, 2004, or 2005 seasons. Gross landing values for each eligible Fisher may be verified with records maintained by the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 561 576, 285B.266
Stats. Implemented: ORS 561, 576, 285B.266
Hist.: DOA 14-2006 (Temp.), f. & cert. ef. 7-10-06 thru 1-5-07

603-009-0140
Application Procedures

(1) Application forms will be made available by the Department and distributed by the Commission or its designated representative.

(2) Each eligible Fisher will submit their application for financial assistance agreement payments on the approved application form, including a statement of need and required proof of expenses projected or incurred to the Department postmarked by the due date on the application.

(3) The Department and Commission will make efforts to provide outreach and assistance in completing the application and documentation of expenses projected or incurred.

Stat. Auth.: ORS 561 576, 285B.266
Stats. Implemented: ORS 561, 576, 285B.266
Hist.: DOA 14-2006 (Temp.), f. & cert. ef. 7-10-06 thru 1-5-07

603-009-0150
Review Process of Applications

(1)(a) Upon receipt by the Department, each application will be screened for completeness.

(b) Applications not meeting the initial screening standards will be returned to the Commission. The Commission will contact the Fisher or their representative to complete the application for financial assistance agreement payment. Revised and completed applications must be returned to the Department by the date stated by the Commission.

(2) A review committee appointed by the Director will perform a final evaluation of each application. The committee will provide technical advice and evaluate the applications for accuracy, qualifications and need.

Stat. Auth.: ORS 561 576, 285B.266
Stats. Implemented: ORS 561, 576, 285B.266
Hist.: DOA 14-2006 (Temp.), f. & cert. ef. 7-10-06 thru 1-5-07

603-009-0160
Financial Assistance Agreement Payments

The Director will evaluate the recommendations of the review committee and will make a determination as to each proposal.

(1) Approval of financial assistance agreement payment for the full or partial amount requested, based on factors including but not limited to documented eligible expenses, landing records from the Oregon Department of Fish and Wildlife for the 2003, 2004, 2005, or 2006 commercial troll salmon fishing seasons, statement of need, and amount of funds available for distribution; or

(2) Denial of request. If an application is denied, the Department will provide a letter to the applicant explaining the reason for denial.

(3) The Director's determination as to each proposal is a contested case subject to the provisions of ORS Chapter 183. A hearing request shall be made in writing to the Director by the party or by the party's authorized representative. To be considered timely, a request for hearing must:

(a) Be in writing;

(b) Be received by the Director within 10 calendar days from the date the notice was received by the party.

Stat. Auth.: ORS 561 576, 285B.266
Stats. Implemented: ORS 561, 576, 285B.266
Hist.: DOA 14-2006 (Temp.), f. & cert. ef. 7-10-06 thru 1-5-07

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Rule Caption: Changes blueberry nursery stock control areas to allow official testing on a cost recovery basis.
Adm. Order No.: DOA 15-2006
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 7-13-06
Notice Publication Date: 5-1-06
Rules Amended: 603-052-1245
Subject: Change allows the Department of Agriculture to charge participants in the blueberry certification program for official testing on a cost recovery basis. In the past the test was offered at the default of $70/hr. This lowers the cost to program participants while allowing the Department to cover costs. The changes also update references to penalties for violations.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-1245
Blueberry Nursery Stock Control Area

(1) A Control area is established as authorized under ORS 570.405 to 570.435 to protect Oregon's blueberry fruit industry from the introduction of blueberry scorch virus. Blueberry scorch virus is an aphid-borne plant disease that causes necrosis of leaves and flowers in blueberry leading to a decline in productivity. Blueberry scorch virus does occur in the Pacific Northwest but does not cause symptoms on the commonly grown varieties. However, a more virulent strain of blueberry scorch virus occurs in other areas that would have a severe impact on Oregon's blueberry industry if it were introduced into Oregon. The strains of blueberry scorch virus cannot be readily distinguished by standard laboratory testing methods.

(2) This control area includes the entire state of Oregon.

(3) The following definitions apply to ORS 603-052-1245:

(a) "Blueberry plant" means plants and plant parts of *Vaccinium corymbosum*.

(b) "Pest Free Area" means an area where blueberry scorch virus does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained.

(c) "Director" means the director of the Oregon Department of Agriculture or the director's authorized representative.

(d) "Micropropagated" means plant propagation using aseptic laboratory techniques and an artificial culture medium.

(4) To prevent the introduction of blueberry scorch virus, plants and plant parts of Vaccinium corymbosum and any other Vaccinium species shown to be a host of blueberry scorch virus that are imported, planted, sold, or offered for sale within the control area must meet at least one of the following conditions. A phytosanitary certificate with an additional declaration corresponding to one of the options below is required.

(a) The blueberry plants must originate from a pest free area.

(b) The blueberry plants are certified in accordance with the regulations of an official certification program in the state or province of origin that includes testing and inspection for blueberry viruses and is approved by the director.

(c) The blueberry plants are free of blueberry scorch virus based on an official laboratory test using a protocol approved by the director.

(d) The blueberry plants are micropropagated and/or grown in an insect-proof greenhouse or screenhouse and originate from mother plants that have been tested and found free of blueberry scorch virus.

(e) Blueberry fruit must be free of leaf tissue and other plant debris before being imported into the control area. Notification and phytosanitary certificates are not required for shipments of blueberry fruit.

(f) The ODA will operate official testing and certification programs on a cost-recovery basis. Fees charged by the Department are payable on or before December 31 of each year, and are for the sole purpose of defraying expenses incurred by the Department in conducting official testing procedures provided for in this control area order. Payment thereof shall not be construed as granting any right or privilege to the program participant.

(5) Notification of regulated commodity shipment is required. The shipper shall mail, FAX or e-mail documents including the phytosanitary certificate of compliance, listing the type and quantity of plants, address of shipper, address of recipient, test results, contact numbers to: Nursery Program Supervisor, Plant Division, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97301; FAX 503-986-4786; e-mail: quarantine@oda.state.or.us. The department may require that shipments be held until inspected and released.

(6) Violation of the control area may result in a fine, if convicted, of not less than $500 nor more than $5,000 as provided by ORS 561.990. Violators may also be subject to civil penalties of up to $10,000 as provided by 570.410, 570.990, and 570.995; nursery license suspension or nursery license revocation. Commodities shipped in violation may be treated, destroyed or returned to their point of origin at shippers expense.

(7) Review of this Control area: The necessity for this quarantine and its effectiveness will be reviewed by the department and other interested parties annually.

Stat. Auth.: ORS 570.405
Stats. Implemented: ORS 561.510
Hist.: DOA 8-2002, f. & cert. ef. 2-1-02; DOA 15-2006, f. & cert. ef. 7-13-06

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Department of Agriculture, Oregon Beef Council Chapter 605

Rule Caption: Implements 2005 law increasing the assessment on cattle.
Adm. Order No.: BC 1-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 6-27-06
Notice Publication Date: 3-1-06
Rules Adopted: 605-010-0010, 605-010-0020, 605-010-0030, 605-010-0040, 605-010-0050
Subject: Increases the assessment on cattle sold in Oregon as authorized by 2005 Legislature through HB 2656. Additional 50 cent per head assessment funds specific Oregon Beef Council programs as set out in HB 2656. Sets out methods for collecting assessment, lists exemptions from assessment, and procedures for collecting delinquent assessments.
Rules Coordinator: Nicole Bechtel—(503) 274-2333

605-010-0010
Collection of Assessment

(1) Producers of cattle (live domestic bovine animals regardless of age) shall pay $1.50 on each head sold in Oregon as set forth in ORS 577.512 and 577.532, which authorize collection of assessments in the following manner:

(a) As ordered by the United States Secretary of Agriculture pursuant to the Beef Promotion and Research Act of 1985, 7 U.S.C. 2901 to 2918; 7 CFR §1260, currently in the amount of $1.00 per head; and

(b) As authorized by ORS 577.512 and 577.532.

(2) Out of the $1.00 total assessment ordered by the United States Secretary of Agriculture pursuant to the Beef Promotion and Research Act of 1985, 7 U.S.C. 2901 to 2918; 7 CFR §1260, the Oregon Beef Council (Council) shall be credited 50 cents of the $1.00 per head by the Cattlemen's Beef Board and the Council shall allocate those funds pursuant to the Beef Promotion and Research Act of 1985 and pursuant to ORS 577.290.

(3) The Council shall allocate the remaining 50 cents as provided in ORS 577.532.

(4) The Council shall assess, levy, and collect assessments as set forth in these rules.

(5) The Oregon Department of Agriculture (Department) shall act as agent for the Council and must collect assessments ordered by the United States Secretary of Agriculture and the Council in the same time, manner, and place that the Department collects brand inspection fees on cattle, cattle hides, and calves.

Hist.: BC 1-2006, f. & cert.ef. 6-27-06

605-010-0020
Procedure for Collecting Assessment

(1) The assessment must be collected as part of the Oregon Department of Agriculture's Brand Department inspection. Of the $1.50 per head assessed, the Department shall forward 50 cents per head to the Cattlemen's Beef Board and $1.00 per head less an administrative collection fee to the Oregon Beef Council. The administrative fee will be proportioned 2/3 from the $1.00 authorized by the Beef Promotion and Research Act of 1985 and 1/3 from the collection of 50 cents pursuant to ORS 577.512 and ORS 577.532.

(2) The operator of a stockyard, slaughterhouse, packing plant or livestock auction market shall deduct any assessment from the proceeds of sale owed to the operator by the owner of an animal.

(3) The operator shall pay the entire assessment to the Department.

(4) When the operator provides a written statement of sale proceeds to the owner of an animal, the operator shall include a statement of the amount deducted from the proceeds for federal assessment, for state assessment, and for the Department's brand inspection services.

Stat. Auth.: ORS 577.125(1)(e)
Stats. Implemented: ORS 577.532, House Bill 2656, ORS 577.512, 577.520, 577.290(2), 577.525, 576.355, 576.365, 576.392
Hist.: BC 1-2006, f. & cert.ef. 6-27-06

605-010-0030
Exemptions from Assessment

(1) Pursuant to ORS 577.512(4), no assessment shall be collected on:

(a) Cattle and calves leaving Oregon solely for the purpose of pasturing in another state;

(b) Cattle presented at a recognized livestock show or rodeo;

(c) Cattle presented at a livestock auction market but not sold;

(d) Cattle delivered outside this state, provided ownership of the cattle remains unchanged;

(e) Cattle slaughtered for personal consumption; and

(f) Cattle resold within 10 days after purchase where the assessment has already been collected.

Stat. Auth.: ORS 577.125(1)(e)
Stats. Implemented: ORS 577.532, House Bill 2656, ORS 577.512, 577.520, 577.290(2), 577.525, 576.355, 576.365, 576.392
Hist.: BC 1-2006, f. & cert.ef. 6-27-06

605-010-0040
Procedures for Collecting Delinquent Assessments

(1) In the event of delinquent assessments, the Department shall submit the name(s) and contact information of those who are delinquent and the amount(s) delinquent to the Council.

(2) The Council will notify the Cattlemen's Beef Board as such delinquency pertains to the $1.00 ordered under the Beef Promotion and Research Act of 1985.

(3) The Council may as such delinquency pertains to the 50 cents authorized by ORS 577.512 and 577.532 send a demand letter. The demand letter shall include:

(a) A statement that the assessment payment is due and delinquent and that the debtor is subject to a penalty for late payment, pursuant to ORS 576.355;

(b) The amount of assessments and penalties owed; and

(c) A procedure for requesting reconsideration. The Council may offer a payment plan and include a payment plan request form with a demand letter. If offered, a payment plan must be based on a documented need resulting in an inability to make full payment, be interest bearing, and not exceed one year.

(4) The Council may refer the matter, if unresolved, to the Oregon Department of Revenue sixty days after the date of a demand letter..

(5) The Council may request that the Attorney General prosecute in the name of the State of Oregon suits and actions for the collection of assessments levied by the commission.

Stat. Auth.: ORS 577.125(1)(e)
Stats. Implemented: ORS 577.532, House Bill 2656, ORS 577.512, 577.520, 577.290(2), 577.525, 576.355, 576.365, 576.392
Hist.: BC 1-2006, f. & cert.ef. 6-27-06

605-010-0050
Cancellation of Uncollectible Assessments

The Council may cancel an uncollectible assessment consistent with ORS 293.240.

Stat. Auth.: ORS 577.125(1)(e)
Stats. Implemented: ORS 577.532, House Bill 2656, ORS 577.512, 577.520, 577.290(2), 577.525, 576.355, 576.365, 576.392
Hist.: BC 1-2006, f. & cert.ef. 6-27-06

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

Rule Caption: Implementation of Phase One of HB 2180 to prioritize elevator inspection frequency.
Adm. Order No.: BCD 8-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Adopted: 918-400-0665
Rules Amended: 918-400-0465, 918-400-0650, 918-400-0660
Subject: In this phase of implementing HB 2180, elevator inspection frequency will shift to a one- and two-year elevator inspection. Elevators are currently inspected annually. Under the proposed rules, they will be inspected either annually or biennially, as established by the division in Table 1-A of the rules. These rules also establish criteria for setting elevator inspection intervals and clarify accessibility for inspectors.
Rules Coordinator: Dodie Wagner—(503) 373-7438

918-400-0465
Elevator Maintenance Requirements

(1) The governing code for the repair and maintenance of existing elevators and for placing elevators back in service shall be the Oregon Elevator Specialty Code for Existing Elevators and Escalators in the 2002 Edition of ASME A17.3 published by the American Society of Mechanical Engineers, as amended by the Building Codes Division.

(2) Exceptions

(a) Where ASME A17.3 fails to clearly define or govern a specific device or type of conveyance, the code under which the unit was installed, or the latest alteration code, if applicable, shall be used;

(b) The 1937 code applies to devices installed prior to March 1937.

(3) When elevator signal fixtures are altered, all elevator signal fixtures, car handrail(s), and two-way communication device(s) shall be brought into compliance with the applicable disability regulations in the Oregon Structural Specialty Code.

(4) All requirements for periodic safety tests, repair of existing devices and maintenance shall be brought into compliance within the time period required in the periodic inspection report.

(5) Except as provided in section (4) of this rule, the maximum time allowed to comply with new maintenance standards for existing elevators shall not be more than 24 months from date of periodic inspection except:

(a) The replacement of hand line control as required by ASME A17.3, Item 3.10.1 shall be allowed a maximum of 36 months to comply.

(b) All existing elevator hoistway gates or doors required to comply with ASME A17.3, Item 2.6.1 and car doors or gates required to comply with Item 3.4.2(a) shall meet the minimum 72-inch (1828.8 mm) height requirement within 60 months from the date of the periodic safety inspection following effective date of this rule, or when the gate requires complete replacement, whichever comes first.

(c) All elevators required by ASME A17.3, Item 3.11.3 to have fire fighters' service shall comply with this rule within 60 months from date of the periodic safety inspection.

(d) All passenger elevators and freight elevators allowed to carry passengers permitted after January 1, 1993, shall comply with ASME A17.3, Item 3.11.1. Elevators not in compliance with the applicable chapter of the Oregon Structural Specialty Code for elevator communication devices as of January 1, 1993, shall have 24 months from date of periodic inspection to install the proper communicating device.

(e) Compliance extensions beyond the limits set in this section may be granted where, because of material shortages or extent of required changes, the additional time is necessary to achieve compliance.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 460.085, 455.117
Stats. Implemented: ORS 460.085, 455.117
Hist.: DC 25-1982, f. & ef. 12-16-82; Renumbered from 814-030-0075; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-0100; BCD 3-1997, f. 3-18-97, cert. ef. 4-1-97; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0530; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03; BCD 2-2005, f. 3-16-05, cert. ef. 4-1-05; BCD 8-2006, f. 6-30-06, cert. ef. 7-1-06

918-400-0650
Use of Provisional Permits Following Periodic Safety Inspections

(1) A provisional permit may be granted to correct Oregon Elevator Specialty Code deficiencies discovered at a periodic elevator inspection, subject to the following:

(a) The initial provisional permit is issued for a period not to exceed 120 days from the date of the periodic inspection.

(b) A reinspection may be performed 120 days or more from the date of the periodic inspection when determined necessary by the division. If violations found at the periodic inspection still exist, the elevator may be removed from service pursuant to ORS 460.125(3).

(2) Where mitigating circumstances did not allow compliance within the initial 120-day period, an additional 60-day period may be granted providing all work can be completed within a 60-day period from the date of the first reinspection. If violations still exist, the elevator shall be ordered to be disconnected from service pursuant to ORS 460.125(2) and the matter shall be referred for additional enforcement action as relevant.

(3) Written requests for an extension may be granted in extenuating circumstances beyond the owner's or contractor's control, as determined by the division.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 460.055
Stats. Implemented: ORS 460.055
Hist.: DC 25-1982, f. & ef. 12-16-82; DC 15-1983, f. & ef. 6-28-83; Renumbered from 814-030-0070; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-095; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0440; BCD 25-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 8-2006, f. 6-30-06, cert. ef. 7-1-06

918-400-0660
Operating Permits

Operating permits which expire on or before October 31, 2006 are not affected by these rules.

(1) Operating permits are issued periodically based on the inspection intervals established by the division in Table 1-A.

(2) The division uses the following criteria to set elevator inspection intervals, which may include but is not limited to the following:

(a) accidents and injuries;
(b) commercial and public assembly structures;
(c) special residency occupancies, schools, hospitals;
(d) type of elevator;
(e) passenger or freight conveyances;
(f) construction only purpose elevators; and
(g) environmental conditions.

(3) The division may refuse to issue an operating permit if:

(a) inspections are not satisfactorily completed; or
(b) permit fees have not been received.

(4) The elevator-operating permit, or copy thereof, shall be posted in clear view in the elevator. A sign may be substituted providing the sign indicates the on-site location where the actual operating permit may be inspected during normal business hours.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 460.055, 455.117
Stats. Implemented: ORS 460.055, 455.117
Hist.: DC 25-1982, f. & ef. 12-16-82; Renumbered from 814-030-0040; BCA 41-1991(Temp), f. 12-13-91, cert. ef. 12-15-91; BCA 7-1992, f. & cert. ef. 4-10-92; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-0065; BCD 13-1999, f. & cert. ef. 10-1-99, Renumbered from 918-400-0420; BCD 8-2006, f. 6-30-06, cert. ef. 7-1-06

918-400-0665
Periodic Inspections

(1) The elevator owner must make provisions to allow access for inspections as required by ORS 460.135, within 30 days of request by the division.

(2) If access is denied or obstructed in whole or in part at the time of the inspection and a return inspection is necessary, a reinspection fee shall be charged under ORS 460.165(3)(g) and 918-400-0800.

Stat. Auth.: ORS 455.117
Stats. Implemented: ORS 455.117
Hist. BCD 8-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Clarify process for adopting and amending Oregon state building codes.
Adm. Order No.: BCD 9-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 1-1-06
Rules Adopted: 918-008-0028
Rules Amended: 918-008-0000, 918-008-0010, 918-008-0020, 918-008-0030, 918-008-0060, 918-440-0040, 918-460-0015, 918-480-0010, 918-500-0021
Rules Repealed: 918-400-0250, 918-008-0000(T), 918-008-0010(T), 918-008-0020(T), 918-008-0030(T), 918-008-0060(T)
Subject: These rules clarify the division's process for adopting and amending the Oregon state building code.
Rules Coordinator: Dodie Wagner—(503) 373-7438

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 supplemental code amendments as authorized by OAR 918-008-0028.

[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; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

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.

(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) "Supplemental 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; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

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; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

918-008-0028
Supplemental Code Amendments

The division, with the approval of the appropriate advisory board as defined in ORS 455.010, may propose and adopt supplemental code amendments to the state building code at any time within a three-year code cycle, as circumstances merit.

Stat. Auth.: ORS 455.030 & 455.110
Stats. Implemented: ORS 455.030 & 455.110
Hist. BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

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.

(3) The division screens proposed code amendments to determine whether they substantially meet the requirements of 918-008-0060. Proposed code amendments not substantially meeting the requirements of 918-008-0060 may be returned to the applicant with specific reasons included in the returned application.

[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 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; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

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; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

918-440-0040
Amendments to the Oregon Mechanical Specialty Code

The Oregon Mechanical Specialty Code is adopted and amended pursuant to chapter 918, division 8. Amendments adopted for inclusion into the Oregon Mechanical Specialty Code are placed in this rule, showing the section reference, a descriptive caption and a short description of the amendment.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 455.030
Stats. Implemented: ORS 455.110
Hist.: BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 15-1999, f. & cert. ef 10-6-99 thru 4-2-00; BCD 5-2000, f. 3-9-00, cert. ef. 4-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 19-2003, f. 12-15-03, cert. ef. 1-1-04; BCD 10-2004, f. 8-6-04 cert. ef. 10-1-04; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

918-460-0015
Amendments to the Structural Specialty Code

(1) The Oregon Structural Specialty Code is adopted and amended pursuant to chapter 918, division 8. Amendments adopted for inclusion into the Oregon Structural Specialty Code are placed in this rule, showing the

section reference, a descriptive caption and a short description of the amendment.

(2) Effective October 1, 2004, delete Section 2406.1.2 Wired glass.

(3) Effective July 1, 2005, the following sections of the 2004 OSSC are amended to adjust building code provisions which are in conflict with federal standards.

(a) Amend Section 1109.16 bringing code into compliance with the American Disabilities Act.

(b) Amend Section 1110.5.2 bringing code into compliance with the Fair Housing Act.

(c) Amend Section 1110.6.4.1.2 bringing code into compliance with the Fair Housing Act.

(d) Add new Section 1313.4.2.1 to adjust lighting power density for retail occupancies.

(4) Effective October 1, 2005, remove Chapter 29 of the 2004 Oregon Structural Specialty Code and replace with Chapter 29 of the 1998 Oregon Structural Specialty Code amended by the division as follows:

(a) Add Exception to Section 2902.3 clarifying unisex bathrooms may be provided in satisfying the total number of required fixtures.

(b) Include M and E Occupancies in Section 2904.2.

(c) Add Assembly Uses to Table 29-A.

(5) Effective October 1, 2005, the following sections of the 2004 OSSC are amended to adjust construction standards, materials, practices or provisions regarding wineries.

(a) Amend Chapter 2, add definition of Winery.

(b) Amend Section 306.2, 306.3 and Section 311.3, alcohol content percentage.

(c) Add to Section 306.3, additional materials.

(d) Add to Section 302.3.2, Exception 2.

(6) Effective February 1, 2006, the following sections of the 2004 OSSC are amended to adjust several aspects of the code which need resolution or updating prior to the adoption of the 2007 OSSC.

(a) Amend Section 903.2.9, revises sprinkler system requirements in Group S-2 parking garages.

(b) Amend Section 419.2 and 903.2.10.4, clarifies that piers and wharves must comply with NFPA 307.

(c) Adopt 2002 Editions of NFPA 13, NFPA 13R and NFPA 13D.

(d) Amend Section 907.9.1.3, to correlate with OSSC chapter 11 and NFPA 72.

(e) Amend Section 907.9.1.4, to correlate with OSSC chapter 11.

(f) Amend Section 907.9.2, Audible Alarms, to correlate with OSSC chapter 11.

(g) Amend Section 1008.1.8.6, Delete unnecessary Oregon amendment.

(h) Amend Section 3202.3.1, Delete all references to "marquees".

(i) Amend Section 715.3, Add "Smoke Barriers" to table 715.3.

(j) Amend Section 1008.1.9, revises requirement for panic and fire exit hardware.

(k) Revise table 302.3.2, occupancy separations.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 447.231, 447.247, 455.030, 455.110 & 455.112
Stats. Implemented: ORS 447.247, 455.110 & 455.112
Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004,f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 21-2004, f. & cert. ef. 10-1-04; BCD 9-2005(Temp), f. & cert. ef. 4-7-05 thru 9-30-05; BCD 14-2005, f. & cert. ef. 7-5-05; BCD 18-2005(Temp), f. & cert. ef. 7-12-05 thru 9-30-05; BCD 22-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 23-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 1-2006, f. & cert. ef. 2-1-06; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

918-480-0010
Amendments to the Oregon Residential Specialty Code

1) The Oregon Residential Specialty Code is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the Oregon Residential Specialty Code are placed in this rule, showing the section reference, a descriptive caption and a short description of the amendment.

(2) Effective April 1, 2005:

(a) The 2003 Edition of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials and amended by the division are adopted as the plumbing provisions of the Oregon Residential Specialty Code; and

(b) The 2005 Edition of the NFPA 70, National Electrical Code and amended by the division are adopted as the electrical provisions of the Oregon Residential Specialty Code.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 455.020, 455.110, 455.525 & 455.610
Stats. Implemented: ORS 455.610
Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCA 29-1993, f. 11-24-93, cert. ef. 12-1-93; BCD 6-1995, f. 3-31-95, cert. ef. 4-1-95; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 22-1996(Temp), f. 10-1-96, cert. ef. 10-4-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; Administrative Reformatting 1-19-98; BCD 3-1998, f. 1-29-98, cert. ef. 4-1-98; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 19-2000(Temp), f.& cert. ef. 8-15-00 thru 2-10-01; BCD 32-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 3-2001, f. 2-9-01, cert. ef. 3-1-01; BCD 2-2002, f. 3-5-02, cert. ef. 4-1-02; BCD 22-2002(Temp), f. 9-13-02 cert. ef. 10-1-02 thru 3-29-03; BCD 30-2002, f. 12-6-02, cert. ef. 1-1-03; BCD 1-2003(Temp), f. & cert. ef. 1-10-03 thru 3-31-03; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 5-2005, f. & cert. ef. 3-28-05; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

918-500-0021
Amendments to the Manufactured Dwelling and Park Specialty Code

(1) The Oregon Manufactured Dwelling and Park Specialty Code is adopted as the recognized standard for manufactured dwelling use pursuant to chapter 918, division 8. Amendments adopted are placed in this rule, showing the section reference, a descriptive caption and a short description of the amendment.

(2) Effective April 1, 2005:

(a) Amend Section 9-5.3(k) and 9-6.3(n) by removing reference to clearances between dwellings on adjacent lots and property lines.

(b) Amend Table 9-A by changing notations on separations for dwellings on same lot and dwellings on adjacent lots.

(c) Amend Table 9-B by changing notations on several setbacks and clearances and adding notation number 5.

[Publications: Publications referenced are available from agency]
Stat. Auth.: ORS 446.100 & 446.185
Stats. Implemented: ORS 446.100 & 455.110
Hist.: BCD 3-2005, f. 3-16-05, cert. ef. 4-1-05; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Implements HB2181 by establishing license terms; standardizing license application and continuing education course requirements.
Adm. Order No.: BCD 10-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06 thru 12-28-06
Notice Publication Date:
Rules Adopted: 918-030-0000, 918-030-0010, 918-030-0020, 918-030-0040, 918-030-0050, 918-030-0060, 918-030-0120, 918-030-0125, 918-030-0130, 918-030-0135, 918-030-0150, 918-030-0210, 918-030-0220, 918-030-0230, 918-030-0240, 918-030-0250, 918-030-0410, 918-030-0910, 918-030-0920, 918-035-0000, 918-035-0005, 918-035-0010, 918-035-0020, 918-035-0040, 918-035-0050, 918-035-0060, 918-035-0070, 918-035-0080, 918-035-0090
Rules Amended: 918-030-0030, 918-030-0100, 918-030-0200, 918-225-0640, 918-225-0691, 918-282-0100, 918-282-0110, 918-282-0355, 918-282-0365, 918-400-0380, 918-695-0040
Rules Suspended: 918-225-0680, 918-225-0685, 918-225-0900, 918-225-0910, 918-225-0920, 918-225-0930, 918-225-0940, 918-225-0950, 918-225-0960, 918-225-0970, 918-282-0335, 918-283-0000, 918-283-0010, 918-283-0020, 918-283-0030, 918-283-0040, 918-283-0050, 918-283-0060, 918-283-0070, 918-695-0010, 918-695-0200, 918-695-0300, 918-695-0310, 918-695-0320, 918-695-0330, 918-695-0340, 918-695-0350, 918-695-0360, 918-695-0370, 918-695-0380, 918-695-0390
Subject: These rules implement HB 2181 by instituting license expiration dates and terms to replace the date and terms repealed by the bill and by standardizing license procedures. The rules establish criteria for retaking of failed examinations, establish continuing education requirements for licensees, and clarify processes for approving continuing education courses and instructors, and requirements for persons who fail to renew their licenses by the renewal.
Rules Coordinator: Dodie Wagner—(503) 373-7438

918-030-0000
Purpose and Scope

OAR chapter 918, division 30 establishes the general licensing requirements and procedures for individuals and businesses licensed by the appropriate board or by Building Codes Division. These rules apply to individuals and businesses required to be licensed under provisions of ORS chapters 447, 460, 479.510 to 479.945, 480.510 to 480.990 and 693.

Stat. Auth.: ORS 183.335

Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0010
Definitions

As used in OAR chapter 918, division 30 and division 35, terms are defined as follows unless context requires otherwise:

(1) "Applicant" means a person that applies for a license in the manner established by these rules.

(2) "Appropriate Board" means the advisory board that has authority over a particular license or licensee.

(3) "Appropriate rules" refers to the administrative rules containing specific licensing criteria that are located in OAR chapter 918 division 225, division 282, division 400 and division 695.

(4) "Code cycle" means the period from adoption of the current Oregon Specialty Code to the adoption of a new Oregon Specialty Code. Adoption refers to the base model code and does not mean amendment of the Oregon Specialty Code.

(5) "Director" means the Director of the Department of Consumer and Business Services.

(6) Lawful work experience means work experience in a jurisdiction that was gained in compliance with that jurisdiction's regulations. Lawful experience may include:

(a) work experience gained while licensed for the scope and type of work performed; and

(b) work experience gained while in the employ of a licensed employer when the employee is not required to have a license.

(7) "Person" means individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, and public agencies. "Person" also means the owner or holder of a direct or indirect interest in a corporation, association, firm, partnership, limited liability company or joint stock company if:

(a) The interest allows the owner or holder to participate in the management of the business; and

(b) The owner or holder of the interest has either had a division issued license revoked or been the recipient of a notice of proposed civil penalty from the director or the appropriate board.

(8) For purposes of ORS 447.040, 479.620, 480.630 and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform, work for which a license or permit is required under Oregon law, including but not limited to a single instance.

(9) "Reciprocal Jurisdiction" means a state with a current reciprocal licensing agreement with the state of Oregon.

(10) "Registered" when referring to an apprenticeship program or a training committee means that the program or committee has been registered under the standards adopted by the Oregon Bureau of Labor and Industries or approved by the appropriate advisory board.

(11) "Valid" license means a license issued by either the appropriate board or division that has not expired and has not been suspended or revoked.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0020
Application Process

(1) An applicant must apply for a license on a division form or by completing an online application available through the division's Web site.

(2) In order to be approved the application must include:

(a) Applicable examination and application fees; and

(b) Verification of training, work experience or other documentation submitted in the manner established by OAR 918-030-0030.

(3) Nothing in chapter 918, division 030 prevents an applicant for a license from faxing or scanning and e-mailing documents.

(4) An applicant may not sit for an examination or receive a license unless the division approves the application.

(5) An applicant required by statute or appropriate rule to pass a written examination must score at least 75 percent correct.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0030
Qualifying Criteria

All applicants must submit proof of qualifying criteria as required by the appropriate rules and in the manner established by this rule.

(1) Submit training and experience verification as follows:

(a) A certificate of completion from a registered apprenticeship program, or a referral letter from either the registered training committee or a board approved training program stating the applicant is qualified to take the examination. The division will accept completion from an apprenticeship program that is not registered only if it meets the Oregon standard for apprenticeship training.

(b) A copy of a valid license from a reciprocal jurisdiction or a letter from the reciprocal jurisdiction stating that the applicant is currently licensed. Only reciprocal jurisdiction licenses obtained through examination meet this requirement; or

(c) Other verification of equivalent training and experience submitted in the manner established in OAR 918-030-0040 and 918-030-0050.

(2) Electrical license applicants who are required to submit proof of related training classes may alternatively submit verification of twice the amount of equivalent work experience required for the license.

(3) Applicants required to take an examination must submit proof of a high school diploma, GED or international equivalent. A college degree will substitute for the requirements of this section.

(4) For purposes of qualifying for a license, the division will consider no more than 2,000 hours of experience per year.

(5) Only lawful work experience is accepted. The appropriate board or division determines whether an applicant's work experience is lawful. If an applicant disagrees with the determination, the applicant must provide evidence clearly demonstrating that, at the time the disputed work was performed, the work experience was lawful under the laws of the jurisdiction in which work was performed.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 19-2004, f. 9-30-04, cert. ef. 10-1-04; BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0040
Other Verification

(1) Applicants submitting other verification of equivalent training and experience under OAR 918-030-0030(1)(c), must provide verification from the following persons:

(a) Verification from a current or previous employer actively involved with the applicant's work; or

(b) If the current or previous employer is no longer in business, is deceased or otherwise cannot be located, verification from the individual that supervised the work; or

(c) Only if both the employer and the supervisor cannot be located, verification from a co-worker that was directly involved in the work performed. Co-worker verification must be accompanied by supporting documentation, such as employment records, showing that the verifier worked with the applicant and has knowledge of the work performed.

(2) The appropriate board may approve alternate verification of training and experience on a case-by-case basis.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0050
Verification of Military Training and Experience

(1) Experience and training gained through the military is evaluated on a case-by-case basis. The experience and training must be equivalent to the license criteria established by the appropriate rules.

(2) Military training and experience must be submitted as follows:

(a) Official documentation from supervising officials showing the type and approximate hours of work experience; or

(b) Other reliable documentation verifying training and experience if supervisory officials cannot be located.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0060
Reapplying After Failed Examination

(1) An applicant who fails an examination may reapply for the license at any time as provided in OAR 918-030-0020. There is no waiting period to reapply after a failed exam.

(2) An applicant who reapplies is not required to re-qualify for examination or provide work history information unless the requirements for the license have changed since the applicant originally applied for the license.

(3) Exam retakes are scheduled no less than 30 days from the date of the failed exam, except that exam retakes for the general supervising electrician and limited supervising electrician licenses are scheduled no less than 90 days from the date of the failed exam.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0100
Continuing Education Generally

(1) OAR 918-030-0100 to 918-030-0150 establishes continuing education requirements for licensees.

(2) The hourly continuing education requirements can be met by approved class, online or correspondence courses.

(3) When a continuing education course is taught in more than one session, credit is only granted upon completion of the entire course.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 2-2004, f. 2-13-04, cert. ef. 4-1-04; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0120
Licenses Requiring 24 Hours of Continuing Education

(1) During each three-year license cycle, the following license holders are required to complete 24 hours of approved continuing education, including one code-change course:

(a) General Supervising Electrician;
(b) Limited Supervising Electrician;
(c) General Journeyman Electrician;
(d) Journeyman Plumber;

(2) The following licenses transition to a three-year cycle beginning July 2008. Until then holders of the following licenses are required to complete 8 hours of continuing education each year:

(e) Class 2 Boiler — Pressure Vessel Installer;
(f) Class 3 Boiler — Building Service Mechanic;
(g) Class 4 Boiler — Boilermaker;
(h) Class 5 Boiler — Pressure Piping Mechanic;
(i) Class 5A Boiler — Process Piping Mechanic; and
(j) Class 5B Boiler — Refrigeration Piping Mechanic.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0125
Licenses Requiring 16 Hours of Continuing Education

During each three-year license cycle, the following license holders are required to complete 16 hours of approved continuing education, including one code-change course:

(1) Limited Residential Electrician
(2) Limited Journeyman Manufacturing Plant Electrician

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0130
Licenses Requiring 8 Hours of Continuing Education

During each three-year license cycle, the following license holders are required to complete 8 hours of approved continuing education, including one code-change course:

(1) Limited Maintenance Electrician;
(2) Class A Limited Energy Technician;
(3) Class B Limited Energy Technician; and
(4) Solar Heating and cooling System Plumbing Installer.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0135
Licenses Requiring 4 Hours of Continuing Education

During each three-year license cycle, the following license holders are required to complete 4 hours of approved continuing education, including one code-change course:

(1) Limited Renewable Energy Technician; and
(2) Limited Journeyman Sign Electrician.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0150
New Licensee Continuing Education Requirements

(1) New licensees must complete the following continuing education requirements prior to renewal:

(a) No continuing education is required if license is obtained within 6 months of license expiration date; or

(b) The lesser of 8 hours of continuing education or the minimum requirement for the license is required if the license is obtained within 12 months of the license expiration date; or

(c) The lesser of 16 hours of continuing education or the minimum requirement for the license is required if the license is obtained within 24 months of the license expiration date.

(2) New licensees are not required to complete a code-change course.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0200
License Renewal Process

(1) License renewals must be completed on or prior to the license expiration date by:

(a) Submitting a renewal application or completing the online renewal form;

(b) Completing all continuing education requirements; and

(c) Paying the appropriate application fee.

(2) The division mails one renewal notification to the last known address of the licensee at least 30 days prior to license expiration. It is the responsibility of the licensee to notify the division of a change in the licensee's address.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 7-2004, f. 5-21-04, cert. ef. 7-1-04; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0210
License Expiration Dates

(1) All licenses expire on a three-year cycle established in **Table 1-A**, unless renewed.

(2) The license expiration date is printed on all licenses.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0220
Transitional Rule for License Expiration Dates

Nothing in these rules shall prevent the following licenses from renewing as follows:

(1) All combination licenses expire on July 1, 2006 unless renewed. Combination licenses next expire on July 1, 2008 and every three years thereafter.

(2) All contractor licenses except the electrical elevator contractor licenses expire on July 1, 2006 unless renewed. Contractor licenses described in this section next expire on July 1, 2008 and every three years thereafter.

(3) All boiler licenses, including the boiler business license expire annually on July 1, unless renewed. Boiler licenses shall continue to expire annually until July 1, 2008 and then shall expire every three years thereafter.

(4) The elevator contractor mechanical license expires on July 1, 2006 unless renewed. Licenses described in this section next expire on July 1, 2007 and every three years thereafter.

(5) A holder of a journeyman plumber license that expires on April 1, 2007 shall be issued a license that expires on April 1, 2011, if the license holder renews the license prior to the April 1, 2007 expiration date.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0230
Failure to Renew

(1) A licensee who fails to renew a license must not perform work requiring the expired license.

(2) A licensee who fails to renew a license may obtain a valid license within one year of the date the license expired if the licensee:

(a) Reapplies for the license;
(b) Pays the application fee; and
(c) Completes all outstanding continuing education requirements that accrued prior to license expiration.

(3) A licensee who fails to renew under OAR 918-030-0200 and fails to obtain a valid license in Section (2), must apply for the license under OAR 918-030-0020, including passing the appropriate examination.

(4) Applicants reapplying under sections (2) or (3) of this rule are not required to re-qualify for examination or provide work history information unless the requirements for the license have changed since the applicant originally applied to the division.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0240
Extension for Hardship or Illness

(1) The appropriate board or the division may extend the period for complying with continuing education requirements or for complying with renewal requirements in cases of hardship or illness.

(2) Requests for extension must:

(a) Be in writing;

(b) Describe the hardship or illness;

(c) Describe why the applicant is unable to comply; and

(d) State when the person will complete the continuing education requirements.

(3) A hardship or illness extension will not be granted for:

(a) Failure or inability to pay renewal fees; or

(b) Renewal applications that are lost or otherwise are not delivered to the applicant.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0250
Extension for Call to Military Service

(1) The appropriate board or the division may extend the period for complying with continuing education requirements or renewal requirements if the licensee was ordered to military duty for a period of 60 days or more.

(2) Request for extension must:

(a) Be in writing; and

(b) Include a copy of military orders.

(3) Following release from duty, the licensee shall comply with renewal requirements or complete continuing education in a manner acceptable to the board or the division.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0410
Definitions

As used in OAR 918-030-0400 through 0490 and ORS Chapter 446, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Corrected license" means a manufactured structures dealer license or a limited manufactured structures dealers license that has been modified from the information supplied in the original application, i.e. name change, or address change.

(2) "Dealer" means a person who is required to be licensed pursuant to ORS 446.691, 446.696, 446.701 or 446.706.

(3) "Dealership," "place of business," or "business location," means a location within the State of Oregon, where a dealer engages in the business of selling manufactured structures.

(4) "Location," "main business location," or "main dealership," means a location identified and listed as the dealer's main business location on the original business license application.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0910
Combination Licenses

The division, with the approval of the appropriate advisory board, shall establish license categories for contractors or businesses who hold two or more contractor or business licenses established under ORS 479.510 to 479.945, 480.510 to 480.670, chapter 447 and chapter 460 that are valid for two years.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-030-0920
Visible Identification Badge

(1) For the purpose of this rule, a visible identification badge is an individual license, registration or certification issued by the division or an appropriate advisory board. This rule does not apply to contractors, businesses or inspectors.

(2) Individuals performing elevator, electrical, boiler, pressure vessel, or plumbing work, which requires a license, shall wear and visibly display their license. A licensee does not need to wear and visibly display their license if doing so would create a danger or unsafe condition for the licensee or for the public, provided the licensee can demonstrate proof of licensure to an inspector, investigator or other employee empowered to enforce the state building code.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0000
Purpose and Scope

OAR chapter 918, division 35 establishes standards and procedures for approval of continuing education courses by the appropriate board or division. These rules apply to continuing education providers and instructors for purposes of gaining and maintaining approval of continuing education courses and instructors.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0005
Definitions

As used in OAR chapter 918 division 035 terms are defined as established in OAR 918-030-0010.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0010
Authority for Course and Instructor Approval

(1) The appropriate board or the division approves continuing education courses and instructors, subject to the standards and procedural requirements established in OAR chapter 918, division 35.

(2) The appropriate board may delegate authority for course or instructor approval to a committee or the Building Codes Division. The committee or division must report all approved courses to the appropriate board.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0020
Timeline for Approval; Term of Approval

(1) Application for course or instructor approval may be made at any time during the code cycle.

(2) Application for course approval prior to code adoption as defined in OAR chapter 918, division 008 may be made at any time after the notice of proposed rulemaking hearing for the adoption of the new code has been filed with the Secretary of State.

(3) Courses and instructors are approved for the duration of the code-cycle and courses may be taught prior to the effective date of that code.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0040
Minimum Requirements for Continuing Education Course Approval

Continuing education courses must meet the following minimum requirements:

(1) Course instructors must be approved by the appropriate board or the division pursuant to these rules;

(2) The minimum course length is two hours or the equivalent for online or correspondence courses;

(3) Courses must cover the most current appropriate specialty code including Oregon amendments;

(4) The course must include the material described in OAR 918-035-0050; and

(5) The course must comply with the policies and procedures established by the appropriate board or the division for ensuring the quality and effectiveness of the course.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0050
Code-Change Course Content

The appropriate board or the division develops content requirements for continuing education code-change courses. The content requirements must include but are not limited to the following:

(1) Permit processes and requirements;

(2) Instruction on the scope of work allowed under a given license;

(3) Rule and law changes, including alternate method rulings and interpretations; and

(4) Code instruction, in specific areas deemed appropriate by the board or division.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0060
Instructor Approval

(1) Instructors may apply for approval as part of the course approval procedure or may apply for approval independent of the course approval process.

(2) Approved instructors must be qualified by training or experience to teach the subject matter of the course. Qualifications may be evidenced by:

(a) An appropriate license;

(b) A relevant degree; or

(c) Other expertise recognized by the board or the division.

(3) Applicants for instructor approval must:

(a) Apply on a division-approved form; and

(b) Submit proof of qualifications to the board or the division.

(4) Approved instructors and division staff who instruct continuing education courses shall receive continuing education credit for courses taught.

(5) Division staff teaching courses in the normal course of their duties are considered approved instructors for the purposes of these rules.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0070
Approval Procedure

(1) Applications for course approval must include:

(a) Brief description of the course;

(b) Detailed course outline, which shall include:

(A) Specific reference to the course content requirements established by the appropriate board or division; and

(B) The amount of time spent on each content area;

(c) Course objectives and learning outcomes;

(d) Provider contact information;

(e) Name or names of instructors and qualifications;

(f) Number of credits requested;

(g) List or samples of all program materials;

(h) Documentation demonstrating compliance with the policies and procedures for ensuring the quality and effectiveness of the course;

(i) Course prerequisites, if any; and

(j) Agreement to allow division to evaluate course and instructor.

(2) Courses qualifying for approval as code-change courses must include the code-change material specified by the appropriate board or the division under OAR 918-035-0050 for the specific license type(s).

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0080
Recording Continuing Education Credits

(1) Providers must submit a list of course attendees in a method specified by the division.

(2) Providers must document course completion and give proof of course completion to each attendee.

(3) Providers shall retain records of attendees for each course for at least 5 years from the date of the course. Providers shall provide a copy of the record to the division at the division's request.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-035-0090
Suspension or Revocation of Program or Instructor Approval

The board or the division may assess a civil penalty or take any other appropriate action including suspension or revocation of approval of a continuing education course or instructor if the provider or instructor fails to meet the requirements in this division of rules, including but not limited to:

(1) The requirement that courses be taught by an approved instructor;

(2) Failure to teach the required material or course content for the approved course;

(3) Providing inaccurate information indicating that a course or instructor has been approved; or

(4) Providing an inaccurate list of course attendees.

Stat. Auth.: ORS 183.335
Stat. Implemented: ORS 183.335
Hist.: BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0640
Business and Trade License Fees

(1) Licenses required by ORS 480.630 shall be issued by the division to applicants who meet the requirements for the license and apply as established in OAR division 30.

(2) The application fee for a business license shall be $165 and the application fee for a trade license shall be $27.50. Licenses may be renewed as established in OAR division 30 for a fee equal to the application fee.

Stat. Auth.: ORS 480.630, 183.335
Stats. Implemented: ORS 480.630, 183.335
Hist.: BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0691
Boiler, Pressure Vessel and Pressure Piping Installation, Alteration or Repair Licensing Requirements

Persons installing, altering or repairing boilers and pressure vessels shall be licensed under these rules and may only work within the scope of their license.

(1) Persons desiring to obtain certification under these rules shall:

(a) Meet the qualifications for that license;

(b) Apply as established by the division in OAR division 30.

(2) Definitions. For the purpose of this rule:

(a) "Direct Supervision" means the person supervised is in the physical presence of a qualified licensed person at the job site and the person doing the supervision is directly assigned to monitor and direct the activities of the person supervised. Direct supervision must be on a ratio of one qualified licensed person to one trainee/helper.

(b) "Qualified Licensed Person" means a person who holds a Class 2, 3, 4, 5, 5-A or 5-B certification and is authorized to do the work involved without supervision;

(c) "Supervision" means the individual person assigned to perform supervision under sections 6, 7 and 10 of this rule is directly and specifically assigned to monitor and direct the activities of the person being supervised. Both the person performing supervision and those being supervised shall be prepared to identify each other.

(3) Class 1 Trainee/Helper License. A person holding this license may install, alter or repair boilers, pressure vessels and pressure piping providing the work is of a mechanical nature only. Work performed shall be under the direct supervision of a qualified licensed person. No ASME Code welding is permitted. There are no minimum qualifications required for applicants to obtain this license.

(4) Class 2 Pressure Vessel Installer License. A person holding this license may install or repair unfired pressure vessels by any non-welded method of attachment.

(a) There are no minimum qualifications required to obtain this license. Applicants shall pass an examination testing the applicant's knowledge of the Boiler and Pressure Vessel Law, ORS 480.510 to 480.665; OAR chapter 918, division 225; and American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Division 1, General Requirements.

(b) Persons who install refrigeration process equipment assembled and sold as a modular unit by the manufacturer and who do not attach piping to a pressure vessel during the installation are exempt from this rule. To qualify for this exemption, the attachment shall be made by any method other than fusion welding.

(5) Class 3 Building Service Mechanic License. A person holding this license may install or repair boilers (including boiler and non-boiler external piping) and unfired pressure vessels by a non-welded method of attachment. Applicants shall:

(a) Have at least 2,000 hours of experience installing and repairing boilers verified as established in OAR division 30;

(b) Pass an examination testing the applicant's knowledge of:

(A) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665; OAR chapter 918, division 225; and the general requirements of the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Sections I, IV, VI, VII and VIII, and CSD-1;

(B) The State of Oregon Boiler Safety Program Study Guide;

(C) Building Service Systems (Hydronics) for boilers and related appurtenances, American Society of Mechanical Engineers/ASME B31.1 Power Piping and B31.9 Building Service Piping; and

(D) Structural and mechanical blueprints with the ability to interpret specifications.

(6) Class 4 Boilermaker License. A person holding this license may install, alter or repair boilers and pressure vessels (excluding non-boiler external piping) by welding or other methods of attachment. Applicants shall:

(a) Have 2,000 hours of experience doing welding and 2,000 hours of experience doing non-welding applications involving boilers or pressure vessels. Experience must be verified as established in OAR division 30; the verification must cover welding and non-welding applications separately; and

(b) Pass an examination testing the applicant's knowledge of:

(A) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665; OAR chapter 918, division 225; and the general requirements of the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Sections I, II, IV, V, VI, VII, VIII and IX, CSD-1, B31.1 and B31.9;

(B) General boilermaker skills and procedures;

(C) Blueprint reading, layout and shop mathematics;

(D) Interpreting plans and specifications covering installation, alteration, repair, fabrication and erection of boilers and pressure vessels;

(E) Welding process, metallurgy and other procedures particularly applicable to boilers and pressure vessels; and

(F) The State of Oregon Boiler Safety Program Study Guide.

(c) Class 4 Boilermakers may also perform the scope of work allowed under section (7) of these rules providing;

(A) Work may only be done under the supervision of a qualified licensed person under section (7) of these rules; and

(B) Prior to any welding, the individual must qualify to supervisor's employer's welding procedures.

(7) Class 5 Pressure Piping Mechanic License. A person holding this license may:

(a) Fabricate, install, alter and repair pressure piping; and

(b) Install boilers and pressure vessels by attachment of piping connections;

(c) Install, assemble and repair cast iron sectional boilers.

(A) Applicants shall have a minimum of 2,000 hours of experience performing pipe-welding on ASME B31 pressure piping and 2,000 hours of experience performing work on pressure piping and boilers. Experience must be verified as established in OAR division 30; and

(B) Pass an examination testing the applicant's knowledge of:

(i) American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Sections I, II, IV, V, VI, VII, VIII, IX, CSD-1 and B31 Pressure Piping;

(ii) Structural and mechanical blueprints with the ability to interpret specifications;

(iii) Pressure piping systems and controls;

(iv) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225;

(v) The State of Oregon Boiler Safety Program Study Guide; and

(vi) Welding and brazing processes, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(d) Class 5 Pressure Piping Mechanics may also perform the scope of work allowed under section (6) of these rules providing;

(A) Work may only be done under the supervision of a qualified licensed person under section (6) of these rules; and

(B) Prior to any welding, the individual must qualify to supervisor's employer's welding procedures.

(8) Class 5-A Process Piping Mechanic License. A person holding this license may fabricate, install, alter or repair B31.3 process piping. Applicants shall:

(a) Have a minimum of 2,000 hours of experience performing pipe-welding or brazing on B31.3 process piping and 2,000 hours of experience performing work on pressure piping. Experience must be verified as established in OAR division 30; and

(b) Pass an examination testing the applicant's knowledge of:

(A) American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section B31.3;

(B) Structural and mechanical blueprints with the ability to interpret specifications;

(C) Pressure piping controls;

(D) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225; and

(E) Welding, brazing, chemical bonding procedures, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(9) Class 5-B Refrigeration Piping Mechanic License. A person holding this license may fabricate, install, alter or repair B31.5 refrigeration piping. Applicants shall:

(a) Have a minimum of 2,000 hours of experience performing pipe-welding or brazing on B31.5 refrigeration piping and 2,000 hours of experience performing work on pressure piping. Experience must be verified as established in OAR division 30; and

(b) Pass an examination testing the applicant's knowledge of:

(A) American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section B31.5;

(B) Structural and mechanical blueprints with the ability to interpret specifications;

(C) Pressure piping controls;

(D) Boiler and Pressure Vessel Laws, ORS 480.510 to 480.665 and OAR chapter 918, division 225; and

(E) Welding, brazing, heat treatment, metallurgy and other procedures applicable to pressure piping systems.

(10) Class 6 Welder License. A person holding this license may weld on boilers, pressure vessels or pressure piping while employed by an approved welding employer. Work may only be performed under the supervision of a person certified under sections (6) through (9) of this rule as applicable. More than one welder may be supervised by one appropriately qualified licensed person under this license.

(a) A Class 6 Welder may also perform the scope of work under section (3) of this rule providing the work performed is under the direct supervision of a qualified licensed person under sections (4) through (9) of these rules.

(b) Applicants shall be qualified as a welder in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section IX, Part QW. The employer shall attest in writing that the applicant is qualified under that code section and is currently qualified to that employer's welding procedures. This written statement is not transferable to another employer.

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

Stat. Auth.: ORS 480.545 & 480.630, 183.335

Stats. Implemented: ORS 480.630, 183.335

Hist.: BCD 7-2003, f. 3-14-03, cert. ef. 7-1-03; BCD 13-2003, f. 6-26-03, cert. ef. 7-1-03; BCD 3-2004(Temp), f. & cert. ef. 3-8-04 thru 9-3-04; BCD 9-2004, f. 6-21-04, cert. ef. 7-1-04; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-282-0100

Electrical Licensing in General

(1) An electrical license is issued to an individual and allows the holder to make certain regulated electrical installations. Individual electrical licensing laws are in ORS 479.630. The following rules implement the individual electrical licensing laws. Application and examination requirements as well as continuing education and renewal requirements are located in OAR division 30.

(2) When the rules refer to a "valid" electrical license, this means a license issued by the Electrical and Elevator Board that has not expired, or been suspended or canceled.

Stat. Auth.: ORS 479.730, 183.335

Stats. Implemented: ORS 479.730, 183.335

Hist.: BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-282-0110

General Licensing Exemptions

In addition to the exceptions provided in ORS 479.540, electrical licenses are not required to:

(1) Replace light bulbs, fluorescent tubes or approved fuses, or to connect approved portable electrical equipment to permanently installed and properly wired receptacles;

(2) Do experimental electrical work or testing of electrical products in electrical shops, educational institutions, industrial plants or recognized testing laboratories;

(3) Operate, maintain, repair and replace broadcast equipment of commercial radio and television stations; or

(4) Install limited energy systems not exceeding 100 voltampere ("VA") in Class 2 and 3 systems limited to:

(a) Single station smoke or ionization detectors installed in buildings three stories or less in height;

(b) Closed circuit television systems installed in buildings three stories or less in height;

(c) Master Antenna Television ("MATV") systems installed in buildings three stories or less in height; or

(d) Intercom and audio systems installed in one- and two-family dwellings.

Stat. Auth.: ORS 479.730, 183.335

Stats. Implemented: ORS 479.730, 183.335

Hist.: DC 15-1987, f. & ef. 5-15-87; Renumbered from 814-022-0800; BCD 9-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-320-0010; BCD 18-1999, f. 12-30-99, cert. ef. 1-1-00; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 26-2002, f. & cert. ef. 10-1-02; BCD 8-2005, f. & cert. ef. 4-1-05; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-282-0355

Licensing Requirements for Class "A" Limited Energy Technician

(1) License and Equivalent Requirements. Applicant shall have a minimum of 8,000 hours of lawfully obtained experience. Experience must be verified as established in OAR Division 30. This experience shall be obtained as follows

(a) By successful completion of a board-approved Class "A" limited energy apprenticeship program; or

(b) Through limited energy electrical experience equivalent to a Class "A" board-approved limited energy apprenticeship program.

(2) Persons utilizing lawful experience may meet equivalent experience requirements by providing verification as required by OAR 918-030-0030 through 918-030-0050.

(3) Applicants for approval under equivalent requirements must show proof of the following work categories and minimum hours of on the job training or experience:

(a) Stock room and materials, 200 hours:

(A) Shop;

(B) Service;

(b) Limited energy wiring, 3,200 hours:

(A) Installation;

(B) Wire pulling;

(C) Splices;

(D) Conduit;

(E) Flex;

(F) Tray and duct;

(G) Control panels and controls;

(H) Wiring devices;

(I) Removal and finish work;

(c) Trouble shooting and maintenance, 500 hours;

(d) Outdoor installation, overhead and underground, 100 hours;

(e) Trade-specific installations, including life safety, 4,000 hours:

(A) Fire alarms;

(B) Protective signaling;

(C) Nurse call;

(D) Medical;

(E) Data and telecommunications;

(F) CCTV, paging and sound;

(G) Instrumentation and HVAC;

(H) Security.

(4) Total Hours Required. Total electrical work experience shall be at least 8,000 hours. No more than 300 percent credit shall be allowed in work categories (a) through (d) in Section (3) of this rule.

(5) Related Training Classes. Additionally, applicants shall have a minimum of 576 hours of related classroom training as outlined in the following:

(a) Electrical mathematics;

(b) Safety and accident prevention;

(c) Care and use of hand and power tools;

(d) Blueprint reading and electrical symbols;

(e) Introduction to the National Electrical Code;

(f) Electrical fundamentals and basic theory, including AC and DC;

(g) Electrical measuring devices;

(h) Wiring methods;

(i) Related electrical statutes and rules;

(j) Fundamentals of electronics;

(k) Transformers;

(l) Lighting circuits;

(m) Basic mechanics — applied physics and theory.

Stat. Auth.: ORS 479.730, 183.335

Stats. Implemented: ORS 479.905, 479.910, 479.915 & 183.335

Hist.: BCD 23-2002, f. 9-13-02 cert. ef. 10-1-02; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-282-0365

Licensing Requirements for Class "B" Limited Energy Technician

(1) License and Equivalent Requirements. Applicant shall have a minimum of 4,000 hours of lawfully obtained experience. Experience must be verified as established in OAR Division 30. This experience shall be obtained as follows:

(a) As an apprentice in a board-approved limited energy electrical activity apprenticeship program; or

(b) Through limited energy activity equivalent to an apprenticeship program, and the completion of a board-approved 32 hour training program.

(2) Persons utilizing lawful experience may meet equivalent experience requirements by providing verification as required by OAR 918-030-0030 through 918-030-0050.

(3) Applicants for approval under equivalent requirements must show proof of the following work categories and minimum hours of on the job training or experience:

(a) Stock room and materials, including shop and service: 100 hours;

(b) Limited energy installations, including cables and supports, wire pulling and splices, conduit, flex, tray and duct, control panels and controls, wiring devices, removal and finish work: 1,650 hours;

(c) Trouble shooting and maintenance: 250 hours; and

(d) Occupation specific applications including 2,000 hours in any of the following:

(A) Communications systems, including data telecommunications, intercom, paging;

(B) Specialized control systems, including HVAC, medical, boiler, clock, instrumentation, or other limited energy systems; and

(C) Limited energy electrical activity defined in ORS 479.905(4).

(4) Total Hours Required. Total electrical work experience shall be at least 4,000 hours. No more than 300 percent credit shall be allowed in work categories (a) through (d) in Section (3) of this rule.

(5) Applicants shall also have a minimum of 288 hours of class or related training covering:

(a) Electrical mathematics;

(b) Safety and accident prevention;

(c) Care and use of hand and power tools;

(d) Blueprint reading and electrical symbols;

(e) Introduction to the National Electrical Code;

(f) Electrical fundamentals and basic theory, including alternating and direct current;

(g) Electrical measuring devices;

(h) Wiring methods;

(i) Related electrical statutes and rules;

(j) Fundamentals of electronics;

(k) Transformers;

(l) Lighting circuits; and

(m) Basic mechanics — Applied physics and theory.

Stat. Auth.: ORS 479.730 & 183.335

Stats. Implemented: ORS 479.905, 479.910, 479.915 & 183.335

Hist.: BCD 23-2002, f. 9-13-02 cert. ef. 10-1-02; BCD 12-2005(Temp), f. & cert. ef. 6-10-05 thru 12-6-05; Administrative correction 12-20-05; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-400-0380

Limited Elevator Mechanic License

(1) Pursuant to ORS 460.057, any person installing, altering, repairing or maintaining elevator mechanical equipment prior to October 23, 1999, and who does not otherwise qualify for licensure herein, shall be issued a limited elevator mechanic's license commensurate with their prior, verifiable work experience if they apply in the manner established by the division in OAR chapter 918 division 30.

(2) The following shall not be used to determine prior experience;

(a) Work on equipment not regulated by the Elevator Safety Law unless such prior experience is considered to be transferable experience gained prior to October 23, 1999;

(b) The installation, alteration, repair or maintenance of equipment installed in Oregon that was not lawfully permitted as required by the Elevator Safety Law;

(c) Work in Oregon while employed by a company not lawfully licensed as an elevator contractor in Oregon, or not lawfully registered with the Construction Contractors Board; or

(d) Experience gained in violation of any other state law.

(3) Experience gained shall be considered based on the following. Applicants must have been regularly engaged in the installation, alteration, repair or maintenance on the type, or types, of equipment commensurate with the license being sought based on:

(a) Minimum of 4,000 hours "substantial experience" lawfully obtained on equipment covered by a limited elevator mechanic's license;

(b) "Substantial experience" for purposes of this rule, must be verified evidence in the form of two separate notarized affidavits. One from an Oregon business attesting the person has been involved in 40 or more elevator projects and one from a CPA attesting that the business had at least $75,000 of gross business prior to October 23, 1999. Nothing in this rule prevents an applicant from faxing or scanning and e-mailing documents.

(4) A license under this rule shall be limited to the scope of work for which the person has provided work experience acceptable to the division.

Stat. Auth.: ORS 460.057 & 460.085, 183.335

Stats. Implemented: ORS 460.005 - 460.175, 183.335

Hist.: BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04; BCD 8-2005, f. & cert. ef. 4-1-05; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0040

Journeyman Examination

Examination requirements. An applicant for certification as a journeyman plumber shall pass an approved examination. The written examination shall cover, but not be limited to:

(1) Understanding of engineering and architectural drawings and plans sufficient to prepare a bill of materials and lay out a plumbing system;

(2) Ability to compute areas of regular plane figures, volumes of regular solids, slopes, offsets, clearances, and weights of piping;

(3) Selection and use of tools, materials and techniques commonly used in the plumbing trade;

(4) The **Plumbing Specialty Code**, administrative rules relating to plumbing and plumbers and general scientific principles covering hydraulics;

(5) A general knowledge of construction job safety and occupational safety standards; and

(6) A basic understanding of disabled access provisions of the **Oregon Structural Specialty Code** related to plumbing.

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

Stat. Auth.: ORS 693.100, 183.335

Stats. Implemented: ORS 693.050, 183.335

Hist.: BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98; BCD 22-2000, f. 9-19-00, cert. ef. 10-1-00; BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0680

Suspension or Revocation of a Deputy or Special Inspector's Certificate of Competency

The following are included in the definition of "incompetence or untrustworthiness" under ORS 480.575:

(1) Failure to make an inspection due within the time period set by any law or administrative rule. This section does not apply when special permission is granted by the chief inspector to change the inspection time;

(2) Failure to make required reports to the division;

(3) Intentional making of false reports;

(4) Failure to report a boiler or pressure vessel being operated without a valid operating permit, that the inspector has reason to know or does know is being operated without a current, valid permit at a location subject to the inspector's authority;

(5) Failure to inspect and report on newly installed boilers or pressure vessels at locations subject to the inspector's authority, when the inspector has reason to know, or does know, that the boiler or pressure vessel has not been reported to the division;

(6) Failure to require correction of conditions in violation of the minimum safety standards in OAR 918-225-0430;

(7) Failure to enforce the **Boiler and Pressure Vessel Specialty Code** at locations subject to the authority of the inspector under ORS 480.570;

(8) Failure to perform one or more of the responsibilities of inspectors in OAR 918-225-0560; or

(9) Any other activity prejudicial to boiler or pressure vessel safety in locations subject to the authority of the inspector under ORS 480.570.

Stat. Auth.: ORS 480.575

Stats. Implemented: ORS 480.575

Hist.: BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 16-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0685

Suspension of a Business or Individual License or Certification

(1) The following are included in the definition of "incompetence" under ORS 480.635:

(a) Having performed work requiring a business license under ORS 480.630(1) on two or more occasions without having obtained a valid permit required by ORS 480.630(6);

(b) Having employed an individual to perform work subject to ORS 480.630(2) who did not hold the required license or certification;

(c) Having performed work subject to ORS 480.510 to 480.665 involving welding or brazing, without holding the required certification from the National Board of Boiler and Pressure Vessel Inspectors or from the division;

(d) Not having maintained the quality control requirements of ORS 480.647 as required for the scope of work being performed; or

(e) Having performed work under the requirements of ORS 480.630(2) that is not permitted by the scope of the license.

(2) A person whose license or certification has been suspended under this rule may apply for its reinstatement not less than 90 days from the date of suspension. The chief inspector may withhold reinstatement of a license or certification pending resolution of the alleged violations for which the license or certification was suspended.

Stat. Auth.: ORS 480.635

Stats. Implemented: ORS 480.635

Hist.: BCD 16-1998, f. 9-30-98, cert. ef. 10-1-98; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0900

Required Programs for Licensees; Exemptions

(1) During each one-year license period, licensed pressure vessel installers, building service mechanics, boilermakers, and pressure piping mechanics shall complete at least eight hours of division-approved continuing education. Failure to comply with this requirement will result in the expiration of the license.

(2) All continuing education training shall be approved by the division for licensed persons who work for employers that install, alter or repair boilers, pressure vessels and/or pressure piping. Programs not approved by the division are not acceptable.

(3) Notwithstanding any other provision within these rules, upon written request of licensee(s) with hardship or illness, the division may approve a continuing education program at any time during a calendar year. All requests shall be reported to the board.

Stat. Auth.: ORS 480.630

Stats. Implemented: ORS 480.630

Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0910

Minimum Requirements for Program Approval

Continuing education programs must:

(1) Be at least one hour long;

(2) Cover:

(a) Articles of the American Society of Mechanical Engineers Boiler and Pressure Vessel Codes; and

(b) The Oregon Boiler Law (ORS 480.515 through 480.990 and OAR 918-225-0220 through 918-225-0800);

(3) Have a division-approved instructor; and

(4) Be approved for continuing education credits set by the division.

Stat. Auth.: ORS 480.630

Stats. Implemented: ORS 480.630

Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0920

Program Approval Procedure

(1) Applications for program approval shall include:

(a) The name and description of the program;

(b) A program outline, including a process for student evaluation;

(c) The name, address and telephone number of the contact person;

(d) The proposed instructor and instructor qualifications;

(e) A class schedule (date, time and location);

(f) A list or sample of program materials;

(g) Credit hours requested;

(h) Any limitations on who can attend and, if open to the public, the fee; and

(i) Agreement for division monitoring and evaluation. Upon request by the division, attendees will be requested to make program and instructor evaluations.

(2) The division shall report programs approved or denied to the board.

(3) Unless otherwise stated, program and instructor approvals shall be effective for one calendar year. Subsequent applications for the same program may incorporate by reference all or part of the original application.

Stat. Auth.: ORS 480.630

Stats. Implemented: ORS 480.630

Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; BCD 3-2004(Temp), f. & cert. ef. 3-8-04 thru 9-3-04; BCD 9-2004, f. 6-21-04, cert. ef. 7-1-04; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0930

Instructor Approval

An instructor may be approved by the division at any time. Instructors shall have experience and expertise in the area of instruction, satisfactory to the division.

Stat. Auth.: ORS 480.630

Stats. Implemented: ORS 480.630

Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0940

Boiler Continuing Education Program Credit Hours Granted

(1) Programs may receive one to eight credit hours. The actual instruction time shall be at least equal to the approved credit hours less a five-minute break per hour.

(2) Credits shall be granted only upon completion of the entire approved program. Partial credit shall not be given.

(3) Continuing education instructors shall receive credit for type of programs taught.

Stat. Auth.: ORS 480.630

Stats. Implemented: ORS 480.630

Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0950
Evidence of Completion

(1) The continuing education instructor shall verify class attendance on division forms within 15 days following the completion of the program, by the program provider.

(2) Certificates shall be provided to persons completing the program. The certificate is the licensee's evidence of completion in the event division records are challenged.

Stat. Auth.: ORS 480.630
Stats. Implemented: ORS 480.630
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0960
Renewal of License

An applicant for license renewal who has not met the continuing education requirements shall not receive a renewal. A person whose license renewal is denied may request a contested case hearing.

Stat. Auth.: ORS 480.630
Stats. Implemented: ORS 480.630
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-225-0970
Withdrawal of Program or Instructor Approval

An instructor or program approval may be withdrawn by the division if the instructor fails to follow the representations in the application or for inappropriate behavior in the classroom. The decision to withdraw a program or instructor approval may be appealed to the Director in writing within 30 days of the withdrawal.

Stat. Auth.: ORS 480.630
Stats. Implemented: ORS 480.630
Hist.: BCD 2-2003, f. & cert. ef. 2-3-03; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-282-0335
General Criteria for Limited Energy Licensing

(1) Application. Application for license shall be made on a division form and approved by the division. Examination fees shall be paid before an applicant may sit for the examination.

(2) Application Denials. An applicant whose license application is denied is entitled to a contested case hearing on that denial.

(3) Examination. A board-approved license examination shall test an applicant's knowledge of the related training listed for the license. Applicants failing exam may retest after 30 days for first failure, 90 days upon second failure and one year for third or subsequent failures.

(4) During each three-year license period, a Class "A" or Class "B" limited energy technician shall complete a minimum of 24 class or correspondence course hours of approved continuing education. At least eight of the 24 hours shall be code-change. During electrical code change years, the code change credits shall be obtained prior to or no later than one year after the effective date of the applicable code.

Stat. Auth.: ORS 479.730
Stats. Implemented: ORS 479.905, 479.910 & 479.915
Hist.: BCD 23-2002, f. 9-13-02 cert. ef. 10-1-02; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0000
Policy

Continuing education shall provide training which contributes directly to the technical competency and safety of Oregon electricians. Continuing education shall be provided to Oregon licensees and Oregon certified electrical inspectors only. The board shall approve only those programs which promote technical competency and safety.

Stat. Auth.: ORS 479.650
Stats. Implemented: ORS 479.650
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0440; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-280-0010; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0010
Continuing Education Required; Exemptions

(1) During each three-year license period, all licensees, except those categories listed in sections (2) and (3) of this rule shall complete a minimum of 24 class or correspondence course hours of approved continuing education. At least eight of the 24 hours shall be code-change.

(2) The following licensees shall have at least four, but not more than eight, hours code-change continuing education obtained during each three year license period:

(a) Limited Journeyman Sign;
(b) Limited Journeyman Stage;
(c) Limited Building Maintenance;
(d) Limited Pump Installation Specialty Contractor;
(e) Limited Maintenance Specialty Contractor HVAC/R;
(f) Limited Energy Contractor;
(g) Restricted Energy Contractor;
(h) Limited Sign Contractor;
(i) Limited Maintenance Specialty Contractor;
(j) Limited Renewable Energy Contractor; and
(k) Limited Renewable Energy Technician.

(3) Exemptions. General electrical contractors, apprentices in approved programs and Class II oil module electricians are exempt from continuing education.

(4) Continuing education requirements may be prorated for those who obtain licenses during any three-year renewal cycle. The continuing education requirement for the licensing period is waived for those who obtain licenses within 90 days or less of a three-year renewal date.

(5) Continuing education instructors shall receive credit for type of courses taught.

(6) Upon receipt of documentation acceptable to the division, individuals ordered to active military duty for other than training, for a period exceeding 60 consecutive days, shall not be required to comply with the provisions of this rule during the period of active duty. Following release from active duty, individuals shall complete continuing education requirements acceptable to the division. Other licensing requirements shall not be waived under this exemption.

(7) The board may waive, on a case by case basis, the provisions of this rule in the event of catastrophic illness or circumstance.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 479.650 & 479.680
Stats. Implemented: ORS 479.650 & 479.680
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0450; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-280-0020; BCD 19-1997(Temp), f. & cert. ef. 10-3-97 thru 5-31-98; BCD 13-1998(Temp), f. & cert. ef. 7-31-98 thru 1-26-99; BCD 17-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 23-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 6-29-02; BCD 9-2002, f. 3-29-02, cert. ef. 4-1-02; BCD 23-2002, f. 9-13-02 cert. ef. 10-1-02; BCD 25-2002, f. & cert. ef. 10-1-02; BCD 17-2003(Temp), f. & cert. ef. 10-29-03 thru 4-25-04; Administrative correction 8-5-04; BCD 19-2005(Temp), f. & cert. ef. 8-15-05 thru 2-1-06; Administrative correction 2-21-06; BCD 5-2006(Temp), f. & cert. ef. 4-3-06 thru 9-29-06; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0020
Continuing Education Minimum Requirements for Program Approval

(1) An approved continuing education program shall:

(a) Last a minimum of four hours;

(b) Be for a maximum of 16 hours (eight hours code-related and eight hours industry-related) as approved by the board. As used in this subsection, "Industry related" means related to the electrical aspects of the business and excludes management skills or techniques such as planning, scheduling, supervision, estimating, marketing and sales; and

(c) May be for 4, 8, 16 or 24 hours of credit.

(2) Code-change or code-related courses shall cover articles of the **Electrical Specialty Code** or the Oregon Electrical Safety Law (ORS 479.510 through 479.855) and the applicable administrative rules.

(3) Twenty-four hour classes shall include eight hours code-related and eight hours code change.

(4) Correspondence courses shall not exceed eight hours and amount credited shall be only for hours in course.

(5) Continuing education shall be presented by an approved instructor.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 479.650 & 479.680
Stats. Implemented: ORS 479.650 & 479.680
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0460; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-280-0030; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0030
Program Approval Procedures

(1) In order to be included in the state-published continuing education calendar, requests for program approval shall be submitted by June 1 of the year prior to the instructional year being applied for. The application shall include:

(a) Name and general description of the program;
(b) Program outline;
(c) Name, address and phone number of the contact person;
(d) Name of the instructor(s);
(e) Schedule of classes, if established, including locations and time;
(f) List or sample of materials to be used in the program; and
(g) Cost to attend independently-sponsored programs.

(2) The board shall approve or deny program applications no later than its August meeting.

(3) Program denial appeals shall be heard by the board at its September meeting.

(4) State-sponsored or independently-sponsored programs shall be approved by the board for the division or a certified training agent (under ORS Chapter 660).

(5) Cost of attending:

(a) Licensees not in the three-year license cycle shall be charged a $15 tuition fee for attending a state-sponsored course; and

(b) Licensees who have exceeded 24 hours of continuing education within the three-year licensing cycle may be charged a $15 fee for attending a state-sponsored course.

(6) Program approvals shall be effective for one calendar year. Subsequent applications for the same program may incorporate by reference all or part of the original application.

(7) A proposed program may be approved other than as required in this rule if the program is of topical benefit to licensees and the need for the program could not have been anticipated by the June 1 filing date.

Stat. Auth.: ORS 479.680
Stats. Implemented: ORS 479.680
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0470; BCA 32-1989, f. & cert. ef. 12-21-89; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-280-0040; BCD 6-1999, f. 6-21-99, cert. ef. 10-1-99; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0040
Instructor Approval

(1) An instructor shall have:

(a) Professional or trade experience evidenced by an appropriate license or degree; or

(b) Other expertise recognized by the electrical industry.

(2) Applications for instructor approval shall be submitted to the board as part of the program application.

(3) The Chief Electrical Inspector is authorized to approve or deny additional instructors and shall notify the board of such action.

Stat. Auth.: ORS 479.680
Stats. Implemented: ORS 479.680
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0480; BCD 19-1996, f. 9-17-96, cert. ef. 10-10-96; Renumbered from 918-280-0050; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0050
Evidence of Completion

The instructor of an approved continuing education program shall provide the division with a certified class roster within 30 days after the completion of the course.

Stat. Auth.: ORS 479.680
Stats. Implemented: ORS 479.680
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0500; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-280-0070; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0060
Training Calendar; List of Approved Courses

At the beginning of each calendar year, the division shall publish and distribute to all licensees and program providers a training calendar that will include a list of approved State-sponsored and independently-sponsored courses available.

Stat. Auth.: ORS 479.680
Stats. Implemented: ORS 479.680
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0520; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-280-0090; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-283-0070
Revocation of Program or Instructor Approval

The board may revoke or suspend the approval of any continuing education program or instructor if the board determines that the course or instructor does not meet the requirements in these rules. The division may monitor programs and seek evaluations by licensees who attend the programs.

Stat. Auth.: ORS 479.680
Stats. Implemented: ORS 479.680
Hist.: DC 16-1986, f. & ef. 10-14-86; Renumbered from 814-022-0530; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-280-0100; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0010
Application for Examination

(1) General licensing requirements. Application for license shall be made on a division form and must be approved by the division before an applicant may sit for the examination.

(2) Education Requirement. All applicants required to take an examination shall have a high school diploma, GED or international equivalent education.

(3) Military and Trade School Training and Experience. Experience and training gained through the military or attendance at an accepted trade school shall be evaluated by the division. The experience and training shall comply with the equivalent standards for the license sought.

(4) Verification of Experience and Training. Unlawful work experience or self-verification shall not be accepted. Applicants requiring verification of plumbing work or completion of an approved apprenticeship or training program shall submit verification as follows:

(a) Applicants who complete an approved apprenticeship program shall submit a referral letter from the approved training committee specifying the applicant is qualified to take the examination, or a certificate of completion;

(b) Applicants for a reciprocal license shall submit a copy of a current, valid license which was acquired through examination by a jurisdiction maintaining a reciprocal agreement with the board.

(c) Applicants from other, nonreciprocal jurisdictions shall submit verification of equivalent experience as defined in OAR 918-695-0030. Verification of equivalent experience shall be on a division form or an original letter from current or previous employer on company letterhead.

(d) Applicants relying solely on military training and experience shall submit official documentation from the supervising officials showing type and approximate hours of plumbing work experience. Other official military documentation that reliably verifies military plumbing training and experience may be accepted when supervisory officials are not available or cannot be located.

(5) Examination. The board-approved license examination shall test an applicant's knowledge of the related training listed for the license. The applicant shall pass a board-approved examination within 60 days of the date of division approval of the application. The applicant must receive a minimum passing grade of 75 percent.

(6) Applicants not accepted as meeting the qualifications or who fail the examination shall be notified in writing of the reason for nonacceptance.

(7) Failed examinations shall be reviewed by the division for accuracy of final score, prior to the notification letter being sent to the applicant.

(8) Unless a different requirement is adopted for a specific license, if an applicant fails a test, upon payment of a separate examination fee in each instance, the applicant may take:

(a) A second test after a 30-day waiting period; and

(b) A third test and subsequent testing after a one year waiting period before retaking the examination.

(9) Licensing appeals are to the Plumbing Board under ORS 693.105.

(10) License Revocation, Cancellation or Suspension. A license may be revoked, canceled or suspended when:

(a) A "pattern of conduct" is determined and exists if a plumbing licensee is assessed civil penalties under the plumbing statutes or rules on at least three separate occasions within a three-year period;

(b) A person willfully violates a provision of the plumbing statutes or rules if the person knew or should have known it was a violation; or

(c) A person negligently violates the plumbing statutes or rules if the person carelessly or recklessly disregards the requirements.

(d) When a plumbing license is suspended for any reason, the licensee must continue to comply with continuing education requirements where applicable and to apply for and pay for renewal of the license to prevent cancellation of the license by operation of law.

Stat. Auth.: ORS 693.103
Stats. Implemented: ORS 693.103
Hist.: DC 4, f. 8-13-71, ef. 9-11-71; DC 25-1978, f. 9-5-78, ef. 9-20-78; Renumbered from 814-021-0502; DC 2-1983, f. & ef. 1-3-83; Renumbered from 814-020-0010; BCA 18-1991, f. & cert. ef. 6-12-91; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0010; BCD 22-2000, f. 9-19-00, cert. ef. 10-1-00; BCD 8-2005, f. & cert. ef. 4-1-05; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0200
Renewal Period

New or existing plumbing certificates of competency or limited plumber certificates of competency shall be renewed on a two-year cycle, except as provided in this rule. Renewal fees shall be prorated depending on the next renewal date:

(1) Licenses ending with an even number will expire April 1 of even years.

(2) Licenses ending with an odd number will expire April 1 of odd years.

(3) Those licensed or given a renewal date of less than 14 months are required to have eight hours of continuing education credits for that period and shall be required to meet the full requirements thereafter.

(4) Special Business Registrations and Installer Certifications for Medical Gas Systems issued under the provisions of OAR 918-695-0038 shall be renewed annually on or before the issuing date by payment of the required $50 renewal fee.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0190; BCD 3-2002, f. 3-5-02, cert. ef. 4-1-02; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0300
General Matters

(1) The plumbing continuing education rules are authorized by ORS 693.108.

(2) Plumbing continuing education is intended to increase the technical competency of Oregon plumbers and to keep them informed of plumbing code requirements and changes.

(3) Continuing education requirements are for fiscal periods April 1 through May 31 two years later and is referred to as the "license period."

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0100; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0310
Required Programs for Licensees; Exemptions

(1) During each two-year license period, a licensed journey-man plumber shall complete at least 16 hours of division-approved continuing education.

(2) All training shall be approved by the division for journey-man plumber continuing education credit. Courses not approved by the division will not be acceptable.

(3) Limited specialty plumbers licensed as water treatment installers and classification for limited maintenance electrical contractors are exempt from the continuing education and reporting requirements.

(4) During each two-year license period, limited specialty plumber certificate of competency for solar heating and cooling system installers shall complete at least 8 hours of division-approved continuing education.

(5)(a) The time for completing continuing education may be extended by the division for up to one year in case of hardship or illness. The division shall report all extensions to the board;

(b) Requests for extension shall be in writing, show the extension requested, document the hardship or illness preventing compliance and explain how and when the requirements will be met;

(c) If the requested extension is for more than 90 days, the licensee must agree to a voluntary suspension of the license until continuing education requirements are satisfied.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0105; BCD 13-2002, f. 6-28-02, cert. ef. 7-1-02; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0320
Minimum Requirements for Program Approval

The following standards and specifications for plumbing products are approved by the Board:

(1) Composting Toilets, **NSF Standard No. 41** — May 1983.

(2) Recognized plumbing product standards listed in **Chapter 14**, **Table 14-1** of the **Oregon State Plumbing Specialty Code** adopted in OAR 918-750-0110.

(3) Testable backflow prevention assemblies approved by the Oregon Health Division Drinking Water Program and listed on the January 2000 "Approved Backflow Prevention Assembly List."

(4) Solar heating and cooling components listed by the Solar Rating & Certification Corporation (SRCC) to one or more of the following standards:

(a) **SRCC Standard 100** — October 1995 Methodology for Determining the Thermal Performance Rating for Solar Collectors;

(b) **SRCC Document OG–100** — October 1995 Operating Guidelines for Certifiying Solar Collectors;

(c) **SRCC Document OG–300** — April 1997 Operating Guidelines and Minimum Standards for Certifying; or

(d) **SRCC Document OG–400** — October 1999 Guidelines for Certifying Compliance with Minimum Standards for Solar Swimming Pool Heating Systems; or

(5) Solar heating and cooling components certified by an approved listing agency to one or more of the following standards:

(a) **ASHRAE 93-1986(RA 91)** — Methods of Testing to Determine the Thermal Performance of Solar Collectors;

(b) **ASHRAE 95-1981(RA 87)** — Methods of Testing to Determine the Thermal Performance of Solar Domestic Heating Systems;

(c) **ASHRAE 96-1980(RA 89)** — Methods of Testing to Determine the Thermal Performance of Unglazed Flat-Plate Liquid-Type Solar Collectors;

(d) **ASHRAE 109-1986(RA 96)** — Methods of Testing to Determine the Thermal Performance of Flat-Plate Solar Collectors Containing a Boiling Liquid; or

(e) **IAPMO PS 96-95** — Passive Direct Solar Water Heaters.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0110; BCD 13-2002, f. 6-28-02, cert. ef. 7-1-02; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0330
Program Approval Procedure

(1) Except as provided in this rule, program approvals must be requested by August 1 for presentations during the following calendar year.

(2) Applications for program approval shall include:

(a) The name and description of the program;

(b) A program outline;

(c) The name, address and telephone number of the contact person;

(d) The proposed instructor and instructor qualifications;

(e) A class schedule (date, time and location);

(f) A list or sample of program materials;

(g) Credit hours requested;

(h) Any limitations on who can attend and, if open to the public, the fee; and

(i) Agreement the program may be monitored and evaluated by the division and upon request of the division, attendees will be requested to make program and instructor evaluations.

(3) The division shall report programs approved or denied to the board.

(4) Program and instructor approvals shall be effective for one calendar year. Subsequent applications for the same program may incorporate by reference all or part of the original application. Significant changes to an approved program shall have prior approvals.

(5) A proposed program may be approved other than as required in this rule if the program is of topical benefit to plumbers and the need for the program could not have been anticipated by the August 1 filing date.

(6) The schedule in this rule does not apply to classes sponsored by the division, particularly where division classes are created to fill cancellations or unfulfilled training needs.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0120; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0340
Instructor Approval

An instructor may be approved by the division at any time. Instructors shall have experience and expertise in the area of instruction.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0130; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0350
Credit Hours Granted; Plumbing Inspector Course Credit

(1) Courses may receive 1 to 16 credits. The actual instruction time shall be at least equal to the approved credit hours less a 5-minute break per hour.

(2) Credits shall be granted only upon completion of the entire program. Partial credit shall not be given.

(3) Approved plumbing inspector continuing education credits for **Plumbing Specialty Code** or one- and two-family dwelling plumbing changes or related plumbing subjects may be used for journeyman plumber continuing education requirements.

(4) Continuing education instructors shall receive credit for type of courses taught.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0140; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0360
Evidence of Completion

(1) The continuing education instructor shall verify class attendance on division forms within 15 days following the completion of the course.

(2) Certificates of completion shall be provided to persons completing the course. The certificate is the licensee's evidence of completion in the event division records are challenged.

(3) The division shall track class attendance.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0150; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0370
Renewal of License

(1) An applicant for license renewal who has not met the continuing education requirements or received a hardship or illness extension shall not receive a renewal. A person whose license is not renewed may request a contested case hearing.

(2) The plumbing license shall be renewed if applicant, within 90 days from the expiration of the license, completes all required continuing education requirements or passes a challenge exam with a score of at least 75 percent, if such an examination is available, and pays applicable license fees. During the 90-day period the licensee is not authorized to engage in plumbing which requires an active license.

(3) Licensee shall notify the division in writing within 30 days of change of mailing address.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0160; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0380
Training Calendar; List of Approved Courses

The division shall provide a training calendar which includes courses approved for credit, time and place of presentation and a contact person.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0170; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

918-695-0390
Revocation of Program or Instructor Approval

An instructor or program approval may be withdrawn by the division if the program sponsor or instructor fails to follow the representations in the application or for inappropriate behavior in the classroom. A withdrawal prohibits future credits from being granted to persons who attend presentations. A contested case hearing may be requested by a party aggrieved by a proposed withdrawal of approval.

Stat. Auth.: ORS 693.108
Stats. Implemented: ORS 693.108
Hist.: BCA 23-1993, f. 10-15-93, cert. ef. 11-1-93; BCD 6-1998, f. 3-2-98, cert. ef. 4-1-98, Renumbered from 918-690-0180; Suspended by BCD 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-28-06

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Department of Consumer and Business Services, Insurance Division
Chapter 836

Rule Caption: Repeal of rule references to regulation of charitable annuities under the Insurance Code.
Adm. Order No.: ID 11-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 5-1-06
Rules Amended: 836-080-0501
Rules Repealed: 836-051-0400
Subject: The Oregon Legislative Assembly in 2005 enacted legislation that repealed the statutory regulatory program for annuities issued by educational institutions and nonprofit corporations. This rulemaking eliminates rule references to the program because they are now obsolete and ineffective.
Rules Coordinator: Sue Munson—(503) 947-7272

836-080-0501
Authority; Rule of Construction; Applicability

(1) OAR 836-080-0501 to 836-080-0551 are adopted under the authority of ORS 731.244 and 746.620 for the purpose of implementing ORS 746.600, 746.620, 746.630 and 746.665.

(2) The examples in OAR 836-080-0501 to 836-080-0551 are not exclusive. Compliance with an example in OAR 836-080-0501 to 836-080-0551 constitutes compliance with the statute to which the example applies.

(3) Section 27a, chapter 377, Oregon Laws 2001, governs the applicability of ORS 746.620 and 746.630 to an insurer with respect to health insurance policies issued by the insurer to which the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) applies.

(4) OAR 836-080-0501 to 836-080-0551 have the same scope of applicability as ORS 746.600, 746.620, 746.630 and 746.665, applying to insurance activities of a licensee and not to noninsurance activities.

(5) The applicability of the exemptions in ORS 746.665(1)(b) and (c) includes but is not limited to a licensee's transactions described in ORS 746.665(1)(b) and (c) with a reinsurer or with an insurer with respect to stop loss or excess loss insurance.

Stat. Auth.: ORS 731.244, 746.600 & 746.620
Stat. Implemented: ORS 746.600, 746.620, 746.630 & 746.665
Hist.: ID 8-2002, f. & cert. ef. 2-15-02; ID 11-2006, f. & cert. ef. 6-26-06

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Rule Caption: Recoupment by Insurers of Oregon Insurance Guaranty Association Assessments; Excess Collections
Adm. Order No.: ID 12-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 4-1-06
Rules Amended: 836-031-0855
Subject: This rulemaking amends a rule governing insurers' treatment of excess moneys 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 (OIGA) collected from them to pay policy claims against an insolvent insurer. The 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—(503) 947-7272

836-031-0855
Recoupment of Assessments by Oregon Insurance Guaranty Association

(1) This rule is adopted under the authority of ORS 731.244 and 734.579, for the purpose of implementing ORS 734.579, relating to the recoupment by insurers of assessments made by the Oregon Insurance Guaranty Association under ORS 734.570. For the purpose of this rule:

(a) "OIGA assessment" means the assessment imposed on an insurer by the Oregon Insurance Guaranty Association.

(b) "Recoupment assessment" means the assessment charged by the insurer to its policyholders.

(2) An insurer shall recoup an OIGA assessment from its policyholders on premiums written or renewed on or after the recoupment start date as provided in section (6) of this rule. The recoupment assessment shall be imposed on a pro-rata basis of net direct written premiums. For the purpose of this section, "net direct written premiums" are gross premiums, including policy and membership fees, less return premiums and premiums on policies not taken, as reported in column 1 of the Oregon State Page, Exhibit of Premium and Losses. An insurer may state the recoupment assessment to be charged to each policyholder in terms of a rate instead of a dollar amount and shall adjust the notice in section (5) of this rule as appropriate.

(3) An insurer may state the amount or rate of the recoupment assessment in the premium statement on the declaration page or other page of an insurance policy that serves as a declaration page rather than on the premium billing statement if the premium billing statement clearly informs the policyholder that the recoupment assessment is so located on the declaration page or other page. For the purpose of this section, the premium billing statement is the statement transmitted by the insurer to the policyholder that informs the policyholder of the premium due.

(4) If an insurer does not issue a premium billing statement, the insurer must state the amount or rate of the recoupment assessment on the declaration page, on a balance due notice or on a rate quote.

(5) An insurer shall include the following notice on or with the statement of recoupment assessment at the first time each year in which a

recoupment assessment is made: Most insurers doing business in Oregon participate in the Oregon Insurance Guaranty Association. In the event an insurer fails, the Association settles unpaid claims on behalf of consumers. Oregon law requires that policies be surcharged directly to recover the costs of handling those claims. If your policy is surcharged, the term (Note: each insurer must insert here the descriptive term it uses to designate the surcharge) along with an indicated dollar amount will be displayed with the statement of your surcharge.

(6) An insurer shall begin recoupment of an OIGA assessment on a date that is on or after January 1 of the year following the year in which the OIGA assessment was imposed but not later than April 1 of that year and shall continue the recoupment assessment for the 12-month period following that date. On and after the date on which an insurer's recoupment period begins, the insurer must state the amount or rate of the recoupment billed to the policyholder. An insurer shall make a good faith effort to fully collect the OIGA assessment during that period and may adjust the amount or rate of a recoupment assessment in the course of the period as needed to make the recoupment more accurate or to add any additional recoupment assessment required by subsequent OIGA assessments against the insurer. Any such adjustment shall apply to all policies from which a recoupment assessment is collected on and after the date of the adjustment.

(7) The minimum threshold below which a recoupment assessment need not be made is the amount at which the cost of recouping the OIGA assessment exceeds the amount to be recouped. When an insurer decides not to recoup an amount under this section, the insurer shall record the amount not recouped as an expense on the income statement of the insurer. An insurer may not later recoup any amount so recorded.

(8) Not later than June 1 of each year in which a 12-month recoupment assessment period established by an insurer under section (6) of this section is completed, the insurer shall submit to the Director, on a form prescribed by the Director, the annual certification required by ORS 734.579, indicating the total recoupment assessed and recovered during that recoupment period.

(9) If the amount of recoupment assessments collected by an insurer within the 12-month period beginning on the date on which the insurer began the recoupment exceeds the total amount of the OIGA assessment against the insurer, the insurer shall do one of the following:

(a) Pay back the excess.

(b) Subject to section (10) of this rule, carry over the amount of the excess to a date that is not later than June 1 of the year following the year in which the insurer submits the annual certification under section (8) of this rule for the recoupment period to which the excess applies.

(10) Not later than June 1 of the year to which an insurer has carried over an amount of excess under section (9)(b) of this rule, the insurer must dispose of the excess carried over according to one of the following methods:

(a) By applying the excess to reduce any new recoupment assessment arising during the carry-over period.

(b) By returning the excess to its current policyholders.

(c) Except as provided in this subsection, by transferring the excess to the Oregon Insurance Guaranty Association, which shall hold all amounts so received for the purpose of paying covered claims arising under subsequent insurer insolvencies. If the amount of the excess divided by the number of policies from which recoupment assessments were collected is $10 or more, the insurer instead shall dispose of the excess according to the method in subsection (a) or (b) of this section.

(11) If the amount of recoupment assessments collected by an insurer within the 12-month period beginning on the date on which the insurer began the recoupment is less than the total amount of the assessment against the insurer, the insurer shall carry over the amount of the insufficiency to the next 12-month period in which the insurer imposes a new recoupment assessment. The amount carried over shall be applied to increase the new recoupment assessment. If the insurer determines, however, that the cost of recouping the remaining amount exceeds the amount of the insufficiency, the insurer need not carry over the insufficiency. The insurer instead shall record the amount not recouped as an expense on the income statement of the insurer. An insurer may not later recoup any amount so recorded.

(12) An insurer may take all or any part of a recoupment charge owing from a policyholder from the first payment of premium by the policyholder.

Stat. Auth.: ORS 731.244 & 734.579
Stats. Implemented: 734.579
Hist.: ID 5-2003(Temp), f. & cert. ef. 11-26-03 thru 5-15-04; ID 4-2004, f. 5-14-04, cert. ef. 5-15-04; ID 12-2006, f. & cert. ef. 6-26-06

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

Adm. Order No.: ID 13-2006
Filed with Sec. of State: 7-14-2006
Certified to be Effective: 1-1-07
Notice Publication Date: 6-1-06
Rules Adopted: 836-053-1404, 836-053-1405
Rules Amended: 836-053-1325, 836-053-1330
Rules Repealed: 836-052-0220, 836-052-0225, 836-052-0230, 836-052-0235, 836-052-0240, 836-052-0245
Subject: This rulemaking implements the statute (ORS 743.556) that requires group health insurance policies to cover expenses arising from treatment for chemical dependency and mental or nervous conditions. That statute was amended in 2005 to require that the coverage be provided "at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions."
Rules Coordinator: Sue Munson—(503) 947-7272

836-053-1325
Procedures for Conducting Independent Reviews

(1) An independent review organization is subject to the following decision-making standards and procedures:

(a) The independent review process is intended to be neutral and independent of influence by any affected party or by state government. The Director may conduct investigations as authorized by law but has no involvement in the disposition of specific cases.

(b) Independent review is a document review process. An enrollee, a health plan or an attending provider may not participate in or attend an independent review in person or obtain reconsideration of a determination by an independent review organization.

(c) An independent review organization shall present cases to medical reviewers in a way that maximizes the likelihood of a clear, unambiguous determination. This may involve stating or restating the questions for review in a clear and precise manner that encourages yes or no answers.

(d) An independent review organization may uphold an adverse determination if the patient or any provider refuses to provide relevant medical records that are available and have been requested with reasonable opportunity to respond. An independent review organization may overturn an adverse determination if the insurer refuses to provide relevant medical records that are available and have been requested with reasonable opportunity to respond.

(e) An independent review organization must maintain written policies and procedures covering all aspects of review.

(2) Once the Director refers a dispute, the independent review organization must proceed to final determination unless requested otherwise by both the insurer and the enrollee.

(3) An independent review organization is subject to the following standards with respect to information to be considered for reviews:

(a) An independent review organization must request as necessary and must accept and consider the following information as relevant to a case referred:

(A) Medical records and other materials that the insurer is required to submit to the independent review organization under ORS 743.857(3), including information identified in that section that is initially missing or incomplete as submitted by the insurer.

(B) For cases in which the insurer's decision addressed whether a course or plan of treatment was medically necessary:

(i) A copy of the definition of medical necessity from the relevant health insurance policy;

(ii) An explanation of how the insurer's decision conformed to the definition of medical necessity; and

(iii) An explanation of how the insurer's decision conformed to the requirement that the definition of medical necessity be uniformly applied. definition of medical necessity be uniformly applied.

(C) For cases in which the insurer's decision addressed whether a course or plan of treatment was experimental or investigational:

(i) A copy of the definition of experimental or investigational from the relevant health insurance policy;

(ii) An explanation of how the insurer's decision conformed to that definition of experimental or investigational; and

(iii) An explanation of how the insurer's decision conformed to the requirement that the definition of experimental or investigational be uniformly applied.

(D) Other medical, scientific and cost-effectiveness evidence, as described in subsection (4) of this section, that is relevant to the case.

(b) After referral of a case, an independent review organization must accept additional information from the enrollee, the insurer or a provider acting on behalf of the enrollee or at the enrollee's request, but only if the

information is submitted within seven days of the referral or, in the case of an expedited referral, within 24 hours. The additional information must be related to the case and relevant to statutory criteria.

(c) An independent review organization must ensure the confidentiality of medical records and other personal health information received for use in reviews, in accordance with applicable federal and state laws.

(4) If a course or plan of treatment is determined to be subject to independent review, a determination of whether the adverse decision of an insurer should be upheld or not must be based upon expert clinical judgment, after consideration of relevant medical, scientific and cost-effectiveness evidence and medical standards of practice in the United States. As used in this section:

(a) "Medical, scientific, and cost-effectiveness evidence" means published evidence on results of clinical practice of any health profession that complies with one or more of the following requirements:

(A) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

(B) Peer-reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institute of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base Health Services Technology Assessment Research (HSTAR);

(C) Medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act;

(D) The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information;

(E) Findings, studies or research conducted by or under the auspices of a federal government agency or a nationally recognized federal research institute, including the Federal Agency for Healthcare Research and Quality, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Center for Medicaid and Medicare Services, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services;

(F) Clinical practice guidelines that meet Institute of Medicine criteria; or

(G) In conjunction with other evidence, peer-reviewed abstracts accepted for presentation at major scientific or clinical meetings.

(b) Medical standards of practice include the standards appropriately applied to physicians or other providers or health care professionals, as pertinent to the case.

(5) The following standards govern the assignment by an independent review organization of appropriate medical reviewers to a case:

(a) A medical reviewer assigned to a case must comply with the conflict of interest provisions in OAR 836-053-1320.

(b) An independent review organization shall assign one or more medical reviewers to each case as necessary to meet the requirements of this subsection. The medical reviewer assigned to a case, or the medical reviewers assigned to a case together, must meet each of the following requirements:

(A) Have expertise to address each of the issues that are the source of the dispute.

(B) Be a clinical peer. For purposes of this paragraph, a clinical peer is a physician or other medical reviewer who is in the same or similar specialty that typically manages the medical condition, procedures or treatment under review. Generally, as a peer in a similar specialty, the individual must be in the same profession, i.e., the same licensure category, as the attending provider. In a profession that has organized, board-certified specialties, a clinical peer generally will be in the same formal specialty.

(C) Have the ability to evaluate alternatives to the proposed treatment.

(c) Each independent review organization must have a policy specifying the methodology for determining the number and qualifications of medical reviewers to be assigned to each case. The number of reviewers shall be governed by what it takes to meet the following requirements:

(A) The number of reviewers must reflect the complexity of the case and the goal of avoiding unnecessary cost.

(B) The independent review organization may consider, but shall not be bound by, recommendations regarding complexity from the insurer or attending provider.

(C) The independent review organization shall consider situations such as review of experimental and investigational treatments that may benefit from an expanded panel.

(6) An independent review organization shall notify the enrollee and the insurer of its determination of the enrollee's case and provide documentation and reasons for the determination, including the clinical basis for the determination unless the decision is wholly based on application of coverage provisions. In addition:

(a) Documentation of the basis for the determination shall include references to supporting evidence, and if applicable, the reasons for any interpretation regarding the application of health benefit plan coverage provisions, but shall avoid recommending a course of treatment or otherwise engaging in the practice of medicine.

(b) If the determination overrides the health benefit plan's standards governing the coverage issues that are subject to independent review, the reasons shall document why the health benefit plan's standards are unreasonable or inconsistent with sound, evidence-based medical practice.

(c) The written report shall include the qualifications of each medical reviewer but shall not disclose the identity of the reviewer.

(d) Notification of the determination shall be provided initially by phone, e-mail or fax, followed by a written report by mail. In the case of expedited reviews, the initial notification shall be immediate and by phone, followed by a written report.

(7) Except as provided in this section, an independent review organization shall not disclose the identity of a medical reviewer unless otherwise required by state or federal law. The Director shall not require reviewers' identities as part of the contracting process but may examine identified information about reviewers as part of enforcement activities. The identity of the medical director of an independent review organization shall be disclosed upon request of any person.

(8) An independent review organization shall promptly report any attempt at interference by any party, including a state agency, to the Director.

(9) An independent review organization must maintain business hours, methods of contact (including telephone contact), procedures for after-hours requests and other relevant procedures to ensure timely availability to conduct expedited as well as regular reviews.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 731.244 & 743.858
Stats. Implemented: ORS 743.858
Hist.: ID 10-2002(Temp), f. & cert. ef. 4-5-02 thru 9-27-02; ID 19-2002, f. 9-27-02, cert. ef. 9-28-02; ID 13-2006, f. 7-14-06 cert. ef. 1-1-07

836-053-1330
Criteria and Considerations for Independent Review Determinations

(1) The following criteria and considerations apply to determinations by an independent review organization:

(a) An independent review organization must use fair procedures in making a determination, and the determination must be consistent with the standards in ORS 743.862 and OAR 836-053-1300 to 836-053-1365.

(b) An independent review organization may override the standards of a health benefit plan governing the coverage issues that are subject to independent review pursuant to ORS 743.857(1) only if the standards are determined upon review to be unreasonable or inconsistent with sound, evidence-based medical practice.

(2) A determination by an IRO of a dispute relating to an adverse decision by an insurer is subject to enforcement under ORS 743.857 to 743.864 if:

(a) The dispute relates to an adverse decision on one or more of the following:

(A) Whether a course or plan of treatment is medically necessary;

(B) Whether a course or plan of treatment is experimental or investigational; or

(C) Whether a course or plan of treatment that an enrollee is undergoing is an active course of treatment for purposes of continuity of care under ORS 743.854; and

(b) The decision by the independent review organization is made in accordance with the coverage described in the health benefit plan, including limitations and exclusions expressed in the plan, except that the independent review organization may override the insurer's standards for medically necessary or experimental or investigational treatment, if the independent review organization determines that:

(A) The standards of the insurer are unreasonable or are inconsistent with sound medical practice; or

(B) For cases in which the insurer's decision addressed whether a course or plan of treatment was medically necessary:

(i) The insurer's decision did not conformed to the insurer's definition medically necessary in the relevant health insurance policy, or

(ii) The insurer's decision did not conform to the requirement that the definition of medical necessity be uniformly applied; or

(C) For cases in which the insurer's decision addressed whether a course or plan of treatment was experimental or investigational:

(i) The insurer's decision did not conformed to the insurer's definition of experimental or investigational in the relevant health insurance policy, or

(ii) The insurer's decision did not conform to the requirement that the definition of experimental or investigational be uniformly applied.

(3) No provision of OAR 836-053-013 to 836-053-1365 establishes a standard of medical care or creates or eliminates any cause of action.

Stat. Auth.: ORS 731.244 & 743.858
Stats. Implemented: ORS 743.858
Hist.: ID 10-2002(Temp), f. & cert. ef. 4-5-02 thru 9-27-02; ID 19-2002, f. 9-27-02, cert. ef. 9-28-02; ID 13-2006, f. 7-14-06 cert. ef. 1-1-07

836-053-1404
Definitions; noncontracting providers; co-morbidity disorders

(1) As used in ORS 743.556, this rule and OAR 836-053-1405:

(a) "Mental or nervous conditions" means:

(A) All disorders listed in the "Diagnostic and Statistical Manual of Mental Disorders, DSM-IV-TR, Fourth Edition" except for:

(i) Diagnostic codes 317, 318.0, 318.1, 318.2, 319; Mental Retardation;

(ii) Diagnostic codes 315.00, 315.1, 315.2, 315.9; Learning Disorders;

(iii) Diagnostic codes 302.4, 302.81, 302.89, 302.2, 302.83, 302.84, 302.82, 302.9; Paraphilias;

(iv) Diagnostic codes 302.85, 302.6, 302.9; Gender Identity Disorders in Adults. This exception does not extend to children and adolescents 18 years of age or younger; and

(v) Diagnostic codes V15.81 through V71.09; "V" codes. This exception does not extend to children 5 years of age or younger for diagnostic codes V61.20; Parent-Child Relational Problem through V61.21; Neglect, Physical Abuse, or Sexual Abuse of Child, and V62.82; Bereavement.

(b) "Chemical dependency" means an addictive relationship with any drug or alcohol characterized by a physical or psychological relationship, or both, that interferes on a recurring basis with an individual's social, psychological or physical adjustment to common problems.

(c) "Chemical dependency" does not mean an addiction to, or dependency on:

(A) Tobacco;

(B) Tobacco products; or

(C) Foods.

(2) A non-contracting provider must cooperate with a group health insurer's requirements for review of treatment in ORS 743.556 (10) and (11) to the same extent as a contracting provider in order to be eligible for reimbursement.

(3) The exception of a disorder in the definition of "mental or nervous conditions" or "chemical dependency" in section (1) of this rule does not include or extend to a co-morbidity disorder accompanying the excepted disorder.

Stat. Auth.: ORS 731.244 & 743.556
Stats. Implemented: ORS 743.556
Hist.: ID 13-2006, f. 7-14-06 cert. ef. 1-1-07

836-053-1405
General Requirements for Coverage of Mental or Nervous Conditions and Chemical Dependency

(1) A group health insurance policy issued or renewed in this state shall provide coverage or reimbursement for medically necessary treatment of mental or nervous conditions and chemical dependency, including alcoholism, at the same level as, and subject to limitations no more restrictive than those imposed on coverage or reimbursement for medically necessary treatment for other medical conditions.

(2) For the purposes of ORS 743.556, the following standards apply in determining whether coverage for expenses arising from treatment for chemical dependency, including alcoholism, and for mental or nervous conditions is provided at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions:

(a) The co-payment, coinsurance, reimbursement, or other cost sharing, including, but not limited to, deductibles for mental or nervous conditions and chemical dependency, including alcoholism, may be no more than the co-payment or coinsurance, or other cost sharing, including, but not limited to, deductibles for medical and surgical services otherwise provided under the health insurance policy.

(b) The co-payment, coinsurance, reimbursement, or other cost sharing, including, but not limited to, deductibles for wellness and preventive services for mental or nervous conditions and chemical dependency, including alcoholism, may be no more than the co-payment or coinsurance, or other cost sharing, including, but not limited to, deductibles for wellness and preventive services otherwise provided under the health insurance policy.

(c) Annual or lifetime limits for treatment of mental or nervous conditions and chemical dependency, including alcoholism, may be no less than the annual or lifetime limits for medical and surgical services otherwise provided under the health insurance policy.

(d) The co-payment, coinsurance, reimbursement, or other cost sharing, including, but not limited to, deductibles expenses for prescription drugs intended to treat mental or nervous conditions and chemical dependency, including alcoholism, may be no more than the co-payment or coinsurance, or other cost sharing expenses for prescription drugs prescribed for other medical services provided under the health insurance policy.

(e) Classification of prescription drugs into open, closed, or tiered drug benefit formularies, for drugs intended to treat mental or nervous conditions and chemical dependency, including alcoholism, must be by the same process as drug selection for formulary status applied for drugs intended to treat other medical conditions, regardless of whether such drugs are intended to treat mental or nervous conditions, chemical dependency, including alcoholism, or other medical conditions.

(3) A group health insurance policy issued or renewed in this state must contain a single definition of medical necessity that applies uniformly to all medical, mental or nervous conditions, and chemical dependency, including alcoholism..

(4) A group health insurer that issues or renews a group health insurance policy in this state shall have policies and procedures in place to ensure uniform application of the policy's definition of medical necessity to all medical, mental or nervous conditions, and chemical dependency, including alcoholism.

(5) Coverage for expenses arising from treatment for mental or nervous conditions and chemical dependency, including alcoholism, may be managed through common methods designed to limit eligible expenses to treatment that is medically necessary only if similar limitations or requirements are imposed on coverage for expenses arising from other medical condition. Common methods include, but are not limited to, selectively contracted panels, health policy benefit differential designs, preadmission screening, prior authorization of services, case management, utilization review, or other mechanisms designed to limit eligible expenses to treatment that is medically necessary.

(6) Coverage of mental or nervous conditions and chemical dependency, including alcoholism, may be limited for in-home services.

(7) Nothing in this rule prevents a group health insurance policy from providing coverage for conditions or disorder excepted under the definition of "mental or nervous condition" in OAR 836-053-1400.

(8) The Director shall review OAR 836-053-1400 and this rule and any other materials within two years of the rules' effective date to determine whether the requirements set forth in the rules are uniformly applied to all medical, mental or nervous conditions, and chemical dependency, including alcoholism.

Stat. Auth.: ORS 731.244 & 743.556
Stats. Implemented: ORS 743.556
Hist.: ID 13-2006, f. 7-14-06 cert. ef. 1-1-07

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Department of Environmental Quality
Chapter 340

Rule Caption: Adoption of California's vehicle emission standards as permanent rules for Oregon Low Emission Vehicle program and makes changes to related rules.
Adm. Order No.: DEQ 6-2006
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 6-29-06
Notice Publication Date: 2-1-06
Rules Adopted: 340-256-0220, 340-257-0010, 340-257-0020, 340-257-0030, 340-257-0040, 340-257-0050, 340-257-0060, 340-257-0070, 340-257-0080, 340-257-0090, 340-257-0100, 340-257-0110, 340-257-0120, 340-257-0130, 340-257-0140, 340-257-0150, 340-257-0160,
Rules Amended: 340-012-0054, 340-012-0135, 340-012-0140
Rules Repealed: 340-257-0010(T), 340-257-0020(T), 340-257-0030(T), 340-257-0040(T), 340-257-0050(T), 340-257-0060(T), 340-257-0070(T), 340-257-0080(T), 340-257-0090(T), 340-257-0100(T), 340-257-0110(T), 340-257-0120(T), 340-257-0130(T), 340-257-0150(T), 340-257-0160(T)
Subject: This rulemaking replaces temporary rules for the Oregon Low Emission Vehicle (LEV) program with permanent rules. These rules adopt the California's vehicle emission standards as provided by the Clean Air Act. The program applies to new vehicles sold in Oregon beginning with the 2009 model year. This rulemaking expands the definition of indirect sources to include vehicle manufacturers and makes those manufacturers subject to indirect source

permits and permit fees. This rulemaking also amends DEQ's enforcement regulations and requires certain vehicles to meet Oregon LEV standards as a condition of passing DEQ's Vehicle Inspection Program (emissions test).
Rules Coordinator: Larry McAllister—(503) 229-6412

340-012-0054
Air Quality Classification of Violations

(1) **Class I**:

(a) Constructing a new source or modifying an existing source without first obtaining a required New Source Review/Prevention of Significant Deterioration (NSR/PSD) permit;

(b) Operating a major source, as defined in OAR 340-200-0020, without first obtaining the required permit;

(c) Exceeding a Plant Site Emission Limit (PSEL);

(d) Failing to install control equipment or meet performance standards as required by New Source Performance Standards under OAR 340 division 238 or National Emission Standards for Hazardous Air Pollutant Standards under OAR 340 division 244;

(e) Exceeding a hazardous air pollutant emission limitation;

(f) Failing to comply with an Emergency Action Plan;

(g) Exceeding an opacity or emission limit (including a grain loading standard) or violating an operational or process standard, that was established pursuant to New Source Review/Prevention of Significant Deterioration (NSR/PSD), or the Western Backstop SO2 Trading Program;

(h) Exceeding an emission limit or violating an operational or process standard that was established to limit emissions to avoid classification as a major source, as defined in OAR 340-200-0020;

(i) Exceeding an emission limit, including a grain loading standard, by a major source, as defined in OAR 340-200-0020, when the violation was detected during a reference method stack test;

(j) Failing to perform testing or monitoring, required by a permit, rule or order, that results in failure to show compliance with a Plant Site Emission Limit (PSEL) or with an emission limitation or a performance standard set pursuant to New Source Review/Prevention of Significant Deterioration (NSR/PSD), National Emission Standards for Hazardous Air Pollutants (NESHAP), New Source Performance Standards (NSPS), Reasonable Achievable Control Technology (RACT), Best Achievable Control Technology (BACT), Maximum Achievable Control Technology (MACT), Typically Achievable Control Technology (TACT), Lowest Achievable Emissions Rates (LAER) or adopted pursuant to section 111(d) of the Federal Clean Air Act;

(k) Causing emissions that are a hazard to public safety;

(l) Violating a work practice requirement for asbestos abatement projects;

(m) Storing or accumulating friable asbestos material or asbestos-containing waste material;

(n) Conducting an asbestos abatement project, by a person not licensed as an asbestos abatement contractor;

(o) Violating an OAR 340 division 248 disposal requirement for asbestos-containing waste material;

(p) Failing to hire a licensed contractor to conduct an asbestos abatement project;

(q) Openly burning materials which are prohibited from being open burned anywhere in the state by OAR 340-264-0060(3); or

(r) Failing to install certified vapor recovery equipment.

(s) Delivering for sale a noncompliant vehicle by an automobile manufacturer in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257.

(t) Exceeding an Oregon Low Emission Vehicle average emission limit set forth in OAR 340 division 257.

(u) Failing to comply with Zero Emission Vehicle (ZEV) sales requirements set forth in OAR 340 division 257.

(v) Failing to obtain a Motor Vehicle Indirect Source Permit as required in OAR 340 division 257.

(w) Selling, leasing, or renting a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257.

(2) **Class II**:

(a) Constructing or operating a source required to have an Air Contaminant Discharge Permit (ACDP) without first obtaining such permit, unless otherwise classified;

(b) Violating the terms or conditions of a permit or license, unless otherwise classified;

(c) Modifying a source in such a way as to require a permit modification from the department without first obtaining such approval from the department, unless otherwise classified;

(d) Exceeding an opacity limit, unless otherwise classified;

(e) Exceeding a Volatile Organic Compound (VOC) emission standard, operational requirement, control requirement or VOC content limitation established by OAR 340 division 232;

(f) Failing to timely submit an ACDP annual report;

(g) Failing to timely submit a certification, report, or plan as required by rule or permit, unless otherwise classified;

(h) Failing to timely submit a permit application or permit renewal application;

(i) Failing to comply with the open burning requirements for commercial, construction, demolition, or industrial wastes in violation of OAR 340-264-0080 through 0180;

(j) Failing to comply with open burning requirements in violation of any provision of OAR 340 division 264, unless otherwise classified;

(k) Failing to replace, repair, or modify any worn or ineffective component or design element to ensure the vapor tight integrity and efficiency of a stage I or stage II vapor collection system;

(l) Failing to provide notification of an asbestos abatement project;

(m) Failing to perform a final air clearance test or submit an asbestos abatement project air clearance report for an asbestos abatement project; or

(n) Violating on road motor vehicle refinishing rules contained in OAR 340-242-0620.

(o) Failing to comply with an Oregon Low Emission Vehicle reporting, notification, or warranty requirement set forth in OAR division 257.

(3) **Class III**:

(a) Failing to perform testing or monitoring required by a permit, rule or order where missing data can be reconstructed to show compliance with standards, emission limitations or underlying requirements;

(b) Constructing or operating a source required to have a Basic Air Contaminant Discharge Permit without first obtaining the permit;

(c) Modifying a source in such a way as to require construction approval from the department without first obtaining such approval from the department, unless otherwise classified;

(d) Failing to provide proper notification of an asbestos abatement project or failing to revise a notification when necessary, unless otherwise classified;

(e) Submitting a late air clearance report that demonstrates compliance with the standards for an asbestos abatement project; or

(f) Failing to display a temporary label on a certified woodstove.

(g) Licensing a noncompliant vehicle by an automobile dealer or rental car agency in violation of Oregon Low Emission Vehicle rules set forth in OAR 340 division 257.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468A.025 & 468A.045
Stats. Implemented: ORS 468.020 & 468A.025
Hist.: DEQ 78, f. 9-6-74, ef. 9-25-74; DEQ 5-1980, f. & ef. 1-28-80; DEQ 22-1984, f. & ef. 11-8-84; DEQ 22-1988, f. & cert. ef. 9-14-88; DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 31-1990, f. & cert. ef. 8-15-90; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; Renumbered from 340-012-0050, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-012-0135
Selected Magnitude Categories

(1) Magnitudes for selected Air Quality violations will be determined as follows if sufficient information is reasonably available to the department to make a determination:

(a) Opacity limitation violations:

(A) Major — Opacity measurements or readings of 20 percent opacity or more over the applicable limitation, or an opacity violation by a federal major source as defined in OAR 340-200-0020;

(B) Moderate — Opacity measurements or readings greater than 10 percent and less than 20 percent over the applicable limitation; or

(C) Minor — Opacity measurements or readings of 10 percent or less over the applicable limitation.

(b) Operation of a major source, as defined in OAR 340-200-0020, without first obtaining the required permit: Major — The Best Achievable Control Technology (BACT) analysis shows need for additional controls and/or if offsets are required.

(c) Air contaminant emission limitation violations for selected air pollutants: Magnitude determinations under this subsection shall be made based upon significant emission rate amounts listed in OAR 340-200-0020 (Tables 2 and 3).

(A) Major:

(i) Exceeding the annual limit as established by permit, rule or order by more than the above amount;

(ii) Exceeding the monthly limit as established by permit, rule or order by more than ten percent of the above amount;

(iii) Exceeding the daily limit as established by permit, rule or order by more than 0.5 percent of the above amount; or

(iv) Exceeding the hourly limit as established by permit, rule or order by more than 0.1 percent of the above amount.

(B) Moderate:

(i) Exceeding the annual limit as established by permit, rule or order by an amount from 50 up to and including 100 percent of the above amount;

(ii) Exceeding the monthly limit as established by permit, rule or order by an amount from five up to and including ten percent of the above amount;

(iii) Exceeding the daily limit as established by permit, rule or order by an amount from 0.25 up to and including 0.50 percent of the above amount; or

(iv) Exceeding the hourly limit as established by permit, rule or order by an amount from 0.05 up to and including 0.10 percent of the above amount.

(C) Minor:

(i) Exceeding the annual limit as established by permit, rule or order by an amount less than 50 percent of the above amount;

(ii) Exceeding the monthly limit as established by permit, rule or order by an amount less than five percent of the above amount;

(iii) Exceeding the daily limit as established by permit, rule or order by an amount less than 0.25 percent of the above amount; or

(iv) Exceeding the hourly limit as established by permit, rule or order by an amount less than 0.05 percent of the above amount.

(d) Violations of Emergency Action Plans: Major — Major magnitude in all cases.

(e) Violations of on road motor vehicle refinishing rules contained in OAR 340-242-0620: Minor — Refinishing 10 or fewer on road motor vehicles per year.

(f) Asbestos violations:

(A) Major — More than 260 lineal feet or more than 160 square feet of asbestos-containing material;

(B) Moderate — From 40 lineal feet up to and including 260 lineal feet or from 80 square feet up to and including 160 square feet of asbestos-containing material; or

(C) Minor — Less than 40 lineal feet or 80 square feet of asbestos-containing material.

(D) The magnitude of the asbestos violation may be increased by one level if the material was comprised of more than five percent asbestos.

(g) Open burning violations:

(A) Major — Initiating or allowing the initiation of open burning of 20 or more cubic yards of commercial, construction, demolition and/or industrial waste; or 5 or more cubic yards of prohibited materials (inclusive of tires); or 10 or more tires;

(B) Moderate — Initiating or allowing the initiation of open burning of 5 or more, but less than 20 cubic yards of commercial, construction, demolition and/or industrial waste; or 2 or more, but less than 5 cubic yards of prohibited materials (inclusive of tires); or 3 to 9 tires; or if the department lacks sufficient information upon which to make a determination of the type of waste, number of cubic yards or number of tires burned; or

(C) Minor — Initiating or allowing the initiation of open burning of less than 5 cubic yards of commercial, construction, demolition and/or industrial waste; or less than 2 cubic yards of prohibited materials (inclusive of tires); or 2 or less tires.

(D) The selected magnitude may be increased one level if the department finds that one or more of the following are true, or decreased one level if the department finds that none of the following are true:

(i) The burning took place in an open burning control area;

(ii) The burning took place in an area where open burning is prohibited;

(iii) The burning took place in a non-attainment or maintenance area for PM10 or PM2.5; or

(iv) The burning took place on a day when all open burning was prohibited due to meteorological conditions.

(h) Oregon Low Emission Vehicle Non-Methane Gas (NMOG) or Green House Gas (GHG) fleet average emission limit violations:

(A) Major — Exceeding the limit by more than 10 percent; or

(B) Moderate — Exceeding the limit by 10 percent or less.

(2) Magnitudes for selected violations pertaining to Water Quality will be determined as follows if sufficient information is reasonably available to the department to make a determination:

(a) Violating wastewater discharge permit effluent limitations:

(A) Major:

(i) The dilution (D) of the spill or technology based effluent limitation exceedance was less than two, when calculated as follows: D = ((QR /4) + QI)/ QI, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the incident;

(ii) The receiving stream flow at the time of the water quality based effluent limitation (WQBEL) exceedance was at or below the flow used to calculate the WQBEL; or

(iii) The resulting water quality from the spill or discharge was as follows:

(I) For discharges of toxic pollutants: CS/D was more than CAcute, where CS is the concentration of the discharge, D is the dilution of the discharge as determined under (2)(a)(A)(i), and CAcute is the concentration for acute toxicity (as defined by the applicable water quality standard);

(II) For spills or discharges affecting temperature, when the discharge temperature is at or above 32 degrees centigrade after two seconds from the outfall; or

(III) For BOD5 discharges: (BOD5)/D is more than 10, where BOD5 is the concentration of the five day Biochemcial Oxygen Demand of the discharge and D is the dilution of the discharge as determined under (2)(a)(A)(i).

(B) Moderate:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was two or more but less than 10 when calculated as follows: D = ((QR /4)+ QI)/ QI, where QR is the estimated receiving stream flow and QI is the estimated quantity or discharge rate of the discharge; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was greater than, but less than twice, the flow used to calculate the WQBEL.

(C) Minor:

(i) The dilution (D) of the spill or the technology based effluent limitation exceedance was 10 or more when calculated as follows: D = ((QR/4) + QI)/ QI, where QR is the receiving stream flow and QI is the quantity or discharge rate of the incident; or

(ii) The receiving stream flow at the time of the WQBEL exceedance was twice the flow or more of the flow used to calculate the WQBEL.

(b) Violating numeric water-quality standards:

(A) Major:

(i) Increased the concentration of any pollutant except for toxics, dissolved oxygen, pH, and turbidity, by 25 percent or more of the standard;

(ii) Decreased the dissolved oxygen concentration by two or more milligrams per liter below the standard;

(iii) Increased the toxic pollutant concentration by any amount over the acute standard or by 100 percent or more of the chronic standard;

(iv) Increased or decreased pH by one or more pH units from the standard; or

(v) Increased turbidity by 50 or more nephelometric turbidity units (NTU) over background.

(B) Moderate:

(i) Increased the concentration of any pollutant except for toxics, pH, and turbidity by more than 10 percent but less than 25 percent of the standard;

(ii) Decreased dissolved oxygen concentration by one or more, but less than two, milligrams per liter below the standard;

(iii) Increased the concentration of toxics pollutants by more than 10 percent but less than 100 percent of the chronic standard;

(iv) Increased or decreased pH by more than 0.5 pH unit but less than 1.0 pH unit from the standard; or

(v) Increased turbidity by more than 20 but less than 50 NTU over background.

(C) Minor:

(i) Increased the concentration of any pollutant, except for toxics, pH, and turbidity, by 10 percent or less of the standard;

(ii) Decreased the dissolved oxygen concentration by less than one milligram per liter below the standard;

(iii) Increased the concentration of toxic pollutants by 10 percent or less of the chronic standard;

(iv) Increased or decreased pH by 0.5 pH unit or less from the standard; or

(v) Increased turbidity by 20 NTU or less over background.

(c) The selected magnitude under (2)(a) or (b) may be increased one level if the violation:

(i) Occurred in a water body that is water-quality limited (listed on the most current 303(d) list) and the discharge is the same pollutant for which the water body is listed;

(ii) Depressed oxygen levels or increased turbidity and/or sedimentation in a stream in which salmonids may be rearing or spawning as indicated by the beneficial use maps available at OAR 340-041-0101 through 0340;

(iii) Violated a bacteria standard either in shell-fish growing waters or during the period from June 1 through September 30; or

(iv) Resulted in a documented fish or wildlife kill.

(3) Magnitudes for selected violations pertaining to Solid Waste will be determined as follows if sufficient information is reasonably available to the department to make a determination:

(a) Operating a solid waste disposal facility without a permit:

(A) Major — The volume of material disposed of exceeds 400 cubic yards;

(B) Moderate — The volume of material disposed of is greater than or equal to 40 cubic yards and less than or equal to 400 cubic yards; or

(C) Minor — The volume of materials disposed of is less than 40 cubic yards.

(D) The magnitude of the violation may be raised by one magnitude if the material disposed of was either in the floodplain of waters of the state or within 100 feet of waters of the state.

(b) Failing to accurately report the amount of solid waste disposed:

(A) Major — The amount of solid waste is underreported by 15 percent or more of the amount received;

(B) Moderate — The amount of solid waste is underreported by 5 percent or more, but less than 15 percent, of the amount received; or

(C) Minor — The amount of solid waste is underreported by less than 5 percent of the amount received.

(4) Magnitudes for selected violations pertaining to Hazardous Waste will be determined as follows if sufficient information is reasonably available to the department to make a determination:

(a) Failure to make a hazardous waste determination:

(A) Major — Failure to make the determination on five or more waste streams;

(B) Moderate — Failure to make the determination on three or four waste streams; or

(C) Minor — Failure to make the determination on one or two waste streams.

(b) Hazardous Waste treatment and disposal violations OAR 340-012-0068(1)(b), (c), (h), (k), (l), (m), (p), (q) and (r):

(A) Major:

(i) Treatment or disposal of more than 55 gallons or 330 pounds of hazardous waste; or

(ii) Treatment or disposal of more than three gallons or 18 pounds of acutely hazardous waste.

(B) Moderate:

(i) Treatment or disposal of 55 gallons or 330 pounds or less of hazardous waste; or

(ii) Treatment or disposal of three gallons or 18 pounds or less of acutely hazardous waste.

(c) Hazardous waste management violations OAR 340-012-0068(1)(d), (e) (f), (g), (i), (j), (n), and (2)(a), (b), (d), (e), (h), (i), (k), (m), (n), (o), (p), (r) and (s):

(A) Major:

(i) Hazardous waste management violations involving more than 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving more than 20 gallons or 120 pounds of acutely hazardous waste.

(B) Moderate:

(i) Hazardous waste management violations involving more than 250 gallons or 1,500 pounds, up to and including 1,000 gallons or 6,000 pounds of hazardous waste; or

(ii) Hazardous waste management violations involving more than 5 gallons or 30 pounds, up to and including 20 gallons or 60 pounds of acutely hazardous waste.

(C) Minor:

(i) Hazardous waste management violations involving 250 gallons or 1,500 pounds or less of hazardous waste; or

(ii) Hazardous waste management violations involving 5 gallons or 30 pounds or less of acutely hazardous waste.

(5) Magnitudes for selected Used Oil violations (OAR 340-012-0072) will be determined as follows if sufficient information is reasonably available to the department to make a determination:

(a) Used Oil violations OAR 340-012-0072(1)(f), (h), (i), (j); and (2)(a) through (j):

(A) Major — Used oil management violations involving more than 1,000 gallons or 7,000 pounds of used oil or used oil mixtures;

(B) Moderate — Used oil management violations involving more than 250 gallons or 1,750 pounds, up to and including 1,000 gallons or 7,000 pounds of used oil or used oil mixture; or

(C) Minor — Used oil management violations involving 250 gallons or 1,750 pounds or less of used oil or used oil mixtures.

(b) Used Oil spill or disposal violations OAR 340-012-0072(1)(a) through (e), (g) and (k):

(A) Major — A spill or disposal involving more than 420 gallons or 2,940 pounds of used oil or used oil mixtures;

(B) Moderate — A spill or disposal involving more than 42 gallons or 294 pounds, up to and including 420 gallons or 2,940 pounds of used oil or used oil mixtures; or

(C) Minor — A spill or disposal of used oil involving 42 gallons or 294 pounds or less of used oil or used oil mixtures.

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

Stat. Auth.: ORS 468.065 & 468A.045

Stats. Implemented: ORS 468.090 - 468.140 & 468A.060

Hist.: DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 1-2003, f. & cert. ef. 1-31-03; Renumbered from 340-012-0090, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-012-0140

Determination of Base Penalty

(1) Except for Class III violations and for penalties assessed under OAR 340-012-0155, the base penalty (BP) is determined by applying the type, class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) $8,000 Penalty Matrix:

(a) The $8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act.

(B) Open burning violations as follows:

(i) Any violation of an open burning statute, rule, permit or related order committed by a permitted industrial facility.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) by an automobile manufacturer.

(D) Any violation of 468B.025(1)(a) or (1)(b), or of ORS 468B.050(1)(a) by a person without an National Pollutant Discharge Elimination System (NPDES) permit.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has a NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a major industrial source NPDES permit.

(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has a NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that has or should have a WPCF permit for a major vegetable or fruit processing facility, for a major mining operation involving over 500,000 cubic yards per year, or for any mining operation using chemical leaching or froth flotation.

(v) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(F) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by the department to perform tank services.

(G) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by the department to perform heating oil tank services.

(H) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(I) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(J) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order.

(L) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(M) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(N) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

(ii) A person with a population of 25,000 or more, as determined by the most recent national census.

(b) The base penalty values for the $8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $8000;

(ii) Moderate — $4000;

(iii) Minor — $2000.

(B) Class II:

(i) Major — $4000;

(ii) Moderate — $2000;

(iii) Minor — $1000.

(C) Class III: $750.

(3) $6,000 Penalty Matrix:

(a) The $6,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has a NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a minor industrial source NPDES Permit, or has or should have a WPCF Permit, for an industrial source.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of one acre or more, but less than five acres in size and except for an NPDES 700-PM General Permit for suction dredges.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that has or should have a WPCF permit for a mining operation involving from 100,000 up to 500,000 cubic yards other than those operations using chemical leachate or froth flotation.

(vi) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage.

(F) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(G) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(H) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(b) The base penalty values for the $6,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $6,000.

(ii) Moderate — $3,000.

(iii) Minor — $1,500.

(B) Class II:

(i) Major — $3,000.

(ii) Moderate — $1,500.

(iii) Minor — $750.

(C) Class III: $500.

(4) $2,500 Penalty Matrix:

(a) The $2,500 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit or related order committed by a person not listed under another penalty matrix.

(C) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(D) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(E) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater or sewage.

(vi) A person that has or should have a WPCF individual stormwater UIC system permit.

(F) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by the residential owner-occupant.

(G) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.

(H) Any violation, except a violation related to a spill or release, of a used oil statute, rule, permit or related order committed by a person that is a used oil generator.

(I) Unless listed under another penalty matrix, any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a conditionally exempt generator if the violation does not impact the person's generator status.

(J) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

(K) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.

(L) Any violation of rigid pesticide container disposal requirements by a conditionally exempt generator of hazardous waste.

(b) The base penalty values for the $2,500 penalty matrix are as follows:

(A) Class I:

(i) Major — $2500;

(ii) Moderate — $1250;

(iii) Minor — $625.

(B) Class II:

(i) Major — $1250;

(ii) Moderate — $625;

(iii) Minor — $300.

(C) Class III: $200.

(5) $1,000 Penalty Matrix:

(a) The $1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of a dry cleaning facility statute, rule, permit or related order.

(H) Any violation of a statute, rule, permit or order relating to rigid plastic containers, except for violation of the labeling requirements under OAR 459A.675 through 459A.685.

(I) Any violation of a statute, rule or order relating to the opportunity to recycle.

(J) Any violation of a statute, rule, permit or order relating to woodstoves, except a violation related to the sale of new or used woodstoves.

(K) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater or sewage.

(L) Any violation by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for Suction Dredges.

(b) The base penalty values for the $1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — $1000;

(ii) Moderate — $500;

(iii) Minor — $250.

(B) Class II:

(i) Major — $500;

(ii) Moderate — $250;

(iii) Minor — $125.

(C) Class III: $100.

Stat. Auth.: ORS 468.020 & 468.090 - 468.140

Stats. Implemented: ORS 459.995, 459A.655, 459A.660, 459A.685 & 468.035

Hist.: DEQ 4-1989, f. & cert. ef. 3-14-89; DEQ 15-1990, f. & cert. ef. 3-30-90; DEQ 33-1990, f. & cert. ef. 8-15-90; DEQ 21-1992, f. & cert. ef. 8-11-92; DEQ 4-1994, f. & cert. ef. 3-14-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 19-1998, f. & cert. ef. 10-12-98; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; Renumbered from 340-012-0042, DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-256-0220
Compliance With Oregon Low Emission Vehicle Program

Model year 2009 and newer vehicles that have 7,500 or fewer miles must meet the requirements of chapter 340, division 257 to qualify for a Certificate of Compliance.

Stat. Auth.: ORS 468.020, 468A.010, 468A.015, 468A.025, 468A.360 & 468A.380

Stats. Implemented: ORS 468.020 & 468A.365

Hist.: DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0010
Purpose

The purpose of this division is to establish an **Oregon Low Emission Vehicle program** that implements California vehicle emission standards pursuant to section 177 of the federal Clean Air Act. This program establishes criteria and procedures for the manufacture, distribution and sale of new motor vehicles in Oregon as listed in OAR 340-257-0050.

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

Stat. Auth.: ORS 468.020, 468A.010, 468A.015, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0020
Applicability & Effective date

This division is in effect as of January 1, 2006 and applies to and establishes requirements for automobile manufacturers, Oregon motor vehicle dealers, and all 2009 and subsequent model year passenger cars, light duty trucks, medium duty vehicles, and medium duty passenger vehicles registered, leased, rented, delivered for sale or sold in the State of Oregon, except as provided in OAR 340-257-0060 Exemptions.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0030
Definitions and Abbreviations

The definitions in OAR 340-200-0020, the definitions in CCR, Title 13, sections incorporated by reference, and the definitions in this rule apply to this division. If the same term is defined in different passages, the definitions in this rule apply first, followed by definitions in CCR Title 13 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) "Assembled Vehicle" means a motor vehicle that:

(a) Is an assembled vehicle under ORS 801.130; or

(b) Is a replica vehicle under ORS 801.425.

(c) Will be used for occasional transportation, exhibitions, club activities, parades, tours, testing its operation, repairs or maintenance and similar uses; and

(d) Will not be used for general daily transportation.

(2) "ATPZEV" means advanced technology Partial Zero Emission Vehicle as defined in CCR, Title 13, section 1962(i).

(3) "CARB" means California Air Resources Board.

(4) "CCR" means California Code of Regulations.

(5) "Custom Vehicle" means a motor vehicle that:

(a) Is a street rod under ORS 801.513; or

(b) Was manufactured to resemble a vehicle at least twenty-five (25) years old and of a model year after 1948; and

(A) Has been altered from the manufacturer's original design; or

(B) Has a body constructed from non-original materials.

(6) "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in CCR, Title 13, section 1961(c) and 1961.1(b).

(7) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in CCR, Title 13, section 1961(c) and 1961.1(b).

(8) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1, and incorporated herein by reference.

(9) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the loaded weight of a single vehicle.

(10) "Independent low volume manufacturer" is defined in CCR, Title 13, section 1900 and incorporated herein by reference.

(11) "Intermediate volume manufacturer" is defined in CCR, Title 13, section 1900 and incorporated herein by reference.

(12) "Large volume manufacturer" is defined in CCR, Title 13, section 1900 and incorporated herein by reference.

(13) "Light duty truck" is any 2000 and subsequent model year motor vehicle certified to the standards in CCR, Title 13, section 1961(a)(1) rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property, is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(14) "Medium duty passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which

(a) Is an "incomplete truck" i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than 12 persons; or

(c) Is designed for more than 9 persons in seating rearward of the drivers seat; or

(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(15) "Medium duty vehicle" means any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less; any 1992 through 2006 model-year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in section 1960.1(h)(2) having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; and any 2000 and subsequent model heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Section 1961(a)(1) or 1962 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

(16) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture is the date of completion of the chassis.

(17) "Non-methane organic gas" (NMOG) is the sum of non-oxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "California Non-Methane Organic Gas Test Procedures," which is incorporated herein by reference.

(18) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases from passenger cars and light duty trucks in any model year subject to this regulation delivered for sale in Oregon.

(19) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(20) "PZEV" means Partial Zero Emission Vehicle as defined in CCR, Title 13, section 1962(i).

(21) "Small volume manufacturer" is defined as set forth in CCR, Title 13, section 1900 and incorporated herein by reference.

(22) "ZEV" means Zero Emission Vehicle as defined in CCR Title 13, section 1962(i).

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

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0040

Requirement to Meet California vehicle emission standards.

(1) Starting with the 2009 model year and for each model year thereafter no person may lease, rent out, license, deliver for sale, or sell any vehicle unless such vehicle is certified to the California emission standards pursuant to OAR 340-257-0050, except as provided in 340-257-0060, Exemptions.

(2) All motor vehicle manufacturers must comply with the fleet average emission requirements and the warranty, recall, and other applicable requirements contained in this division.

(3) All motor vehicle dealers must comply with the sales and reporting requirements contained in this division.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0050

Incorporation by Reference

(1) For purposes of applying the incorporated sections of the California Code of Regulations, "California" means "Oregon" and "Air Resources Board (ARB)" or "California Air Resources Board (CARB)" means Department of Environmental Quality or Environmental Quality Commission depending on context, unless otherwise specified in this division or the application is clearly inappropriate.

(2) Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer of new 2009 and subsequent model year passenger cars, light duty trucks, and medium duty vehicles must comply with each applicable standard specified in California Code of Regulations (CCR), Title 13 as incorporated by reference herein:

(a) Section 1900: Definitions. California effective date 1/1/2006.

(b) Section 1956.8(g) and (h): Exhaust Emission Standards and Test Procedures – 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California effective date 12/4/03.

(c) Section 1960.1: Exhaust Emission Standards and Test Procedures – 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles. California effective date 3/26/04.

(d) Section 1961: Exhaust Emission Standards and Test Procedures – 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 1/1/06.

(e) Section 1961.1: Greenhouse Gas Exhaust Emission Standards and Test Procedures – 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 01/01/06.

(f) Section 1962: Zero-Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 3/26/04.

(g) Section 1962.1: Electric Vehicle Charging Requirements. California effective date 7/24/02.

(h) Section 1965: Emission Control and Smog Index Labels – 1979 and Subsequent Model Year Vehicles. California effective date 12/04/03.

(i) Section 1968.2: Malfunction and Diagnostic System Requirements – 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 04/21/03.

(j) Section 1968.5: Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. California effective date 04/21/03.

(k) Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. California effective date 11/27/99.

(l) Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions. California effective date 12/4/03.

(m) Section 2035: Purpose, Applicability and Definitions. California effective date 12/26/90.

(n) Section 2037: Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles. California effective date 11/27/99.

(o) Section 2038: Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such. California effective date 11/27/99.

(p) Section 2039: Emission Control System Warranty Statement. California effective date 12/26/90.

(q) Section 2040: Vehicle Owner Obligations. California effective date 12/26/90.

(r) Section 2046: Defective Catalyst. California effective date 2/15/79.

(s) Section 2109: New Vehicle Recall Provisions. California effective date 12/30/83.

(t) Section 2111: Applicability. California effective date 8/21/02.

(u) Section 2112: Definitions. California effective date 11/15/03.

(v) Appendix A to Article 2.1. California effective date 11/15/03.

(w) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California effective date 1/26/95.

(x) Section 2114: Voluntary and Influenced Recall Plans. California effective date 11/27/99.

(z) Section 2115: Eligibility for Repair. California effective date 1/26/95.

(aa) Section 2116: Repair Label. California effective date 1/26/95.

(bb) Section 2117: Proof of Correction Certificate. California effective date 1/26/95.

(cc) Section 2118: Notification. California effective date 1/26/95.

(dd) Section 2119: Record keeping and Reporting Requirements. California effective date 11/27/99.

(ee) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.

(ff) Section 2122: General Provisions. California effective date 1/26/95.

(gg) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California effective date 1/26/95.

(hh) Section 2124: Availability of Public Hearing. California effective date 1/26/95.

(ii) Section 2125: Ordered Recall Plan. California effective date 1/26/95.

(jj) Section 2126: Approval and Implementation of Recall Plan. California effective date 1/26/95.

(kk) Section 2127: Notification of Owners. California effective date 1/26/95.

(ll) Section 2128: Repair Label. California effective date 1/26/95.

(mm) Section 2129: Proof of Correction Certificate. California effective date 1/26/95.

(nn) Section 2130: Capture Rates and Alternative Measures. California effective date 11/27/99.

(oo) Section 2131: Preliminary Tests. California effective date 1/26/95.

(pp) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.

(qq) Section 2133: Record keeping and Reporting Requirements. California effective date 1/26/95.

(rr) Section 2135: Extension of Time. California effective date 1/26/95.

(ss) Section 2141: General Provisions. California effective date 12/28/00.

(tt) Section 2142: Alternative Procedures. California effective date 2/23/90.

(uu) Section 2143: Failure Levels Triggering Recall. California effective date 11/27/99.

(vv) Section 2144: Emission Warranty Information Report. California effective date 11/27/99.

(ww) Section 2145: Field Information Report. California effective date 11/27/99.

(xx) Section 2146: Emissions Information Report. California effective date 11/27/99.

(yy) Section 2147: Demonstration of Compliance with Emission Standards. California effective date 8/21/02.

(zz) Section 2148: Evaluation of Need for Recall. California effective date 11/27/99.

(aaa) Section 2149: Notification of Subsequent Action. California effective date 2/23/90.

(bbb) Section 2235: Requirements. California effective date 9/17/91.

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

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0060
Exemptions

The following vehicles are not subject to this division:

(1) Military tactical vehicles;

(2) Vehicles sold for registration and use in a state that is not subject to the California vehicle emission standards;

(3) Previously registered vehicles with more than seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sale is determined by the odometer statement when the dealer acquired the vehicle;

(4) Vehicles available only for rent to a final destination in a state that is not subject to the California vehicle emission standards;

(5) Vehicles purchased by a nonresident before establishing residency in the State of Oregon, regardless of the mileage on the vehicle;

(6) Vehicles purchased by Oregon residents while assigned to active military duty outside the State of Oregon;

(7) Vehicles transferred by inheritance or as a result of divorce, dissolution, or legal separation; and

(8) Emergency vehicles when a public safety agency has demonstrated to the Department's satisfaction that a vehicle that will meet said agency's needs is not otherwise reasonably available.

(9) A vehicle acquired by an Oregon resident to replace a vehicle registered to such resident that was stolen, damaged or failed beyond reasonable repair while out of state, provided that such replacement vehicle is acquired out of state when the previously-owned vehicle was either stolen, damaged, or failed beyond reasonable repair.

(10) Custom and Assembled vehicles that:

(a) Will be maintained for occasional transportation, exhibitions, club activities, parades, tours, testing of operation, repair, maintenance and similar uses; and

(b) Will not be used for general daily transportation.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0070
Fleet Average Non-Methane Organic Gas (NMOG) Exhaust Emission Requirements, Reporting, and Compliance.

(1) Fleet average requirement. Effective model year 2009 and each model year thereafter, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars, light duty trucks and medium duty vehicles delivered for sale in Oregon must not exceed the Fleet Average NMOG Exhaust Emission Requirement set forth in CCR, Title 13, section 1961. Compliance will be based on the number of vehicles, subject to this regulation, delivered for sale in the State of Oregon.

(2) Fleet average NMOG exhaust emission credits and debits. Effective model year 2009, each vehicle manufacturer may accrue NMOG emission credits and debits and use credits in accordance with the procedures in California Code of Regulations, Title 13, section 1961. Debits and credits accrued and used will be based on the number of vehicles, subject to this division, produced and delivered for sale by each manufacturer in the State of Oregon.

(3) Reporting. Effective model year 2009, and for each model year thereafter, each manufacturer must submit by March 1 a report to the Department that includes:

(a) Pre-model year data that projects the fleet average NMOG exhaust emissions for vehicles expected to be delivered for sale in Oregon and

(b) End-of-model year data that calculates the fleet average NMOG exhaust emissions for the model year just ended.

The report must follow the procedures in CCR, Title 13, section 1961 and be in the same format used to report such information to the California Air Resources Board.

(4) Compliance with fleet average NMOG requirement. Effective model year 2012, if a report submitted by the manufacturer under subsection(3)(b) of this rule demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to the Department within 60 days a Fleet Average Remediation Report. The Fleet Average Remediation Report must:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in CCR, Title 13, section 1961;

(b) Identify all vehicle models delivered for sale in Oregon, their corresponding certification standards, and the percentage of each model delivered for sale in Oregon and California in relation to total fleet sales in the respective state; and

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

(5) For model years 2009 through 2011, manufacturers must submit the Fleet Average Remediation Report, if needed, to the Department by March 1, 2012. If debits are accrued in all three years, one year of debits must be equalized by the end of the 2012 model year.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0080
ZEV Sales Requirement

(1) Effective model year 2009, and each subsequent model year, each manufacturer must comply with the ZEV sales requirement contained in CCR, Title 13, section 1962, including early credit and banking provisions.

(2) An intermediate volume or large volume manufacturer of ZEVs, ATPZEVs and PZEVs may use vehicle equivalent credits in accordance with CCR, Title 13, section 1962, to offset the ZEV sales requirement required by section (1) of this rule.

(3) Not withstanding OAR 340-257-0050, and except as provided in section(4) of this rule, the provisions of CCR, Title 13, section 1962(c)(2)(D) regarding "Counting a Type III ZEV Placed in a Section 177 State" will not end after the 2011 model year, but will continue in Oregon throughout the duration of the alternate compliance path specified in CCR, Title 13, Section 1962(b)(2)(B).

(4) Section (3) of this rule will not apply three years after the Department finds that the following conditions are met:

(a) The number of Type III ZEVs required to meet the minimum floor requirements in CCR, Title 13, section 1962 between the years 2012 and 2017 is proportioned among all states that have adopted California's vehicle emission standards, and

(b) Oregon's hydrogen refueling infrastructure is likely to be adequate to accommodate the number of Type III ZEVs needed to meet the minimum floor requirements of CCR, Title 13, section 1962(b)(2)(B)1 between 2012 and 2017.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0090
ZEV Credit Bank and Reporting

(1) Beginning model year 2009, each intermediate volume and large volume manufacturer of ZEVs, ATPZEVs, and PZEVs may open an account in the ZEV Credit Bank operated by the Department. Except as provided in section (2) of this rule, the account must be opened no later than January 1, 2009.

(2) In order to generate and deposit credits for vehicles delivered for sale in Oregon during the 1999 through 2005 model years, a manufacturer must open an account with the ZEV Credit Bank and submit an appropriate Notice of Generation to the Department on or before September 1, 2006.

(3) Manufacturers wishing to claim ZEV credits must use the format and process contained in CARB's Manufacturer's Advisory Correspondence (MAC) 2004-01 for reporting and tracking ZEV deliveries and placements, unless this division specified different requirements. The Department will follow CARB's procedures contained in that MAC for tracking and recording ZEV sales and credits.

(4) Except as provided in section (2) of this rule, annually each manufacturer must submit to the Department a Notice of Credit Generation or Notice of Credit Transfer to or from another manufacturer. Credits generated or acquired must reported to the Department on or before September 1 following the close of the model year in which the qualifying vehicle was produced and delivered for sale in Oregon.

(5) To deposit credits into the ZEV Credit Bank, a manufacturer must submit a Notice of Credit Generation to the Department. The Notice of Generation must include the following:

(a) For ZEVs delivered for sale in Oregon:

(A) Manufacturer's ZEV Credit Bank account identifier;

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

(D) ZEV Tier type (NEV, 0, I, II, III for California, III for Section 177 states);

(E) Vehicle identification number; and

(F) Date the vehicle was delivered for sale in Oregon.

(b) For ZEVs placed in service in Oregon, all information listed under subsection (6)(a) of this rule, plus the following:

(A) Date the vehicle was placed in service, and

(B) Whether the vehicle was placed in service with an option to purchase or lease the vehicle.

(c) For ATPZEVs and PZEVs delivered for sale in Oregon:
(A) Vehicle certification class (ATPZEV or PZEV);
(B) Manufacturer's ZEV Credit Bank account identification;
(C) Model year of vehicle(s);
(D) For ATPZEVs, the Federal test group;
(E) The CARB Executive Order number;
(F) Number of vehicles delivered; and

(6) The number of the credits generated and deposited for each qualifying vehicle must be the number of qualifying vehicles multiplied by the applicable multiplier specified in CCR, Title 13, section 1962, except the multiplier applied to vehicles produced and delivered for sale in Oregon from January 1, 1999 to January 13, 2004 will be the highest applicable multiplier used by the CARB for the period January 1, 1999 to January 13, 2004.

(7) A vehicle equivalent credit does not constitute or convey a property right.

(8) A manufacturer with an account in the ZEV Credit Bank may acquire credits from another manufacturer with an account in the ZEV Credit Bank. However, if the credits are to be used for future compliance with the ZEV sales requirement at CCR Title 13, section 1962, the transaction must be recorded in the ZEV Credit Bank and certified by both parties to the transaction.

(9) A manufacturer may deposit into its account in the ZEV Credit Bank a number of credits equal to its California credit balance at the beginning of the 2009 model year. The transferred credit balance will be multiplied by the number of new motor vehicles registered in Oregon, and divided by the number of new motor vehicles registered in California. The proportion of new motor vehicles in Oregon and California will be determined by the average number of vehicles registered in model years 2003 through 2005, or by the average number of vehicles registered in model years 2009. The deposit may be made only after all credit obligations for model years 2008 and earlier have been satisfied in California.

(10) Each manufacturer with a ZEV Credit Bank account under this rule must report to the Department the following information:

(a) By May 1, 2009, the total number of PC and LDT1 vehicles produced and delivered for sale in Oregon and California for 2003 through 2005 model years; or

(b) By May 1, 2009, the total projected number of PC and LDT1 vehicles to be produced and delivered for sale in Oregon and California during model year 2009 and, by March 1, 2010, the actual number of 2009 model year PC and LDT1 vehicles produced and delivered for sale in Oregon and California; and

(c) By May 1, 2009, provide the Department with the total number of banked California credits after all 2008 model year and earlier obligations have been met.

(11) A manufacturer electing to deposit credits under section (9) of this rule must offer for sale in Oregon in model years 2009 through 2011 any PZEV, ATPZEV or ZEV, except Type III ZEVs, that it offers for sale in California during the same period.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0100
Fleet Average Greenhouse Gas Exhaust Emission Requirements, Reporting and Compliance

(1) Each manufacturer subject to the greenhouse gas provisions of this regulation must comply with emissions standards, fleet average greenhouse gas exhaust mass emission requirements for passenger car, light duty truck, medium duty passenger vehicle weight classes, and other requirements of CCR, Title 13, section 1961.1.

(2) Requirements for Large Volume Manufacturers. The fleet average greenhouse gas exhaust emission standards for passenger cars, light-duty trucks, and medium-duty passenger vehicles produced and delivered for sale in the State of Oregon by a large volume manufacturer for each 2009 and subsequent model year are established in CCR, Title 13, section 1961.1.

(3) Requirements for Small, Intermediate, and Independent Manufacturers. The fleet average greenhouse gas exhaust emission requirements for passenger cars, light-duty trucks, and medium-duty passenger vehicles delivered for sale in the State of Oregon by small volume, intermediate volume and independent low volume manufacturers are set forth in CCR, Title 13, section 1961.1, which specifies that requirements for these manufacturers are waived before the 2016 model year.

(4) Greenhouse gas emission credits and debits. Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles in Oregon in accordance with CCR, Title 13, section 1961.1.

(5) Optional alternative compliance with greenhouse gas emission standards. Greenhouse gas vehicle test groups that are certified pursuant to CCR, Title 13, section 1961.1(a)(1)(B)2.a in the State of California may receive equivalent credit if delivered for sale and use in the State of Oregon.

(6) Alternative compliance credit. A manufacturer must submit to the Department the data set forth in CCR, Title 13, section 1961.1(a)(1)(B)2.a.i for Oregon-specific sale and use in order to receive the credit identified in (5) above.

(7) Reporting on greenhouse gas requirements. Effective model year 2009 and for each model year thereafter, each manufacturer must submit by March 1 a report to the Department that includes:

(a) Pre-model year data that projects the fleet average greenhouse gas emissions for vehicles expected to be delivered for sale in Oregon and

(b) End-of-model year data that calculates the fleet average greenhouse gas emissions for the model year just ended. The report must include the number of greenhouse gas vehicle test groups, delineated by model type, certified pursuant to CCR, Title 13, section 1961.1. The report must follow the procedures in CCR, Title 13, section 1961.1 and be in the same format used to report such information to the California Air Resources Board.

(8) Compliance with fleet average greenhouse gas requirements. Effective model year 2009, if the report submitted by the manufacturer under subsection(7)(b) of this rule demonstrates that the manufacturer is not in compliance with the fleet average emission standards, the manufacturer must submit to the Department within 60 days a Fleet Average Remediation Report. The Fleet Average Remediation Report must:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in CCR, Title 13, section 1961.1;

(b) Identify all vehicle models delivered for sale in Oregon, their corresponding certification standards, and the percentage of each model delivered for sale in Oregon and California in relation to total fleet sales in the respective state; and

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0110
Additional Reporting Requirements.

(1) The manufacturer must submit to the Department one copy of the California Executive Order and Certificate of Conformity for certification of new motor vehicles for each engine family to be sold in the State of Oregon within thirty (30) days of the Department's request. If such reports are available electronically, the manufacturer must send the record in an electronic format acceptable to the director or the director's designee.

(2) Upon request, except as provided in section (3) of this rule, each manufacturer must report to the Department the vehicle identification numbers (VIN) and the California or federal vehicle emission category of each passenger car, light duty truck, and medium duty passenger vehicle delivered for sale in one or more of the following states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(3) Section (2) of this rule does not apply during any period that vehicle titling or registration is effectively denied to passenger cars, light duty trucks, and medium duty passenger vehicles in Oregon that do not comply with the requirements of this division.

(4) To determine compliance with this division, the Department may require any vehicle manufacturer to submit any documentation the Department deems necessary to the effective administration and enforcement of this division, including all certification materials submitted to CARB.

(5) Dealers must report to the Department the sale of each previously-titled light-duty and medium-duty motor vehicle subject to this division. The report must include the following information and be submitted in a manner the Department prescribes:

(a) The dealer's name and address;
(b) Vehicle description including make and model year;
(c) The vehicle identification number;
(d) Date of sale;
(e) The California or federal emission category to which the vehicle is certified; and
(f) Evidence of any applicable exemption.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0120
Warranty Requirements.

(1) For all 2009 and subsequent model year vehicles subject to the provisions of this division, each manufacturer must provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements contained in CCR, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) The 15-year or 150,000-mile extended warranty specified in CCR, Title 13, section 1962(c)(2)(D) for PZEVs is not included as a requirement of this rule or OAR 340-257-0050, provided that PZEVs delivered for sale to Oregon are equipped with the same quality components as PZEVs supplied to areas where the full 15-year or 150,000-mile warranty remains in effect. The provisions of this section do not amend the requirements of CCR, Title 13, section 1962(c)(2)(D) that indicate the warranty period for a zero emission energy storage device used for traction power will be 10 years.

(3) For all 2009 and subsequent model year vehicles subject to the provisions of this division, each manufacturer must include the emission control system warranty statement that complies with the requirements in CCR, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Oregon vehicle owners of the warranty's applicability. The manufacturer must provide a telephone number that Oregon consumers can use to learn answers to warranty questions.

(4) Upon the Department's request, any manufacturer must submit to the Department Failure of Emission-Related Components reports as defined in CCR, Title 13, section 2144, for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board in lieu of submitting reports for vehicles subject to this division.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0130
Recalls

(1) Any order issued or enforcement action taken by CARB to correct noncompliance with any section of Title 13, that results in the recall of any vehicle pursuant to CCR, Title 13, sections 2109–2135, will be prima facie evidence concerning vehicles registered in Oregon. If the manufacturer can demonstrate to the Department's satisfaction that the order or action is not applicable to vehicles registered in Oregon, the Department will not pursue a recall of vehicles registered in Oregon.

(2) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to CCR, Title 13, sections 2113–2121 must extend to all applicable vehicles registered in Oregon. If the manufacturer can demonstrate to the Department's satisfaction that said campaign is not applicable to vehicles registered in Oregon, the campaign will not apply in Oregon.

(3) For vehicles subject to an order of enforcement action under section (1) of this rule, each manufacturer must send to owners of vehicles registered in the State of Oregon a notice that complies with the requirements in CCR, Title 13, sections 2118 or 2127. The manufacturer must provide a telephone number that Oregon consumers can use to learn answers to questions about any recall that affects Oregon vehicles.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0140
Permits and Fees

(1) "Indirect source" as defined in OAR 340-254-0030(6) includes a large or intermediate volume manufacturer for purposes of OAR 340-0254-0010. Such sources are subject to permit and fee requirements as specified in section (2) of this rule and not the provisions in OAR 340-254-0040 to 340-254-0080.

(2) Beginning January 1, 2007, each large-volume or intermediate-volume vehicle manufacturer offering light duty or medium duty vehicles for sale in Oregon must have a Motor Vehicle Indirect Source permit issued by the Department. Each Motor Vehicle Indirect Source permit will be issued for a period of up to 10 years and is subject to an annual fee.

(3) Each large-volume and intermediate-volume manufacturer must report to the Department the number of light and medium-duty vehicles it delivered for sale in Oregon during the previous calendar year. These reports must be submitted to the Department by March 1 of each year except as provided in section (7) of this rule.

(4) The Department will assess annual permit fees for each large and intermediate-volume manufacturer for periods beginning July 1 and ending June 30 of the subsequent year except as provided in section (7) of this rule.

(5) The Department will assess annual permit fees by apportioning a total of $200,000 among all Motor Vehicle Indirect Source Permit holders according to each permit holder's reported market share for the previous calendar year except as provided in section (7) of this rule. In the event that not all required data are reported, the Department will estimate the total Oregon vehicle sales for the applicable year and the resulting fees according to means the Department judges to be appropriate.

(6) Within 60 days after reports required by this rule are due, the Department will notify each large and intermediate-volume manufacturer of the fee required for the next permit period. Within 30 days of receiving notice of the required permit fee, each permit holder must remit the specified amount payable to the Oregon Department of Environmental Quality. Motor Vehicle Indirect Source permits for which permit fees are not current will be deemed to have lapsed and will no longer be in effect.

(7) The initial report required by section (3) of this rule must be submitted by October 1, 2006. The initial period for which a Motor Vehicle Indirect Source Permit is required begins January 1, 2007 and ends June 30 of the same year. Total permit fees for the initial period will be $200,000.

Stat. Auth.: ORS 468.065, 468A.010, 468A.015, 468A.040.
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0150
Inspections and Information Requests

(1) The Department may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this division. The Department inspections will occur during regular business hours and on any premises owned, operated or used by any dealer or rental car agency for the purposes of determining compliance with the requirements of this division.

(2) For the purposes of determining compliance with this division, the Department may require any vehicle dealer or rental car agency to submit any documentation the Department deems necessary to the effective administration and enforcement of this division. This provision does not require creation of new records.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

340-257-0160
Severability

Each section of this division is severable, and if any section of this regulation is held invalid, the remainder will continue in full force and effect.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360
Stats. Implemented: ORS 468.020
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06

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Rule Caption: Propose to increase TitleV permitting fees by 3.4 percent.
Adm. Order No.: DEQ 7-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 6-30-06
Notice Publication Date: 2-1-06
Rules Amended: 340-220-0030, 340-220-0040, 340-220-0050
Subject: The adopted amendments increase Title V permitting fees by the 2005 Consumer Price Index, of approximately 3.4 %. This increase to Title V permitting fees will affect the Base Fee, Emission Fee, and Special Activity Fees.

All fee increases will become effective upon rule filing which is scheduled for June, 2006, with invoices reflecting the increases to be mailed in July 2006.
Rules Coordinator: Larry McAllister—(503) 229-6412

340-220-0030
Annual Base Fee

The Department will assess an annual base fee of $ 3,379 for each source subject to the Oregon Title V Operating Permit program. The fee covers the period from November 15 of the current calendar year to November 14 of the following year.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert.

ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06

340-220-0040
Emission Fee

(1) The Department will assess an emission fee of $ 39.38 per ton to each source subject to the Oregon Title V Operating Permit Program.

(2) The emission fee will be applied to emissions from the previous calendar year based on the elections made according to OAR 340-220-0090.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995. f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2590; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06

340-220-0050
Specific Activity Fees

The Department will assess specific activity fees for an Oregon Title V Operating Permit program source as follows:

(1) Existing Source Permit Revisions:

(a) Administrative* — $ 338;

(b) Simple — $ 1,352;

(c) Moderate — $ 10,137;

(d) Complex — $ 20,273.

(2) Ambient Air Monitoring Review -- $ 2,703.

*includes revisions specified in OAR 340-218-0150(1) (a) through (g). Other revisions specified in OAR 340-218-0150 are subject to simple, moderate or complex revision fees.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06

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Rule Caption: Accelerated Phase-Out of the Enhanced Emission Tessting Method (Temporary Rule).
Adm. Order No.: DEQ 8-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-5-06 thru 12-31-06
Notice Publication Date:
Rules Amended: 340-256-0300
Subject: This adopted temporary rule allows the accelerated phase out of the Enhanced Emission Test to allow the proper installation of newly acquired equipment. The temporary rule puts vehicle model years 1993–1995 into the Basic Emission Test on July 5, 2006 instead of keeping those vehicle classes in the Enhanced Emission Test until January 1, 2007 as OAR 340-256-0300 previously stated.
Rules Coordinator: Larry McAllister—(503) 229-6412

340-256-0300
Scope

Pursuant to ORS 467.030, 468A.350 to 468A.400, 803.350, and 815.295 to 815.325, OAR 340-256-0300 through 340-256-0465 establish the criteria, methods, and standards for inspecting motor vehicles to determine eligibility for obtaining a Certificate of Compliance or inspection. Any person subject to these rules must obtain a Certificate of Compliance as required under ORS 803.350. Any person seeking an exemption from the inspection requirements of this rule must prepare and submit to the Department or DMV a statement describing the grounds for the exemption on forms as provided by the Department or DMV.

(1) Except as provided in sections (3) and (4) of this rule, any person owning or leasing 1975 and newer model year vehicles in the Portland Vehicle Inspection Area must ensure the vehicles meet the requirements of one of the following emission tests:

(a) Basic test. A light duty vehicle of the model years specified in this paragraph must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400, and 340-256-0430.

(A) Until July 1, 2005, model years 1975 through 1980;

(B) Beginning July 1, 2005 and until July 1, 2006, model years 1975 through 1988;

(C) Beginning July 5, 2006, model years 1975 through 1995.

(b) Enhanced Test. A light duty vehicle of the model years specified in this paragraph must meet the enhanced test requirements of OAR 340-256-0350 and 340-256-0410. These vehicles found to be safe but unable to be dynamometer tested due to drive line configuration and these vehicles equipped with All Wheel Drive (AWD) will meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400, and 340-256-0430.

(A) Until July 1, 2005, model years 1981 through 1995;

(B) Beginning July 1, 2005 and until July 1, 2006, model years1989 through 1995;

(C) Beginning July 5, 2006, no vehicles will be required to meet the enhanced test requirements of OAR 340-256-0350 and 340-256-0410.

(c) A light duty vehicle that is a 1996 and newer model year must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test system, or other similar manufacturing problems, the vehicle must meet either the enhanced test requirements of OAR 340-256-0350 and 340-256-0410, the basic test requirements of OAR 340-256-0340, 340-356-0380, 340-256-0400, or other test criteria as determined by the Department.

(d) A heavy duty vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0390, and 340-256-0420, except gasoline powered heavy duty vehicles equipped with OBDII or higher systems must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test system, or other similar manufacturing problems, the vehicle must meet either the enhanced test requirements of OAR 340-256-0350 and 340-256-0410, the basic test requirements of OAR 340-256-0340, 340-356-0380, 340-256-0400, or other test criteria as determined by the Department.

(2) Except as provided in section (3) of this rule, any person owning or leasing vehicles that are up to 20 model years in age in the Medford-Ashland Air Quality Maintenance Area must ensure the vehicles meet the requirements of one of the following emission tests:

(a) A light duty vehicle that is a 1996 and newer model year must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test equipment, or other similar manufacturing problems, the vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400, and 340-256-0430 or other test criteria as determined by the Department.

(b) A light-duty vehicle that is 20 model years in age through 1995 model year must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0390, 340-256-0400, and 340-256-0420.

(c) A heavy duty vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0390, and 340-256-0420. All gasoline powered heavy duty vehicles equipped with OBDII or higher systems must meet the OBD test requirements of OAR 340-256-0355. For those vehicles that cannot be OBD tested due to manufacturer defects in the vehicle (where EPA has not issued an associated recall), vehicle incompatibility with the OBD test equipment, or other similar manufacturing problems, the vehicle must meet the basic test requirements of OAR 340-256-0340, 340-256-0380, 340-256-0400, and 340-256-0430 or other test criteria as determined by the Department.

(3) The Department may test any gasoline powered heavy duty or light duty vehicle using one of the following procedures as an alternative to the test procedure otherwise required by this rule:

(a) Clean-Screen Testing following the procedures of OAR 340-256-0357; or

(b) Self-Service Testing following the procedures of OAR 340-256-0358.

(4) Vehicle owners may apply for a waiver from the enhanced test requirements in section (1)(b) of this rule and OAR 340-256-0350. Vehicle owners are eligible in the year 2000 if their net household income is less than or equal to that established by multiplying the year 2000 Federal Poverty Guideline amounts by 1.3. For each year after the year 2000, the calculated year 2000 numbers are adjusted using the Oregon Consumer Price Index for the Portland Metro Regional Area. The Department may require proof of eligibility and vehicle ownership. Providing false information may result in revocation of the low income waiver. If the Department approves the waiver, the owner must pass the basic motor vehicle emissions test requirements in OAR 340-256-0300(1)(a) and 340-256-0340 and pay the required fees in order to receive a certificate of compliance.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

[ED. NOTE: The chart referenced in this rule is available from the agency.]
Stat. Auth.: ORS 467.030 & 468A.350 - 468A.400
Stats. Implemented: ORS 468A.350-400, 803.350 & 815.295
Hist.: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 23-1984, f. 11-19-84, ef. 4-1-85; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 25-1996, f. & cert. ef. 11-26-96; DEQ 2-1998, f. & cert. ef. 3-5-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-024-0300; DEQ 4-2000(Temp), f. & cer. ef. 2-17-00 thru 8-9-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 8-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Inseason change to the Oregon Ocean Commercial Troll Salmon season.
Adm. Order No.: DFW 43-2006(Temp)
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 6-16-06 thru 11-16-06
Notice Publication Date:
Rules Amended: 635-003-0077
Subject: These rules will implement an inseason change to the Oregon Ocean Commercial Troll Salmon season as adopted by the Pacific Fishery Management Council.
Rules Coordinator: Casaria Tuttle—(503) 947-6003

635-003-0077
US-Canada Border to Cape Falcon

(1) All vessels participating in the commercial ocean salmon fishery must land their fish within the area or in Garibaldi, Oregon, and within 24 hours of any closure of this fishery. Oregon licensed limited fish sellers and fishers intending to transport and deliver their catch outside the area must notify ODFW one hour prior to transport away from the port of landing by calling (541) 867-0300 extension 271. Notification shall include vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

(2) The commercial troll salmon fishery is closed to all troll salmon fishing from 12:01 a.m. June 16, 2006 through 11:59 p.m. June 26, 2006.

(3) The commercial troll salmon fishery is open effective 12:01 a.m. June 27, 2006 through 11:59 p.m. June 30, 2006. For the four day period there is a 20 chinook landing and possession limit per vessel.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 506.129
Hist: DFW 6-2005, f. & cert. ef. 2-14-05; DFW 36-2005(Temp), f. & cert.ef. 5-4-05 thru 10-27-05; DFW 48-2005(Temp), f. 5-23-05, cert. ef. 5-24-05 thru 10-27-05; DFW 49-2005(Temp), f. 6-1-05, cert. ef. 6-3-05 thru 10-27-05; DFW 59-2005(Temp), f. 6-21-05, cert. ef. 6-26-05 thru 10-27-05; DFW 97-2005(Temp), f. & cert. ef. 8-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 43-2006(Temp), f. & cert. ef. 6-16-06 thru 11-16-06

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Rule Caption: Requirement for troll-caught salmon fish receiving ticket to show the number of salmon received.
Adm. Order No.: DFW 44-2006(Temp)
Filed with Sec. of State: 6-19-2006
Certified to be Effective: 6-19-06 thru 12-15-06
Notice Publication Date:
Rules Amended: 635-006-0212
Subject: The 2006 ocean troll salmon fishery is managed through vessel possession and landing limits, in numbers of fish. OAR 635-006-0210 requires Oregon's licensed fish dealers to prepare a Fish Receiving Ticket at the time of landing. Rule 635-006-0212 will require fish dealers to show numbers of salmon purchased on their troll fish receiving tickets to enable enforcement and tackling of this fishery.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-006-0212
Fish Receiving Ticket — Salmon

For all salmon, the following requirements apply in addition to those listed in OAR 635-006-0210:

(1) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Oregon Department of Fish and Wildlife.

(2) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught and the number of salmon landed.

Stat. Auth.: ORS 506.119, 506.129, 508.530 & 508.535
Stats. Implemented: ORS 506.129, 508.025, 508.040 & 508.550
Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 44-2006(Temp), f. & cert. ef. 6-19-06 thru 12-15-06

Rule Caption: Establish a gear limitation program for the commercial ocean Dungeness crab fishery.
Adm. Order No.: DFW 45-2006
Filed with Sec. of State: 6-20-2006
Certified to be Effective: 12-1-06
Notice Publication Date: 5-1-06
Rules Amended: 635-005-0055, 635-006-1015, 635-006-1065
Subject: Amended rules establish enforceable commercial Dungeness crab pot limits to: ensure the orderly conduct of this fishery; reduce the excess use of gear by the fleet; minimize gear conflict with other fisheries and reduce pot loss in the ocean; delegate authority for pot limit appeals to the Dungeness Crab Permit Review Board; and maximize the value of the Dungeness crab resource.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-005-0055
Fishing Gear

It is *unlawful* for commercial purposes to:

(1) Take crab by any means other than crab rings or crab pots (ORS 509.415); a crab ring is any fishing device that allows crab unrestricted entry or exit while fishing.

(2) Use any crab pot which is greater than thirteen cubic feet in volume, calculated using external dimensions.

(3) Use any crab pot which does not include a minimum of two circular escape ports of at least 4 -1/4 inches inside diameter located on the top or side of the pot. If escape ports are placed on the side of the pot, they shall be located in the upper half of the pot.

(4) Use any crab pot which does not have a release mechanism. Acceptable release mechanisms are:

(a) Iron lid strap hooks constructed of iron or "mild" steel rod (not stainless steel) not to exceed 1/4-inch (6mm) in diameter;

(b) A single loop of untreated cotton or other natural fiber twine, or other twine approved by the Department not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

(c) Any modification of the wire mesh on the top or side of the pot, secured with a single strand of 120 thread size untreated cotton, natural fiber, or other twine approved by the Department which, when removed, will create an opening of at least five inches in diameter.

(5) Place, operate, or leave crab rings or pots in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, rings or pots may be placed no more than 64 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.

(6) Use commercial crab pots in the Columbia River or Pacific Ocean unless the pots are individually marked with a surface buoy bearing, in a visible and legible manner, the brand of the owner and an ODFW buoy tag, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Only one unique buoy brand shall be registered to any one permitted vessel;

(c) All crab pots fished by a permitted vessel must use only the Oregon buoy brand number registered to that vessel in the area off of Oregon;

(d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-006-1015(1)(g)(E);

(e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear; and

(f) Buoys attached to a crab pot must have the buoy tag securely attached to the first buoy on the crab pot line (the buoy closest to the crab pot) at the end away from the crab pot line;

(g) Additional buoy tags to replace lost tags will be issued by the Department as follows:

(A) After 45 days following the season opening in the area fished, up to ten percent of the tags initially issued for that season; or

(B) For a catastrophic loss, defined as direct loss of non-deployed gear in the event of a vessel being destroyed due to fire, capsizing, or sinking. Documentation of a catastrophic loss may include any information the Department considers appropriate, such as fire department or US Coast Guard reports.

(C) Permit holders must obtain, complete, and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the

specific tag number of each lost tag, the location and date where lost gear or tags were last observed, and the presumed cause of the loss.

(7) Remove, damage, or otherwise tamper with crab buoy or pot tags except when lawfully applying or removing tags on the vessel's buoys and pots.

(8) Possess, use, control, or operate any crab pot not bearing a tag identifying the pot as that vessel's, or buoys not bearing tags issued by the Department to that vessel, except:

(a) To set gear as allowed under OAR 635-006-1015; or

(b) Under a waiver granted by the Department to allow one time retrieval of permitted crab gear to shore by another crab permitted vessel provided that:

(A) Vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;

(B) Circumstances beyond the control of the permit holder created undue hardship as defined by OAR 635-006-1095(7)(d);

(C) A Request must be in writing and a waiver approved and issued prior to retrieval.

(D) A copy of the waiver must be on board the vessel making the retrieval. (Contact Oregon Department of Fish and Wildlife License Services, Salem for guidelines.)

(9) Attach one crab pot to another crab pot or ring net by a common groundline or any other means that connects crab pots together,

(10) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

(11) Operate more than 15 crab rings from any one fishing vessel in bays or estuaries, except the Columbia River.

(12) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to the state of Oregon unless a crab pot allocation has been issued to the permit required under OAR 635-006-1015(1)(g).

(13) Deploy or fish more crab pots than the number of pots assigned by the crab pot allocation certificate or to use any vessel other than the vessel designated on the crab pot allocation, except to set gear as allowed under OAR 635-006-1015.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74, Renumbered from 625-010-0160; FWC 49-1978, f. & ef. 9-27-78, Renumbered from 635-036-0130; FWC 56-1982, f. & ef. 8-27-82; FWC 81-1982, f. & ef. 11-4-82; FWC 82-1982(Temp), f. & ef. 11-9-82; FWC 13-1983, f. & ef. 3-24-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (5) per FWC 45-1984, f. & ef. 8-30-84; FWC 72-1984, f. & ef. 10-22-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986 (Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 107-1990, f. & cert. ef. 10-1-90; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; FWC 68-1996(Temp), f. & cert. ef. 12-5-96; FWC 2-1997, f. 1-27-97, cert. ef. 2-1-97; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06

635-006-1015
Requirement for Permit

(1) The following provide general requirements for permits:

(a) Gillnet salmon — see ORS 508.775;

(b) Troll salmon — see ORS 508.801 and 508.828;

(c) Shrimp — see ORS 508.880 and 508.883;

(d) Scallop — see ORS 508.840 and 508.843;

(e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3) or section (F) below, it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) If the Commission establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(C) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(D) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(E) Effective December 1, 2006, the number of crab pots allocated to a permit required under section (A) above will be determined as follows:

(i) The allocation will be based on documented landings of Ocean Dungeness crab into Oregon, Washington (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or equivalent valid documents from the states of Washington or California, from December 1, 1995 through August 14, 2001;

(ii) The crab pot allocation will be the highest number of pots the vessel qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year (except through August 14, in 2001);

(iii) A crab pot allocation of 200 shall be assigned to a permit with landings less than 15,020 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season, and 8,940 pounds in the 2000 to 2001 season;

(iv) A crab pot allocation of 300 shall be assigned to a permit with minimum landings of 15,020 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or 8,940 pounds in the 2000 to 2001 season; and

(v) A crab pot allocation of 500 shall be assigned to a permit with minimum landings of 89,020 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or 37,030 pounds in the 2000 to 2001 season.

(F) If a vessel does not have an Oregon crab permit required under section (A) above, but does have a California Dungeness Crab permit valid to fish off Oregon, the vessel may fish for Dungeness crab outside of three nautical miles off Oregon provided:

(i) A request for an allocation is submitted as specfied by Oregon Department of Fish and Wildlife License Services, Salem;

(ii) A crab pot allocation shall be assigned to their vessel as described in (E) above; and

(iii) All crab pots and buoys must be marked as specified by OAR 635-005-0055(6).

(h) Developmental Fisheries: See ORS 506.450 through ORS 506.465 and OAR 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish / blue rockfish / nearshore fishery -- see ORS 508.945.

(k) Brine Shrimp:

(A) It is *unlawful* to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.

(C) The Department may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is *unlawful*:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through OAR 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through OAR 635-006-1095;

(iii) For a wholesaler, canner, or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is *unlawful* for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may not issue more than 20 permits required by section (1)(m)(A) of this rule.

(D) The Sardine Advisory Group as defined under OAR 635-006-1065 may advise the Commission on increasing the number of permits, developing criteria for issuing the new permits, and other regulations concerning the sardine fishery.

(E) By January 1, 2008, vessels permitted under section (1)(m)(A) of this rule shall be operated or owned by the permit holder.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

(5) Unless otherwise provided, permits must be purchased by December 31 of the license year.

(6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(7) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109, 506.129 & 508.921 - 508.941
Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 103-2001, f. & cert. ef. 10-23-01; DFW 95-2002, f. & cert. ef. 8-27-02; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06

635-006-1065
Review of Denials

(1) Except for bay clam dive fishery and sardine fishery permits, an individual whose application for issuance or renewal of a limited entry permit is denied by the Department may request review of the Department's decision by doing so in writing to the Commercial Fishery Permit Board. The procedure for requesting review and the applicable standard of review shall be as follows:

(a) Gillnet salmon — see ORS 508.796;

(b) Troll salmon — see ORS 508.825;

(c) Shrimp — see ORS 508. 910;

(d) Scallop — see ORS 508.867;

(e) Roe-herring - see ORS 508.765. For the roe-herring fishery, the Board may waive requirements for permits if the Board finds that:

(A) The individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the roe-herring season; or

(B) The Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(f) Sea Urchin — see ORS 508.760. For the sea urchin fishery, the Board may waive requirements for permits if the Board finds that failure to meet the requirements was due to illness, injury or circumstances beyond the control of the permittee;

(g) Ocean Dungeness crab — see ORS 508.941. For the Ocean Dungeness crab fishery, a permit holder may request review of the Department's initial crab pot allocation or the Department's denial of replacement of lost buoy tags by doing so in writing to the Commercial Fishery Permit Board. The Board may adjust the number of crab pots allocated to a permit or approve replacement of lost buoy tags as follows:

(A) The Board may adjust the number of crab pots allocated to a permit:

(i) Based on additional landings documentation supplied by permit holder according to criteria under OAR 635-006-1015(1)(g)(E); or

(ii) The crab pot allocation may be increased by one tier as described under OAR 635-006-1015(1)(g)(E) based on circumstances during the qualifying seasons described in OAR 635-006-1015(1)(g)(E) beyond the control of the permit holder which created undue hardship as defined by OAR 635-006-1095(7)(d).

(B) The Board may approve replacement of lost buoy tags due to a catastrophic loss as defined under OAR 635-005-0055(1)(6)(g)(B).

(h) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.960.

(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a letter of delegation to the Department.

(3) For those fisheries requiring a $75 application fee for Board review, the fee is nonrefundable. However, if the Board grants the applicant's request, the nonrefundable fee shall apply toward the permit fee.

(4) Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to ORS 183.550.

(5) Bay clam dive fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a bay clam fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.

(b) In accordance with any applicable provisions of ORS 183.310 to ORS 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit.

(c) A party must petition for Commission review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) Final Orders shall be issued by the Commission and may be appealed as provided in ORS 183.480 to ORS 183.550.

(6) Sardine fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a sardine fishery permit is denied by the Department may, within 60 days of receipt of denial, make written request, to the Commission, for a hearing for review of the denial. The request shall identify why the permit should be granted.

(b) In accordance with any applicable provisions of ORS 183.310 to 183.550 for conduct of contested cases, a hearings officer shall review the proposed denial by the Department of an application for issuance, renewal or transfer of a permit. The Sardine Advisory Board is designated as a party to the contested case.

(c) A party, including the Department, must petition for Commission review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants to file an exception to the proposed order. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) The Sardine Advisory Group:

(A) Shall consist of members appointed by the Commission as follows:

(i) Three members shall be chosen to represent the sardine industry.

(ii) Two members shall be chosen to represent the public.

(B) Is subject to requirements of OAR 635-006-1200 sections (1) and (2).

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109
Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06

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Rule Caption: Allowable sale of fish caught during Tribal Treaty summer salmon fishery in the Columbia River.
Adm. Order No.: DFW 46-2006(Temp)
Filed with Sec. of State: 6-20-2006
Certified to be Effective: 6-20-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-041-0076
Subject: This rule allows sales of fish caught in the Tribal Treaty summer salmon fishery in the Columbia River. Implementation is

consistent with action taken June 15, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0076
Summer Salmon Season

(1) Chinook, coho, steelhead, walleye, carp, and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, beginning 6:00 a.m. Tuesday June 20, 2006 through 6:00 p.m. Thursday June 22, 2006 (60 hours).

(a) 7 inch minimum mesh size restriction is in effect.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Closed areas as set forth in OAR 635-041-0045 except the Spring Creek sanctuary.

(2) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m., Thursday, June 8, 2006 until further notice.

(a) Gear is restricted to subsistence fishing gear: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Closed areas as set forth in OAR 635-041-0020.

(3) Sale of fish caught in the Klickitat River, Wind River, Drano Lake and Big White Salmon River is allowed beginning 6:00 a.m., Thursday, June 8, 2006, during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

Stat. Auth.: ORS 496.118, 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06

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Rule Caption: Summer salmon commercial gill net season in the mainstem Columbia River.
Adm. Order No.: DFW 47-2006(Temp)
Filed with Sec. of State: 6-20-2006
Certified to be Effective: 6-26-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-042-0027
Subject: This rule will provide a summer salmon gill net commercial fishery in the Columbia River mainstem consistent with provision of the US v Oregon management agreement. Implementation is consistent with action taken June 15, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0027
Summer Salmon Season

(1) Chinook salmon, coho salmon, white sturgeon, green sturgeon and shad may be taken by gill net for commercial purposes from the mouth of the Columbia River upstream to a line projected from deadline markers on the Oregon and Washington banks, both such deadline markers located approximately five miles downstream from Bonneville Dam (Zones 1–5, as identified in OAR 635-042-0001).

(2) It is unlawful to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches (as described in OAR 635-042-0010(4).

(3) The open fishing periods are:

(a) 7:00 p.m. Monday June 26, 2006 to 5:00 a.m. Tuesday June 27, 2006 (10 hours).

(b) 7:00 p.m. Wednesday July 5, 2006 to 5:00 a.m. Thursday July 6, 2006 (10 hours).

(4) A maximum of three sturgeon (white and/or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. The three sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

(5) Closed waters, as described in OAR 635-042-0005 for Grays River sanctuary, Elokomin-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06

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Rule Caption: Establish big game tags to be raffled and/or auctioned.
Adm. Order No.: DFW 48-2006
Filed with Sec. of State: 6-21-2006
Certified to be Effective: 6-21-06
Notice Publication Date: 5-1-06
Rules Amended: 635-090-0140, 635-090-0150, 635-090-0160
Subject: Amended rules regarding big game auction and raffle tags.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-090-0140
Deer and Elk Tag Auction and Raffle

(1) Notwithstanding ORS 496.146(10), upon the recommendation of the Access and Habitat Board, the commission may issue each year up to ten elk and ten deer tags to hunt deer or elk. Recommendations from the board shall include:

(a) The land on which each tag shall be used;

(b) The percentage of funds (not to exceed 50 percent) received from the tags that may revert to the landowner if the tag is limited to private land; and

(c) A written agreement with the commission which provides public access and habitat improvements.

(2) The board may contract with a sportsman's group or other organization to conduct a raffle or an auction to issue the access and habitat deer and elk tags.

(3) The access and habitat raffle and/or auction deer and elk tags are in addition to all other tags and permits approved by the commission.

(a) In addition to the number of deer and elk tags legally available to an individual, an individual is allowed one additional elk and one additional deer tag annually, provided these tags are Access and Habitat auction or raffle tags.

(b) Hunting hours, open season, and open area will be determined by the board specific to the tag.

(c) Bag limit: one deer or one elk.

(4) Access and habitat deer/elk tag raffle requirements:

(a) There is no limit on the number of tickets a person may purchase. Raffle tickets shall be available for purchase in the following denominations with the addition of a $1.50 license agent fee:

(A) Deer Tags
(i) One ticket at a cost of $2.50.
(ii) Six tickets at a cost of $9.50.
(iii) Fifteen tickets at a cost of $19.50.
(iv) Forty tickets at a cost of $49.50.
(v) One hundred tickets at a cost of $99.50.
(B) Elk tags
(i) One ticket at a cost of $4.50.
(ii) Six tickets at a cost of $19.50.
(iii) Fifteen tickets at a cost of $39.50.
(iv) Forty tickets at a cost of $99.50.
(C) Combination Elk and Deer Tags
(i) One ticket at a cost of $9.50.
(ii) Six tickets at a cost of $29.50.
(iii) Fifteen tickets at a cost of $59.50.
(iv) Forty tickets at a cost of $149.50.

(b) Raffle tickets in denominations of 1, 6, and 15 will be available to the public through authorized POS license vendors or through the department's Salem headquarters office during the dates specified in the current Big Game Regulations. Tickets in denominations of forty and one hundred will be available only through the department's Salem headquarters office. Tickets also may be sold by department representatives at various public events or meetings of sportsmen and landowners.

(c) Residents and nonresidents shall be eligible to purchase tickets.

(d) There shall be no refunds for any raffle ticket purchases.

(e) Tickets purchased through license agents and submitted for the drawing by mail must be received at the department's Salem headquarters office by the date specified in the current Big Game Regulations. Hand delivered tickets submitted for the drawing must be received by 5pm at the Salem headquarters office no later than two days before the drawing event. Completed tickets delivered to the drawing event must be turned in by the time specified in the current Big Game Regulations. Additional tickets may be purchased at the raffle site prior to the drawing.

(f) All tickets submitted for the drawing must be complete with a name, address, phone number, and hunt number (if applicable).

(g) One winner and a minimum of two alternate winners shall be drawn at a public drawing; time and location to be determined by the board and department.

(h) If a person is drawn as the winner of more than one hunt for the same species, the Department will issue the first Access and Habitat raffle deer/elk tag drawn by the person who meets all criteria specified herein.

(i) The order in which the winner and alternate winners for the deer/elk raffle hunts shall be drawn at the public drawing is as follows:

(i) Statewide Combination Elk and Deer- #AH002

(ii) Statewide Deer Hunt- #AH001

(iii) Southeast Oregon Deer Hunt- #AH004

(iv) Central Oregon Deer Hunt- #AH005

(v) Northeast Oregon Deer Hunt- #AH003

(vi) Statewide Elk Hunt- #AH009

(vii) Northeast Oregon Elk Hunt- #AH006

(viii) Central/Southeast Elk Hunt- #AH007

(ix) Western Oregon Elk Hunt- #AH008

(j) The department will notify the winner and two alternates by mail. The winner must claim the tag during regular business hours within 30 days of the drawing or he/she shall be disqualified and the department will offer the tag to the first alternate. The first alternate must claim the tag within 10 business days of notification or he/she shall be disqualified and the department will notify the second alternate. The second alternate will be contacted in the same manner and with the same deadlines as the first alternate if the winner or first alternate have not claimed the tag as required. The tag will not be issued if not claimed during regular business hours within 90 days following the drawing.

(k) The access and habitat raffle deer/elk tag winners must have a valid hunting license.

(l) The department will issue an access and habitat raffle deer/elk tag to the person whose name appears on the winning ticket and who meets all criteria specified herein. The tag is not transferable.

(5) Access and habitat deer/elk tag auction requirements:

(a) Residents and nonresidents shall be eligible to bid.

(b) The minimum acceptable bid for an access and habitat auction tag shall be $2,000.00 for deer and $5,000.00 for elk. The bid price includes the tag fee.

(c) Individuals, agents, corporations, or others that submit the highest bid shall provide the name, address, phone number, and affiliation of the individual to whom the access and habitat auction deer/elk tag shall be issued to a department representative or a representative of the organization authorized to conduct the auction immediately upon the conclusion of the auction of such tag.

(d) Submittal of the winning bid shall be made to the department by cashiers check or certified check within 20 working days of the date of the auction (whether conducted by the department or by a sportsman's group or organization authorized to do so).

(e) If the full amount of the bid is not paid as required by OAR 635-090-140(5)(d), the department may, at its discretion, reject the bid and offer the access and habitat auction deer/elk tag to the next highest bidder. Such next highest bidder must make payment to the department by cashiers check or certified check within five working days of notification.

(f) The access and habitat auction deer/elk tag winner must have a valid hunting license.

(g) The department will issue an access and habitat auction deer/elk tag to the winner who meets all criteria specified herein. The tag is not transferable.

(h) The department reserves the right to accept or reject any or all access and habitat auction deer/elk tag bids.

Stat. Auth: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Hist.: FWC 17-1994, f. & cert. ef. 3-10-94; FWC 87-1994, f. & cert. ef. 11-22-94, FWC 52-1995, f. & cert. ef. 6-16-95; FWC 36-1996, f. & cert. ef. 6-7-96; DFW 48-1998, f. & cert. ef. 6-22-98; DFW 46-1999, f. & cert. ef. 6-15-99; DFW 1-2000(Temp), f. & cert. ef. 1-3-00 thru 6-30-00; DFW 40-2000, f. & cert. ef. 7-25-00; DFW 62-2001, f. & cert. ef. 7-25-01; DFW 106-2003, f. & cert. ef. 10-16-03; DFW 68-2004, f. & cert. ef. 7-13-04; DFW 48-2006, f. & cert. ef. 6-21-06

635-090-0150

Deer and Elk Auction Tags

(1) The following tags will be auctioned to the highest bidder annually in such manner and at such time as determined by the department pursuant to OAR 635-090-0140. Hunters successful in bidding for one of the following tags are subject to the provisions of OAR 635-090-0140 and OAR chapter 635, division 065.

(2) Governor's Statewide Combination Hunt.

(a) Bag Limit: One elk and one deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One (1) elk and one (1) deer.

(3) Statewide Deer Hunt.

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1through November 30.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of Tags: Four.

(4) Statewide Elk Hunt.

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: Four.

Stat. Auth: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Hist.: FWC 35-1994, f. & cert. ef. 6-16-94; FWC 87-1994, f. & cert. ef. 11-22-94; FWC 36-1996, f. & cert. ef. 6-7-96; DFW 48-1998, f. & cert. ef. 6-22-98; DFW 40-2000, f. & cert. ef. 7-25-00; DFW 60-2002, f. & cert. ef. 6-11-02; DFW 68-2004, f. & cert. ef. 7-13-04; DFW 48-2006, f. & cert. ef. 6-21-06

635-090-0160

Deer and Elk Raffle Tags

(1) The following tags will be issued annually to individuals selected through a public drawing.

(2) Statewide Deer Hunt #AH001.

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(3) Statewide Combination Elk and Deer #AH002

(a) Bag Limit: One elk and one deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One (1) elk and one (1) deer.

(4) Northeast Oregon Deer Hunt #AH003

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area open to controlled buck deer rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Columbia Basin, Walla Walla, Wenaha, Sled Springs, Chesnimnus, Snake River, Imnaha, Minam, Catherine Creek, Mt. Emily, Ukiah, Heppner, Fossil, Northside, Desolation, Starkey, Sumpter, Lookout Mountain, Keating, and Pine Creek.

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(5) Southeast Oregon Deer Hunt #AH004

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area open to controlled buck deer rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Murderers Creek, Beulah, Owyhee, Malheur

River, Silvies, Juniper, Steens Mountain, Whitehorse, Beatys Butte, and Warner.

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(6) Central Oregon Deer Hunt #AH005

(a) Bag Limit: One deer.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area open to controlled buck deer rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065: Hood, White River, Biggs, Maupin, Grizzly, Metolius, Ochoco, Maury, Paulina, Upper Deschutes, Fort Rock, Wagontire, Silver Lake, Sprague, Keno, Klamath Falls, and Interstate.

(e) Weapon: Any weapon legal for deer hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(7) Northeast Oregon Elk Hunt #AH006

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area open to controlled or general season elk rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Columbia Basin, Walla Walla, Wenaha, Sled Springs, Chesnimnus, Snake River, Imnaha, Minam, Catherine Creek, Mt. Emily, Ukiah, Heppner, Fossil, Northside, Desolation, Starkey, Sumpter, Lookout Mountain, Keating, and Pine Creek.

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(8) Central/Southeast Elk Hunt #AH007

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area open to controlled or general season elk rifle hunts within the following wildlife units as described in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065): Murderers Creek, Beulah, Owyhee, Malheur River, Silvies, Juniper, Steens Mountain, Whitehorse, Beatys Butte, Warner, Hood, White River, Biggs, Maupin, Grizzly, Metolius, Ochoco, Maury, Paulina, Upper Deschutes, Fort Rock, Wagontire, Silver Lake, Sprague, Keno, Klamath Falls, and Interstate.

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(9) Western Oregon Elk Hunt #AH008

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area within Western Oregon Wildlife Unit Boundaries as defined in OAR chapter 635, division 080 (except federal refuges and specific area closures as defined in OAR chapter 635, division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR chapter 635, division 065.

(f) Number of tags: One.

(10) Statewide Elk Hunt #AH009

(a) Bag Limit: One elk.

(b) Hunting Hours: As provided in OAR 635-065-0730.

(c) Open Season: September 1 through November 30.

(d) Open Area: Any area within Oregon Wildlife Unit Boundaries as defined in OAR Chapter 635, Division 080 (except federal refuges and specific area closures as defined in OAR Chapter 635, Division 065).

(e) Weapon: Any weapon legal for elk hunting as provided in OAR Chapter 635, Division 065.

(f) Number of tags: One.

Stat. Auth: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.232 & 496.242

Hist.: DFW 48-1998, f. & cert. ef. 6-22-98; DFW 40-2000, f. & cert. ef. 7-25-00; DFW 60-2002, f. & cert. ef. 6-11-02; DFW 68-2004, f. & cert. ef. 7-13-04; DFW 48-2006, f. & cert. ef. 6-21-06

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Rule Caption: Available sale of fish caught during Tribal Treaty summer salmon fisheries in the Columbia River.
Adm. Order No.: DFW 49-2006(Temp)
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-27-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-041-0076
Subject: The rule allows sales of fish caught during the Tribal Treaty summer salmon fisheries in the Columbia River. Implementation is consistent with action taken June 23, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0076
Summer Salmon Season

(1) Chinook, coho, steelhead, walleye, carp, and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, during the following periods:

(a) 6:00 a.m. Tuesday June 20, 2006 through 6:00 p.m. Thursday June 22, 2006 (60 hours);

(b) 6:00 a.m. Tuesday June 27, 2006 through 6:00 p.m. Thursday June 29, 2006 (60 hours); and

(c) 6:00 a.m. Monday July 3, 2006 through 6:00 p.m. Friday July 7, 2006 (108 hours).

(2) 7 inch minimum mesh size restriction is in effect.

(3) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(4) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(5) Closed areas as set forth in OAR 635-041-0045 except the Spring Creek sanctuary.

(6) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m., Thursday, June 8, 2006 until further notice.

(a) Gear is restricted to subsistence fishing gear: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Closed areas as set forth in OAR 635-041-0020.

(7) Sale of fish caught in the Klickitat River, Wind River, Drano Lake and Big White Salmon River is allowed beginning 6:00 a.m., Thursday, June 8, 2006, during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

Stat. Auth.: ORS 496.11 &, 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06

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Rule Caption: Amend rule to increase monthly limits for nearshore species in the commercial nearshore fishery.
Adm. Order No.: DFW 50-2006(Temp)
Filed with Sec. of State: 6-28-2006
Certified to be Effective: 7-1-06 thru 12-27-06
Notice Publication Date:
Rules Amended: 635-004-0033
Subject: Amend rules to increase the commercial nearshore Limited Entry Monthly limits for: black and blue rockfish (increase to 700 pounds per month in July 2006 and August 2006; other nearshore rockfish (increase to 300 pounds per month); cabezon (increase to 1,750 pounds per month); and greenling (increase to 200 pounds per month), effective July 1, 2006.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-004-0033
Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

(a) Minor Nearshore Rockfish

(b) Minor Shelf Rockfish (excluding tiger rockfish and vermilion rockfish)

(c) Minor Slope Rockfish

(d) Black Rockfish
(e) Blue Rockfish
(f) Cabezon
(g) Canary Rockfish
(h) Greenling
(i) Tiger Rockfish
(j) Vermilion Rockfish
(k) Widow Rockfish
(l) Yelloweye Rockfish
(m) Yellowtail Rockfish
(n) Darkblotched Rockfish
(o) Pacific Ocean Perch
(p) Longspine Thornyhead
(q) Shortspine Thornyhead
(r) Arrowtooth Flounder
(s) Dover Sole
(t) Petrale Sole
(u) Rex Sole
(v) Other Flatfish
(w) Lingcod
(x) Sablefish
(y) Pacific Whiting

(2) For the purpose of this rule a "harvest cap" is defined as the total catch for a given species, or species group, that may be taken in a single calendar year. For 2006, the commercial harvest caps are:

(a) Black rockfish and blue rockfish combined of 106.5 metric tons, of which no more than 102.5 metric tons may be black rockfish.

(b) Other nearshore rockfish, 13.5 metric tons.

(c) Cabezon, 31.3 metric tons.

(d) Greenling, 23.4 metric tons.

(3) In 2006, no vessel may land black rockfish and blue rockfish, combined, more than:

(a) 300 pounds per month in the months of January and February;

(b) 700 pounds per month in the months of March, April, May, June, July and August;

(c) 300 pounds per month in the months of September and October;

(d) 250 pounds per month in the months of November and December.

(4) In 2006, in any month, no vessel may land more than:

(a) 300 pounds of other nearshore rockfish.

(b) 1750 pounds of cabezon.

(c) 200 pounds of greenling.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129
Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef 9-28-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 31-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 82-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 12-31-05; DFW 86-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 119-2005(Temp), f. 10-10-05, cert. ef. 10-11-05 thru 12-31-05; DFW 135-2005(Temp), f. 11-30-05, cert. ef. 12-1-05 thru 12-31-05; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 50-2006(Temp), f. 6-28-06, cert. ef. 7-1-06 thru 12-27-06

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Rule Caption: Modifications to Commercial Summer Chinook Salmon Gill Net Seasons in the Columbia River.
Adm. Order No.: DFW 51-2006(Temp)
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 6-29-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-042-0027
Subject: Amend rule to allow additional 10-hour fishing period in the commercial summer chinook salmon gill net fishery in the Columbia River mainstem. Revision is consistent with action taken June 27, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0027
Summer Salmon Season

(1) Chinook salmon, coho salmon, white sturgeon and shad may be taken by gill net for commercial purposes from the mouth of the Columbia River upstream to a line projected from deadline markers on the Oregon and Washington banks, both such deadline markers located approximately five miles downstream from Bonneville Dam (Zones 1–5, as identified in OAR 635-042-0001).

(2) Green sturgeon may be taken by gill net for commercial purposes in the area described above through July 6, 2006 only. Effective 12:01 a.m. July 7, 2006 the retention of green sturgeon is prohibited.

(3) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches (as described in OAR 635-042-0010(4).

(4) The open fishing periods are:

(a) 7:00 p.m. Monday June 26, 2006 to 5:00 a.m. Tuesday June 27, 2006 (10 hours).

(b) 7:00 p.m. Thursday June 29, 2006 to 5:00 a.m. Friday June 30, 2006 (10 hours).

(c) 7:00 p.m. Wednesday July 5, 2006 to 5:00 a.m. Thursday July 6, 2006 (10 hours).

(5) A maximum of three sturgeon (white and/or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open.

(6) Closed waters, as described in OAR 635-042-0005 for Grays River sanctuary, Elokomin-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06

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Rule Caption: Modifications to Youngs Bay Select Area commercial gill net fisheries.
Adm. Order No.: DFW 52-2006(Temp)
Filed with Sec. of State: 6-28-2006
Certified to be Effective: 6-28-06 thru 7-27-06
Notice Publication Date:
Rules Amended: 635-042-0145
Subject: Amend rules to prohibit retention or sale of sturgeon caught in the Youngs Bay Select Area fisheries. Revision is consistent with action taken June 27, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0145
Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are as follows:

(A) Summer Season: 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 summer fishery are:

(A) 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).

(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 more than 8-inches during the spring and summer seasons from April 17, 2006 to July 27, 2006.

(3) Sturgeon may not be possessed or sold during the fishing periods identified in (1)(a)(A) above in the Youngs Bay Select Area fishery.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06

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Rule Caption: Extend fishing season on the lower portion of Three Rivers tributary of the Nestucca River.
Adm. Order No.: DFW 53-2006(Temp)
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 7-1-06 thru 7-9-06
Notice Publication Date:
Rules Amended: 635-014-0090
Subject: Amend rules to extend the angling season for fin-clipped spring chinook salmon and fin-clipped steelhead in Three Rivers from the mouth upstream to the hatchery weir through July 9, 2006.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-014-0090
Inclusions and Modifications

(1) The 2006 Oregon Sport Fishing Regulations provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2006 Oregon Sport Fishing Regulations.

(2) Three Rivers, tributary of the Nestucca, from the mouth upstream to the hatchery weir deadline, is open to angling for adipose fin-clipped steelhead and adipose fin-clipped spring chinook salmon July 1, 2006 through July 9, 2006.

(3) All other specifications and restrictions as specified in the current 2006 Oregon Sport Fishing Regulations apply.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f, 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert, ef, 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06

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Rule Caption: Modifications to Sport Sturgean Fisheries in the John Day Pool of the Columbia River.
Adm. Order No.: DFW 54-2006(Temp)
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 7-1-06 thru 12-27-06
Notice Publication Date:
Rules Amended: 635-023-0095
Subject: Amend rules to prohibit retention of sturgeon caught in the Columbia River and tributaries between John Day and McNary dams (John Day Pool). Revision is consistent with action taken June 27, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0095
Sturgeon Season

(1) The **2006 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2006 Oregon Sport Fishing Regulations**.

(2) The Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam is open to the retention of sturgeon, three days per week, Thursday, Friday, and Saturday, during the following periods:

(a) Sunday, January 1, 2006 through Monday, July 31, 2006, and

(b) Sunday, October 1, 2006 through Sunday, December 31, 2006.

(3) The retention of sturgeon in the area identified in subsection (2) is prohibited August 1, 2006 through September 30, 2006.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of sturgeon seven days per week during the following periods:

(a) Sunday, January 1, 2006 through Sunday, April 30, 2006, and

(b) Saturday, May 13, 2006 through Tuesday, July 4, 2006.

(5) The retention of sturgeon in the area identified in subsection (4) is prohibited May 1, 2006 through May 12, 2006 and again from July 5, 2006 through December 31, 2006.

(6) During the fishing period as identified in section (4)(b) of this rule, only sturgeon 45–60" in overall length may be retained.

(7) Angling for sturgeon is prohibited from Marker 85 upstream to Bonneville Dam and from Highway 395 Bridge upstream to McNary Dam May 1 through July 31, 2006.

(8) The Columbia River and tributaries between The Dalles Dam and John Day Dam are closed to the retention of sturgeon effective 12:01 a.m., April 8, 2006.

(9) Angling for sturgeon is prohibited from the west end of the grain silo located near Rufus, Oregon upstream to John Day Dam effective 12:01 a.m., May 1, 2006 through 11:59 p.m., July 31, 2006.

(10) Retention of sturgeon is prohibited in the Columbia River and tributaries between John Day and McNary dams (John Day Pool) effective 12:01 a.m. Saturday July 1, 2006.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06

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Rule Caption: Amend rules to reflect in-season changes to federal regulations for commerical groundfish fisheries.
Adm. Order No.: DFW 55-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06 thru 12-27-06
Notice Publication Date:
Rules Amended: 635-004-0019
Subject: Amend rules to adopt in-season commercial groundfish actions implemented by the federal government to avoid exceeding the annual catch limits for canary rockfish, darkblotched rockfish and petrale sole effective July 1, 2006.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-004-0019
Inclusions and Modifications

(1) OAR Chapter 635, Division 004, modifies or is in addition to provisions contained in Code of Federal Regulations, Title 50, Part 660, Subpart G, West Coast Groundfish Fisheries.

(2) The Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G, provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-06-01, announced inseason management measures, effective March 1, 2006, including but not limited to adjusted Rockfish Conservation Area (RCA) boundaries, commercial trip limit tables and darkblotched rockfish optimal yield (OY).

(4) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-06-03, announced inseason management measures, effective May 1, 2006, including but not limited to adjustments to chilipepper rockfish limited entry trawl; sablefish open access trip limits; and gear restrictions in the limited entry fixed gear and open access fisheries for "other flatfish."

(5) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-06-04, announced inseason management measures, effective July 1, 2006, including but not limited to adjustments to the trawl rockfish conservation area (RCA); minor slope and darkblotched rockfish limited entry trawl trip limits; splitnose rockfish limited entry trawl trip limits and an inseason "trigger" mechanism which will be used to close and/or adjust bottom trawl fisheries if specific criteria are met prior to the September, 2006, Pacific Fishery Management Council (PFMC) meeting.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), F. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. 4-28-06, cert. ef. 5-1-06 thru 10-27-06; DFW 55-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06

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Rule Caption: Extended fishing period for Tribal Treaty summer salmon fisheries in the Columbia River.
Adm. Order No.: DFW 56-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-3-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-041-0076
Subject: This rule extends by 48 hour the Tribal Treaty summer salmon fisheries in the Columbia River effective July 30, 2006. Implementation is consistent with action taken June 30, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0076
Summer Salmon Season

(1) Chinook, coho, steelhead, walleye, carp, and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, during the following periods:

(a) 6:00 a.m. Tuesday June 20, 2006 through 6:00 p.m. Thursday June 22, 2006 (60 hours);

(b) 6:00 a.m. Tuesday June 27, 2006 through 6:00 p.m. Thursday June 29, 2006 (60 hours); and

(c) 6:00 a.m. Wednesday July 5, 2006 through 6:00 p.m. Friday July 7, 2006 (60 hours).

(2) 7 inch minimum mesh size restriction is in effect.

(3) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(4) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(5) Closed areas as set forth in OAR 635-041-0045 except the Spring Creek sanctuary.

(6) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m., Thursday, June 8, 2006 until further notice.

(a) Gear is restricted to subsistence fishing gear: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Closed areas as set forth in OAR 635-041-0020.

(7) Sale of fish caught in the Klickitat River, Wind River, Drano Lake and Big White Salmon River is allowed beginning 6:00 a.m., Thursday, June 8, 2006, during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

Stat. Auth.: ORS 496.118 &, 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006, f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06

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Rule Caption: Modifications to Commercial Summer Chinook Salmon Gill Net Seasons in the Columbia River.
Adm. Order No.: DFW 57-2006(Temp)
Filed with Sec. of State: 7-5-2006
Certified to be Effective: 7-6-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-042-0027
Subject: This rule is needed to add 12-hour fishing periods to the ongoing commercial summer chinook gill net fishery in the mainstem Columbia River (Zones 1–5). Implementation is consistent with action taken July 5, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0027
Summer Salmon Season

(1) Chinook salmon, coho salmon, white sturgeon and shad may be taken by gill net for commercial purposes from the mouth of the Columbia River upstream to a line projected from deadline markers on the Oregon and Washington banks, both such deadline markers located approximately five miles downstream from Bonneville Dam (Zones 1–5, as identified in OAR 635-042-0001).

(2) Green sturgeon may be taken by gill net for commercial purposes in the area described above through July 6, 2006 only. Effective 12:01 a.m. July 7, 2006 the retention of green sturgeon is prohibited.

(3) It is unlawful to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches (as described in OAR 635-042-0010(4).

(4) The open fishing periods are:

(a) 7:00 p.m. Monday June 26, 2006 to 5:00 a.m. Tuesday June 27, 2006 (10 hours).

(b) 7:00 p.m. Thursday June 29, 2006 to 5:00 a.m. Friday June 30, 2006 (10 hours).

(c) 7:00 p.m. Wednesday July 5, 2006 to 5:00 a.m. Thursday July 6, 2006 (10 hours).

(d) 7:00 p.m. Thursday July 6, 2006 to 7:00 a.m. Friday July 7, 2006 (12 hours).

(e) 7:00 p.m. Monday July 10, 2006 to 7:00 a.m. Tuesday July 11, 2006 (12 hours).

(f) 7:00 p.m. Wednesday July 12, 2006 to 7:00 a.m. Thursday July 13, 2006 (12 hours).

(g) 7:00 p.m. Monday July 17, 2006 to 7:00 a.m. Tuesday July 18, 2006 (12 hours).

(h) 7:00 p.m. Wednesday July 19, 2006 to 7:00 a.m. Thursday July 20, 2006 (12 hours).

(i) 7:00 p.m. Monday July 24, 2006 to 7:00 a.m. Tuesday July 25, 2006 (12 hours).

(j) 7:00 p.m. Wednesday July 26, 2006 to 7:00 a.m. Thursday July 27, 2006 (12 hours).

(5) A maximum of three sturgeon (white and/or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open.

(6) Closed waters, as described in OAR 635-042-0005 for Grays River sanctuary, Elokomin-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06

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Rule Caption: Allowable sale of fish caught during Tribal Treaty summer salmon Fisheries in the Columbia River.
Adm. Order No.: DFW 58-2006(Temp)
Filed with Sec. of State: 7-6-2006
Certified to be Effective: 7-10-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-041-0076
Subject: This rule allows sales of fish caught during the Tribal Treaty summer salmon fisheries in the Columbia River. Implementation is consistent with action taken July 6, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0076
Summer Salmon Season

(1) Chinook, coho, steelhead, walleye, carp, and shad may be taken for commercial purposes from mainstem Columbia River, Zone 6, during the following periods:

(a) 6:00 a.m. Tuesday June 20, 2006 through 6:00 p.m. Thursday June 22, 2006 (60 hours);

(b) 6:00 a.m. Tuesday June 27, 2006 through 6:00 p.m. Thursday June 29, 2006 (60 hours); and

(c) 6:00 a.m. Wednesday July 5, 2006 through 6:00 p.m. Friday July 7, 2006 (60 hours).

(d) 6:00 a.m. Monday July 10, 2006 through 6:00 p.m. Thursday July 13, 2006;

(e) 6:00 a.m. Monday July 17, 2006 through 6:00 p.m. Thursday July 20, 2006; and

(f) 6:00 a.m. Monday July 24, 2006 through 6:00 p.m. Thursday July 27, 2006.

(2) 7 inch minimum mesh size restriction is in effect for July 10, 2006 to July 13, 2006.

(3) 8 inch minimum mesh size restriction is in effect for July 17, 2006 to July 27, 2006.

(4) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(5) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(6) Closed areas as set forth in OAR 635-041-0045 except the Spring Creek sanctuary.

(7) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m., Thursday, June 8, 2006 until further notice.

(a) Gear is restricted to subsistence fishing gear: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be retained but not sold.

(c) Sturgeon may not be sold. However, sturgeon between 4 feet and 5 feet in length from The Dalles and John Day pools may be kept for subsistence use. Sturgeon from the Bonneville Pool between 45 inches and 60 inches in length may be kept for subsistence use.

(d) Closed areas as set forth in OAR 635-041-0020.

(8) Sale of fish caught in the Klickitat River, Wind River, Drano Lake and Big White Salmon River is allowed beginning 6:00 a.m., Thursday, June 8, 2006, during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

Stat. Auth.: ORS 496.118 &, 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006, f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06

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Rule Caption: Lower Deschutes River Sport Fall Chinook Fishery.
Adm. Order No.: DFW 59-2006(Temp)
Filed with Sec. of State: 7-10-2006
Certified to be Effective: 8-1-06 thru 10-31-06
Notice Publication Date:
Rules Amended: 635-018-0090
Subject: Amend rule to allow the sport harvest of fall chinook salmon in the Lower Deschutes River starting August 1, 2006.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-018-0090
Inclusions and Modifications

(1) The **2006 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2006 Oregon Sport Fishing Regulations**.

(2) The Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls is open to angling for trout, steelhead, and chinook salmon from 12:01 a.m. August 1, 2006 through 11:59 p.m. October 31, 2006.

(a) A catch limit of two adult chinook salmon and five jack salmon per day may be retained.

(b) All other restrictions and catch limits for trout and steelhead remain unchanged from the **2006 Oregon Sport Fishing Regulations** for Area 1 of the Deschutes River.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138 & 496.146
Stats. Implemented: ORS 496.162
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96, FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp) f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99;DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06

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Rule Caption: Rules regarding furbearer harvest and pursuit seasons and bag limits for the 2006–2007 and 2007–2008 seasons.
Adm. Order No.: DFW 60-2006
Filed with Sec. of State: 7-12-2006
Certified to be Effective: 7-12-06
Notice Publication Date: 6-1-06
Rules Amended: 635-043-0090, 635-050-0045, 635-050-0070, 635-050-0080, 635-050-0090, 635-050-0100, 635-050-0110, 635-050-0120, 635-050-0130, 635-050-0140, 635-050-0150, 635-050-0170, 635-050-0183, 635-050-0189

Subject: Amended rules regarding seasons and bag limits for the 2006–2007 and 2007–2008 furbearer harvest and pursuit seasons.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-043-0090
Who May Hunt with the Aid of an Artificial Light

Any person hunting bobcat, raccoon or opossum may hunt with an artificial light not attached to or operated from a motor-propelled vehicle. Any person authorized to alleviate wildlife damage pursuant to ORS 498.142 may hunt with the aid of an artificial light in the manner prescribed by permit.

Stat. Auth.: ORS 183 & ORS 496
Stats Implemented: ORS 183 & ORS 496
Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0203, Renumbered from 635-007-0330; FWC 49-1991, f. & cert. ef. 5-13-91; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0045
General Furbearer Regulations

The following general regulations apply to furbearer seasons:

(1) Any person possessing a valid furtaker's license or hunting license for furbearers is required to fill out and return a completed harvest report form to the Department at 3406 Cherry Avenue NE, Salem, Oregon 97303. The form shall be postmarked by April 15, 2007 for the 2006-07 seasons and April 15, 2008 for the 2007-08 seasons. Failure to do so shall deny the license holder the opportunity to purchase a hunting license for furbearers or furtakers license for the following furbearer season.

(2) Any person may sell or exchange the hide, carcass, or any part thereof, of any legally taken furbearing or unprotected mammal.

(3) All traps and snares, whether set for furbearing or other unprotected mammals, shall be legibly marked or branded with the owner's license (brand) number that has been assigned by the Department; except that unmarked traps or snares may be set for nongame mammals unprotected by law or Department regulations by any person or member of his immediate family upon land of which he is the lawful owner. A landowner is required to register the location of such land with the Department and shall possess each year a free landowner's license before hunting or trapping furbearing mammals.

(4) No branded trap or snare may be sold unless accompanied by a uniform bill of sale.

(5) Bobcat, raccoon and opossum may be hunted with the aid of an artificial light provided the light is not cast from or attached to a motor vehicle or boat.

(6) Use of dogs is permitted to hunt or pursue bobcat, raccoon, fox, and unprotected mammals except in game bird nesting habitat during April, May, June or July, except as authorized by the Fish and Wildlife Commission.

(7) It is unlawful for any person to trap for furbearers or unprotected mammals using:

(a) A steel leghold trap with a jaw spread greater than 9 inches.

(b) A No. 3 or larger leghold trap not having a jaw spacing of at least 3/16 of one inch when the trap is sprung (measurement excludes pads on padded jaw traps) and when the trap is placed in a manner that is not capable of drowning a trapped animal.

(c) The flesh of any game bird, game fish, game mammal for trap bait.

(d) Any instant-kill trap having a jaw spread of 9 inches or more in any land set.

(e) Any toothed trap, or trap with a protuberance on the facing edge of the jaws that is intended to hold the animal (except pads on padded jaw traps).

(f) Or possessing the branded traps or snares of another unless in possession of written permission or a bill of sale from the person to whom the brand is registered.

(g) Sight bait within 15 feet of any leghold trap set for carnivores.

(8) Except for persons authorized to enforce the wildlife laws, it is unlawful to disturb or remove the traps or snares of any licensed trapper while he is trapping on public lands or on land where he has permission to trap.

(9) All traps or snares set or used for the taking of furbearing or unprotected mammals shall be inspected at least every 48 hours and all trapped animals removed. This regulation does not apply to the taking of predatory animals.

(10) Any person setting a trap for predatory animals, as defined in ORS 610.002, must check the trap as follows:

(a) for killing traps and snares, at least once every 30 days and remove all animals;

(b) for restraining traps and snares, at least once every 76 hours and remove all animals. However, restraining traps and snares set by a person owning, leasing, occupying, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier or dock or their agent, and set for predatory animals damaging land, livestock or agricultural or forest crops, shall be checked at least once every 7 days. Any person(s) acting as an agent for a landowner shall have in their possession written authority from the landowner or lawful occupant of the land. Such written authority shall contain at least all of the following:

(A) The date of issuance of the authorization;

(B) The name, address, telephone number and signature of the person granting the authorization;

(C) The name, address and telephone number of the person to whom the authorization is granted; and

(D) The expiration date of the authorization, which shall be not later than one year from the date of issuance of the authorization.

(11) A "killing trap" means a device used to kill a mammal as part of a killing trap system. A killing trap system is a system set with the intent to kill a mammal comprising a combination of: equipment (the trap and trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(12) A "restraining trap" means a device used to capture and restrain (but not kill) a mammal as part of a restraining trap system. A restraining trap system is a system set with the intent to capture and restrain (but not kill) a mammal comprising a combination of: equipment (the trap and the trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(13) These general furbearer regulations do not apply to the trapping of gophers, moles, ground squirrels and mountain beaver.

(14) When any furbearer or raw furbearer pelt is transferred to the possession of another person, a written record indicating the name and address of the person from whom the raw pelt was obtained shall accompany such transfer and remain with same so long as preserved in raw pelt form.

(15) It is unlawful for any person to damage or destroy any muskrat house at any time except where such muskrat house is an obstruction to a private or public ditch or watercourse.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 9-2004, f. & cert. ef. 2-11-04; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0070
Beaver

Open Season: November 15, 2006, through March 15, 2007, and November 15, 2007, through March 15, 2008, in the following described areas:

(1) Clackamas County. All open except waters within the exterior boundaries of Mt.Hood National Forest.

(2) Crook County. All open except Prineville Reservoir below high water line and the Ochoco National Forest.

(3) Curry County. All open except the Rogue River from the east county line to the mouth.

(4) Grant County. All open except within the exterior boundaries of the Ochoco National Forest; Murderers Creek and Deer Creek, tributaries of the South Fork John Day River, within the exterior boundaries of the Malheur National Forest.

(5) Jefferson County. All open except that portion of Willow Creek and its tributaries on the National Grasslands.

(6) Josephine County. All open except Rogue River from the confluence of Grave Creek downstream to the county line.

(7) Umatilla County: All open except the Camas Creek drainage in its entirety and that portion of the North Fork of the Umatilla River and its tributaries that are within the exterior boundaries of the Umatilla National Forest.

(8) Union County. All open except:

(a) Waters inside exterior boundaries of National Forests. However, private inholdings within the National Forest remain open.

(b) Grande Ronde River above Beaver Creek.

(c) All tributaries of the Grande Ronde River above the confluence of Five Points Creek. (Five Points Creek open to the National Forest boundary.)

(9) Wallowa County. All open except:

(a) Wallowa River and tributaries above Wallowa Lake.

(b) Lostine River, Hurricane Creek, Bear Creek and their tributaries above the Wallowa-Whitman National Forest boundary.

(c) Minam River and tributaries.

(d) Peavine Creek, a tributary of Chesnimnus Creek.

(10) Wheeler County. All open except within the exterior boundaries of the Ochoco National Forest and Bridge Creek at its tributaries within the exterior boundaries of Bureau of Land Management lands.

(11) Other counties: All of the following counties in their entirety: Baker, Benton, Clatsop, Columbia, Coos, Deschutes, Douglas, Gilliam, Hood River, Harney, Jackson, Klamath, Lake, Lane, Lincoln, Linn, Malheur, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington and Yamhill.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; FWC 65-1996(Temp), f. & cert. ef. 11-21-96; FWC 46-1997, f. & cert. ef. 8-13-97; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0080
Bobcat

(1) The open harvest season for bobcat is December 1, 2006, through February 28, 2007, and December 1, 2007, through February 28, 2008.

(2) The bag limit for bobcat in those counties east of the summit of the Cascade Range (including Hood River and Klamath counties) is seven per season per licensed hunter or trapper.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 151, f. & ef. 10-5-77; FWC 1-1978(Temp), f. & ef. 1-17-78; FWC 10-1978, f. & ef. 3-7-78; FWC 44-1978, f. & ef. 9-1-78; FWC 37-1979, f. & ef. 8-29-79; FWC 35-1980, f. & ef. 7-2-80; FWC 47-1980, f. & ef. 9-17-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0022; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0090
Gray Fox

(1) Open Season: November 15, 2006, through February 28, 2007, and November 15, 2007, through February 28, 2008.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0100
Red Fox

Open Seasons and areas are as follows:

(1) Open season entire year in Baker, Gilliam, Harney, Malhuer, Morrow, Umatilla, Union, Wallowa and Wheeler counties (Furtaker license is required).

(2) October 15, 2006, through January 15, 2007, and October 15, 2007, through January 15, 2008, in remainder of state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0110
Marten

(1) Open season: November 1, 2006 through January 31, 2007 and November 1, 2007 through January 31, 2008.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0120
Mink

(1) Open season: November 15, 2006, through March 31, 2007, and November 15, 2007, through March 31, 2008.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0130
Muskrat

(1) Open Season: November 15, 2006, through March 31, 2007, and November 15, 2007, through March 31, 2008.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0140
Raccoon

(1) Open Season: November 15, 2006, through March 15, 2007, and November 15, 2007, through March 15, 2008.

(2) Open area: Entire state.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0150
River Otter

Open Seasons and areas are as follows: November 15, 2006, through March 15, 2007, and November 15, 2007, through March 15, 2008, in the entire state except Grant County and all areas closed to beaver trapping in OAR 635-050-0070.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0170
Pursuit Seasons

(1) The following pursuit seasons are authorized:

(a) Bobcat: September 1, 2006 through February 28, 2007 and September 1, 2007 through February 28, 2008.

(b) Fox: September 1, 2006 through February 28, 2007 and September 1, 2007 through February 28, 2008.

(c) Raccoon: September 1, 2006 through March 15, 2007 and September 1, 2007 through March 15, 2008.

(2) License Requirements: Furtaker's license or hunting license for furbearers shall be on one's person during pursuit.

(3) No animals shall be killed except during authorized open harvest season.

(4) A bobcat record card shall be on one's person while taking or attempting to take bobcat.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 35-1980, f. & ef. 7-2-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0026; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 61-2001, f. & cert. ef. 7-25-01; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-2006

635-050-0183
Bobcat and River Otter Ownership Tags

(1) The ownership tag shall be affixed by Department personnel at district and regional offices and shall remain so affixed while the pelt is in raw form.

(2) Ownership tags may be used as foreign export tags.

(3) Each ownership tag authorizes the holder to sell one bobcat or river otter.

(4) Each person shall have an ownership tag affixed to his or her bobcat or river otter pelt at a Department district or regional office within 5 business days after the season ends.

(5) It shall be unlawful to possess a 2006-2007 or 2007-2008 harvested bobcat or river otter after 5 business days following the season closure without an ownership tag.

(6) It shall be unlawful to sell or remove from the state a 2006-2007 or 2007-2008 harvested bobcat or river otter pelt without the respective year's ownership tag.

(7) A furtaker shall be responsible for presenting the lower jawbone and information on sex, date of catch and county of harvest with each individual Oregon bobcat and river otter to qualify for ownership tags. A district office may, on a case-by-case basis, waive the lower jawbone requirement where the furtaker provides evidence that failure to provide the jawbone is due to unexpected circumstances beyond his or her control.

(8) The record card with the required information including species, sex, date of possession and county shall be presented to obtain an ownership tag.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

635-050-0189
Special Bobcat and River Otter Regulations

(1) Raw pelts taken prior to September 1, 1982, may not be sold unless they were metal-sealed by the Oregon State Police or the Department prior to that date.

(2) Those persons failing to comply with 2006-2007 or 2007-2008 Special Bobcat and River Otter Regulations shall not be issued a license for the following furbearer season and shall be subject to the penalties provided in ORS 496.992.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06

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Rule Caption: Commercial and Recreational Gear and Harvest Regulations for the Razor Clam Fishery.
Adm. Order No.: DFW 61-2006
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 10-1-06
Notice Publication Date: 6-1-06
Rules Adopted: 635-005-0031
Rules Amended: 635-005-0030, 635-039-0090
Subject: Establish requirements that would standardize harvest methods for the commercial and recreational razor clam fishery by prohibiting the use of the clam gun/tube for commercial harvest methods and define the minimum diameter of a recreational clam gun/tube. Define the proper method for the release of sub-legal clams in the commercial fishery by establishing language for the immediate return and placement back to the sand. Housekeeping and technical correction to the regulations may occur to ensure rule consistency.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-005-0030
Size Limit

(1) The minimum legal size of razor clams taken for commercial purposes is 3-3/4 inches from tip to tip of the shell. It is unlawful to possess any razor clams taken for commercial purposes which are less than the minimum legal size.

(2) All undersized razor clams must be immediately returned to the hole from which they were dug with the hinge oriented towards the ocean.

(3) The minimum legal size of cockle clams taken for commercial purposes under a bay clam dive permit (OAR 635-006-1015) is 2-1/4 inches at the widest dimension. It is unlawful to possess any cockle clams taken for commercial purposes under a bay clam dive permit which are less than the minimum legal size

(4) The minimum legal size of gaper clams taken for commercial purposes under a bay clam dive permit (OAR 635-006-1015) is 4 inches at the widest dimension. It is unlawful to possess any gaper clams taken for commercial purposes under a bay clam dive permit which are less than the minimum legal size.

Stat. Auth.: ORS 506.119 & 506.129
Stats. Implemented: ORS 506
Hist.: FC 241, f. 4-5-72, ef. 4-15-72; FC 255, f. 9-12-72, ef. 10-1-72; Renumbered from 625-010-0075, 1975; Renumbered from 635-036-0100, 1979; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06 ; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06

635-005-0031
Fishing Gear

It is unlawful to take razor clams for commercial purposes by any means other than by hand or by shovel.

Stat. Auth.: ORS 506.119 and ORS 506.129
Stats. Implemented: ORS 506.129
Hist.: DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06

635-039-0090
Inclusions and Modifications

(1) The 2007 Oregon Sport Fishing Regulations provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2007 Oregon Sport Fishing Regulations.

(2) For the purposes of this rule, a "harvest target" is defined as the Oregon share of the regional recreational harvest guideline for yelloweye rockfish, canary rockfish or lingcod that may be harvested by the Oregon sport fishery in a single calendar year.

(a) The regional recreational harvest guidelines for these species in 2007 are specified in the Pacific Council News, and to the extent they are consistent with these rules, in Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996, as amended to incorporate the standards in the Pacific Council News).

(b) Harvest targets for yelloweye rockfish, canary rockfish and lingcod effective at the start of the Oregon sport fishery in 2007 are:

(A) Yelloweye rockfish, 3.2 metric tons.

(B) Canary rockfish, 6.8 metric tons.

(C) Lingcod, 175 metric tons.

(c) Harvest targets for yelloweye rockfish, canary rockfish and lingcod may be revised inseason following consultation with Washington Department of Fish and Wildlife provided that:

(A) Regional recreational harvest guidelines for these species are not projected to be exceeded as a result of any inseason revisions to a harvest target or targets; and

(B) Inseason revisions to the harvest target or targets benefit the Oregon sport fishery.

(3) For the purposes of this rule, the Oregon recreational harvest guideline for widow rockfish is 1.4 metric tons.

(4) For the purposes of this rule a "harvest cap" is defined as the total catch for a given species, or species group, that may be taken in a single calendar year by the ocean boat fishery. For 2007 the sport harvest caps are:

(a) Black rockfish and blue rockfish combined of 365 metric tons, of which no more than 324.5 metric tons may be black rockfish.

(b) Other nearshore rockfish, 15.3 metric tons.

(c) Cabezon, 15.8 metric tons.

(d) Greenling, 5.2 metric tons.

(5) In addition to the regulations for Marine Fish in the 2007 Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone in 2007:

(a) Lingcod (including green colored lingcod): 2 fish daily catch limit.

(b) Rockfish ("sea bass", "snapper"), greenling ("sea trout"), flounder (excluding Pacific halibut), sole, cabezon and other marine fish species not listed in the 2007 Oregon Sport Fishing Regulations in the Marine Zone, located under the category of Species Name, Marine Fish: 6 fish daily catch limit in aggregate (total sum or number). Retention of yelloweye rockfish and canary rockfish is prohibited.

(c) Retention of all marine fish, except sablefish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species, is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut north of Humbug

Mountain. North of Cape Falcon, retention of Pacific cod also is allowed when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut. Persons must also consult the Pacific Council Decisions; Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996); and the annual Pacific Halibut Fishery Regulations as published by IPHC to determine all rules applicable to the taking of halibut.

(d) Harvest methods and other specifications for marine fish in subsections (5) (a) and (b) including the following:

(A) Minimum length for lingcod, 24 inches.

(B) Minimum length for cabezon, 16 inches.

(C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(e) Sport fisheries for species in subsections (5) (a) and (b) are open January 1 through December 31, twenty-four hours per day, except that ocean waters are closed for these species during June 1 through September 30, outside of the 40-fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 Section 391 subsection (h). A 20-fathom curve (Table 1) and a 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 Section 391 subsection (h), may be implemented as the management line as in-season modifications necessitate.

(6) Razor clams may be taken by hand, shovel, or cylindrical gun or tube. The opening of the gun/tube must be either circular or elliptical with the circular gun/tube opening having a minimum outside diameter of 4 inches and the elliptical gun/tube opening having minimum outside diameter dimensions of 4 inches long and 3 inches wide.

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

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp) , f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06

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Rule Caption: Modifications to Sport Sturgeon Fisheries in the Bonneville Pool of the Columbia River.
Adm. Order No.: DFW 62-2006(Temp)
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 7-24-06 thru 12-31-06
Notice Publication Date:
Rules Amended: 635-023-0095
Subject: Amend rules to prohibit retention of sturgeon caught in the Columbia River and tributaries between Bonneville and the Dalles dams (Bonneville Pool). Revision is consistent with action taken July 12, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0095
Sturgeon Season

(1) The **2006 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2006 Oregon Sport Fishing Regulations**.

(2) The Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam is open to the retention of sturgeon, three days per week, Thursday, Friday, and Saturday, during the following periods:

(a) Sunday, January 1, 2006 through Monday, July 31, 2006, and

(b) Sunday, October 1, 2006 through Sunday, December 31, 2006.

(3) The retention of sturgeon in the area identified in subsection (2) is prohibited August 1, 2006 through September 30, 2006.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of sturgeon seven days per week during the following periods:

(a) Sunday, January 1, 2006 through Sunday, April 30, 2006, and

(b) Saturday, May 13, 2006 through Tuesday, July 4, 2006.

(5) The retention of sturgeon in the area identified in subsection (4) is prohibited May 1, 2006 through May 12, 2006 and again from July 5, 2006 through December 31, 2006.

(6) During the fishing period as identified in section (4)(b) of this rule, only sturgeon 45-60" in overall length may be retained.

(7) Angling for sturgeon is prohibited from Marker 85 upstream to Bonneville Dam and from Highway 395 Bridge upstream to McNary Dam May 1 through July 31, 2006.

(8) The Columbia River and tributaries between The Dalles Dam and John Day Dam are closed to the retention of sturgeon effective 12:01 a.m., April 8, 2006.

(9) Angling for sturgeon is prohibited from the west end of the grain silo located near Rufus, Oregon upstream to John Day Dam effective 12:01 a.m., May 1, 2006 through 11:59 p.m., July 31, 2006.

(10) Retention of sturgeon is prohibited in the Columbia River and tributaries between John Day and McNary dams (John Day Pool) effective 12:01 a.m. Saturday July 1, 2006.

(11) Retention of sturgeon is prohibited in the Columbia River and tributaries between Bonneville and The Dalles dams (Bonneville Pool) effective 12:01 a.m. Monday July 24, 2006.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06

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Rule Caption: Modifications to Commercial Summer Chinook Salmon Gill Net Seasons in the Columbia River.
Adm. Order No.: DFW 63-2006(Temp)
Filed with Sec. of State: 7-14-2006
Certified to be Effective: 7-16-06 thru 7-31-06
Notice Publication Date:
Rules Amended: 635-042-0027
Subject: This rule is needed to add two 12-hour fishing periods to the ongoing commercial summer chinook gill net fishery in the mainstem Columbia River (Zones 1–5). Implementation is consistent with action taken July 14, 2006 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0027
Summer Salmon Season

(1) Chinook salmon, coho salmon, white sturgeon and shad may be taken by gill net for commercial purposes from the mouth of the Columbia River upstream to a line projected from deadline markers on the Oregon and Washington banks, both such deadline markers located approximately five miles downstream from Bonneville Dam (Zones 1-5, as identified in OAR 635-042-0001).

(2) Green sturgeon may be taken by gill net for commercial purposes in the area described above through July 6, 2006 only. Effective 12:01 a.m. July 7, 2006 the retention of green sturgeon is prohibited.

(3) It is unlawful to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches (as described in OAR 635-042-0010(4).

(4) The open fishing periods are:

(a) 7:00 p.m. Monday June 26, 2006 to 5:00 a.m. Tuesday June 27, 2006 (10 hours).

(b) 7:00 p.m. Thursday June 29, 2006 to 5:00 a.m. Friday June 30, 2006 (10 hours).

(c) 7:00 p.m. Wednesday July 5, 2006 to 5:00 a.m. Thursday July 6, 2006 (10 hours).

(d) 7:00 p.m. Thursday July 6, 2006 to 7:00 a.m. Friday July 7, 2006 (12 hours).

(e) 7:00 p.m. Monday July 10, 2006 to 7:00 a.m. Tuesday July 11, 2006 (12 hours).

(f) 7:00 p.m. Wednesday July 12, 2006 to 7:00 a.m. Thursday July 13, 2006 (12 hours).

(g) 7:00 p.m. Sunday July 16, 2006 to 7:00 a.m. Monday July 17, 2006 (12 hours).

(h) 7:00 p.m. Monday July 17, 2006 to 7:00 a.m. Tuesday July 18, 2006 (12 hours).

(i) 7:00 p.m. Wednesday July 19, 2006 to 7:00 a.m. Thursday July 20, 2006 (12 hours).

(j) 7:00 p.m. Sunday July 23, 2006 to 7:00 a.m. Monday July 24, 2006 (12 hours).

(k) 7:00 p.m. Monday July 24, 2006 to 7:00 a.m. Tuesday July 25, 2006 (12 hours).

(l) 7:00 p.m. Wednesday July 26, 2006 to 7:00 a.m. Thursday July 27, 2006 (12 hours).

(5) A maximum of three sturgeon (white and/or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open.

(6) Closed waters, as described in OAR 635-042-0005 for Grays River sanctuary, Elokomin-A sanctuary, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-06, cert. ef. 7-16-06 thru 7-31-06

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Department of Forestry
Chapter 629

Rule Caption: Clarification that placement of wood in streams is a forest operation.
Adm. Order No.: DOF 7-2006(Temp)
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 6-27-06 thru 12-23-06
Notice Publication Date:
Rules Amended: 629-600-0100, 629-640-0100
Subject: The amendment adds a definition for "large wood key piece." The definition is needed for the following amendment to OAR 625-640-0100(1).

OAR 629-640-0100(1) The amendment states that when large wood key pieces are placed in a stream in conjunction with a forest operation, the placement activity is also considered a forest operation, as defined in the existing ORS 527.620(12).
Rules Coordinator: Gayle Birch—(503) 945-7210

629-600-0100
Definitions

As used in OAR chapter 629, divisions 605 through 669 and divisions 680 through 699, unless otherwise required by context:

(1) "Abandoned resource site" means a resource site that the State Forester determines is not active.

(2) "Active resource site" means a resource site that the State Forester determines has been used in the recent past by a listed species. 'Recent past' shall be identified for each species in administrative rule. Resource sites that are lost or rendered not viable by natural causes are not considered active.

(3) "Active roads" are roads currently being used or maintained for the purpose of removing commercial forest products.

(4) "Aquatic area" means the wetted area of streams, lakes and wetlands up to the high water level. Oxbows and side channels are included if they are part of the flow channel or contain fresh water ponds.

(5) "Artificial reforestation" means restocking a site by planting trees or through the manual or mechanical distribution of seeds.

(6) "Basal area" means the area of the cross-section of a tree stem derived from DBH.

(7) "Basal area credit" means the credit given towards meeting the live tree requirements within riparian management areas for placing material such as logs, rocks or rootwads in a stream, or conducting other enhancement activities such as side channel creation or grazing exclosures.

(8) "Bog" means a wetland that is characterized by the formation of peat soils and that supports specialized plant communities. A bog is a hydrologically closed system without flowing water. It is usually saturated, relatively acidic, and dominated by ground mosses, especially sphagnum. A bog may be forested or non-forested and is distinguished from a swamp and a marsh by the dominance of mosses and the presence of extensive peat deposits.

(9) "Channel" is a distinct bed or banks scoured by water which serves to confine water and that periodically or continually contains flowing water.

(10) "Chemicals" means and includes all classes of pesticides, such as herbicides, insecticides, rodenticides, fungicides, plant defoliants, plant desiccants, and plant regulators, as defined in ORS 634.006(8); fertilizers, as defined in ORS 633.311; petroleum products used as carriers; and chemical application adjuvants, such as surfactants, drift control additives, antifoam agents, wetting agents, and spreading agents.

(11) "Commercial" means of or pertaining to the exchange or buying and selling of commodities or services. This includes any activity undertaken with the intent of generating income or profit; any activity in which a landowner, operator or timber owner receives payment from a purchaser of forest products; any activity in which an operator or timber owner receives payment or barter from a landowner for services that require notification under OAR 629-605-0140; or any activity in which the landowner, operator, or timber owner barters or exchanges forest products for goods or services. This does not include firewood cutting or timber milling for personal use.

(12) "Completion of the operation" means harvest activities have been completed to the extent that the operation area will not be further disturbed by those activities.

(13) "Conflict" means resource site abandonment or reduced resource site productivity that the State Forester determines is a result of forest practices.

(14) "Debris torrent-prone streams" are designated by the State Forester to include channels and confining slopes that drain watersheds containing high landslide hazard locations that are of sufficient confinement and channel gradient to allow shallow, rapid landslide movement.

(15) "Department" means the Oregon Department of Forestry.

(16) "Diameter breast height" (DBH) means the diameter of a tree inclusive of the bark measured four and one-half feet above the ground on the uphill side of the tree.

(17) "Domestic water use" means the use of water for human consumption and other household human use.

(18) "Dying or recently dead tree" means a tree with less than ten percent live crown or a standing tree which is dead, but has a sound root system and has not lost its small limbs. Needles or leaves may still be attached to the tree.

(19) "Estuary" means a body of water semi-enclosed by land and connected with the open ocean within which saltwater is usually diluted by freshwater derived from the land. "Estuary" includes all estuarine waters, tidelands, tidal marshes, and submerged lands extending upstream to the head of tidewater. However, the Columbia River Estuary extends to the western edge of Puget Island.

(20) "Exposure categories" are used to designate the likelihood of persons being present in structures or on public roads during periods when shallow, rapidly moving landslides may occur.

(21) "Filling" means the deposit by artificial means of any materials, organic or inorganic.

(22) "Fish use" means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts.

(23) "Fledging tree" means a tree or trees close to the nest which the State Forester determines are regularly used by young birds to develop flying skills.

(24) "Foraging area" means an area (usually a body of water) where bald eagles concentrate their hunting activities.

(25) "Foraging perch" means a tree or other structure that overlooks a portion of a foraging area and is habitually used by bald eagles as a vantage point while hunting.

(26) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.

(27) "Free to grow" means the State Forester's determination that a tree or a stand of well distributed trees, of acceptable species and good form, has a high probability of remaining or becoming vigorous, healthy, and dominant over undesired competing vegetation. For the purpose of this definition, trees are considered well distributed if 80 percent or more of the portion of the operation area subject to the reforestation requirements of the rules contains at least the minimum per acre tree stocking required by the rules for the site and not more than ten percent contains less than one-half of the minimum per acre tree stocking required by the rules for the site.

(28) "Further review area" means an area of land that may be subject to rapidly moving landslides as mapped by the State Department of Geology and Mineral Industries or as otherwise determined by the State Forester.

(29) "Geographic region" means large areas where similar combinations of climate, geomorphology, and potential natural vegetation occur, established for the purposes of implementing the water protection rules.

(30) "High landslide hazard location" means a specific site that is subject to initiation of a shallow, rapidly moving landslide.

(31) "High water level" means the stage reached during the average annual high flow. The "high water level" often corresponds with the edge of streamside terraces, a change in vegetation, or a change in soil or litter characteristics.

(32) "Hydrologic function" means soil, stream, wetland and riparian area properties related to the storage, timing, distribution, and circulation of water.

(33) "Important springs" are springs in arid parts of eastern Oregon that have established wetland vegetation, flow year round in most years, are used by a concentration of diverse animal species, and by reason of sparse occurrence have a major influence on the distribution and abundance of upland species.

(34) "Inactive roads" are roads used for forest management purposes exclusive of removing commercial forest products.

(35) "Key components" means the attributes which are essential to maintain the use and productivity of a resource site over time. The key components vary by species and resource site. Examples include fledging trees or perching trees.

(36) "Lake" means a body of year-round standing open water.

(a) For the purposes of the forest practice rules, lakes include:

(A) The water itself, including any vegetation, aquatic life, or habitats therein; and

(B) Beds, banks or wetlands below the high water level which may contain water, whether or not water is actually present.

(b) "Lakes" do not include water developments as defined in section (82) of this rule.

(37) "Landslide mitigation" means actions taken to reduce potential landslide velocity or re-direct shallow, rapidly moving landslides near structures and roads so risk to persons is reduced.

(38) "Large lake" means a lake greater than eight acres in size.

(39) "Large wood key piece" means a portion of a bole of a tree that is wholly or partially within the active channel of a stream, with or without the root wad attached, that meets length and diameter standards appropriate to stream size and high water volumes, as set by the State Forester and may therefore be adequate for counting as an existing key piece or for placement as a new key piece within specified stream channels.

(40) "Live tree" means a tree that has 10 percent or greater live crown.

(41) "Local population" means the number of birds that live within a geographical area that is identified by the State Forester. For example: the area may be defined by physical boundaries, such as a drainage or subbasin.

(42) "Main channel" means a channel that has flowing water when average flows occur.

(43) "Natural barrier to fish use" is a natural feature such as a waterfall, increase in stream gradient, channel constriction, or other natural channel blockage that prevents upstream fish passage.

(44) "Natural reforestation" means restocking a site with self-grown trees resulting from self-seeding or vegetative means.

(45) "Nest tree" means the tree, snag, or other structure that contains a bird nest.

(46) "Nesting territory" means an area identified by the State Forester that contains, or historically contained, one or more nests of a mated pair of birds.

(47) "Operation" means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:

(a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.

(b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood that is:

(A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;

(B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;

(C) Harvested on a rotation cycle that is 12 or fewer years after planting; and

(D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.

(c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

(d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.

(e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.

(f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.

(g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.

(48) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

(49) "Other wetland" means a wetland that is not a significant wetland or stream-associated wetland.

(50) "Perch tree" means a tree identified by the State Forester which is used by a bird for resting, marking its territory, or as an approach to its nest.

(51) "Plan for an Alternate Practice" means a document prepared by the landowner, operator or timber owner, submitted to the State Forester for written approval describing practices different than those prescribed in statute or administrative rule.

(52) "Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity.

(53) "Removal" means the taking or movement of any amount of rock, gravel, sand, silt, or other inorganic substances.

(54) "Replacement tree" means a tree or snag within the nesting territory of a bird that is identified by the State Forester as being suitable to replace the nest tree or perch tree when these trees become unusable.

(55) "Resource site" is defined for the purposes of protection and for the purposes of requesting a hearing.

(a) For the purposes of protection:

(A) For threatened and endangered bird species, "resource site" is the nest tree, roost trees, or foraging perch and all identified key components.

(B) For sensitive bird nesting, roosting and watering sites, "resource site" is the nest tree, roost tree or mineral watering place, and all identified key components.

(C) For significant wetlands "resource site" is the wetland and the riparian management area as identified by the State Forester.

(b) For the purposes of requesting a hearing under ORS 527.670(4) and 527.700(3), "resource site" is defined in OAR 629-680-0020.

(56) "Riparian area" means the ground along a water of the state where the vegetation and microclimate are influenced by year-round or seasonal water, associated high water tables, and soils which exhibit some wetness characteristics.

(57) "Riparian management area" means an area along each side of specified waters of the state within which vegetation retention and special management practices are required for the protection of water quality, hydrologic functions, and fish and wildlife habitat.

(58) "Roosting site" means a site where birds communally rest at night and which is unique for that purpose.

(59) "Roost tree" is a tree within a roosting site that is used for night time roosting.

(60) "Saplings and poles" means live trees of acceptable species, of good form and vigor, with a DBH of one to 10 inches.

(61) "Seedlings" means live trees of acceptable species of good form and vigor less than one inch in DBH.

(62) "Shallow, rapidly moving landslide" means any detached mass of soil, rock, or debris that begins as a relatively small landslide on steep slopes and grows to a sufficient size to cause damage as it moves down a slope or a stream channel at a velocity difficult for people to outrun or escape.

(63) "Side channel" means a channel other than a main channel of a stream that only has flowing water when high water level occurs.

(64) "Significant wetlands" means those wetland types listed in OAR 629-680-0310, that require site specific protection.

(65) "Snag" means a tree which is dead but still standing, and that has lost its leaves or needles and its small limbs.

(66) "Sound snag" means a snag that retains some intact bark or limb stubs.

(67) "Staging tree" is a tree within the vicinity of a roosting site that is used for perching by bald eagles before entering the roost.

(68) "Stream" means a channel, such as a river or creek, that carries flowing surface water during some portion of the year.

(a) For the purposes of the forest practice rules, streams include:

(A) The water itself, including any vegetation, aquatic life, or habitats therein;

(B) Beds and banks below the high water level which may contain water, whether or not water is actually present;

(C) The area between the high water level of connected side channels;

(D) Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and

(E) Stream-associated wetlands.

(b) "Streams" do not include:

(A) Ephemeral overland flow (such flow does not have a channel); or

(B) Road drainage systems or water developments as defined in section (82) of this rule.

(69) "Stream-associated wetland" means a wetland that is not classified as significant and that is next to a stream.

(70) "Structural exception" means the State Forester determines that no actions are required to protect the resource site. The entire resource site may be eliminated.

(71) "Structural protection" means the State Forester determines that actions are required to protect the resource site. Examples include retaining the nest tree or perch tree.

(72) "Temporal exception" means the State Forester determines that no actions are required to prevent disturbance to birds during the critical period of use.

(73) "Temporal protection" means the State Forester determines that actions are required to prevent disturbance to birds during the critical period of use.

(74) "Tree leaning over the channel" means a tree within a riparian management area if a portion of its bole crosses the vertical projection of the high water level of a stream.

(75) "Tyee Core Area" means a location with geologic conditions including thick sandstone beds with few fractures. These sandstones weather rapidly and concentrate water in shallow soils creating a higher shallow, rapidly moving landslide hazard. The Tyee Core area is located within coastal watersheds from the Siuslaw watershed south to and including the Coquille watershed, and that portion of the Umpqua watershed north of Highway 42 and west of Interstate 5. Within these boundaries, locations where bedrock is highly fractured or not of sedimentary origin as determined in the field by a geotechnical specialist are not subject to the Tyee Core area slope steepness thresholds.

(76) "Type D stream" means a stream that has domestic water use, but no fish use.

(77) "Type F stream" means a stream with fish use, or both fish use and domestic water use.

(78) "Type N stream" means a stream with neither fish use nor domestic water use.

(79) "Unit" means an operation area submitted on a notification of operation that is identified on a map and that has a single continuous boundary. Unit is used to determine compliance with ORS 527.676 (down log, snag and green live tree retention), 527.740 and 527.750 (harvest type 3 size limitation), and other forest practice rules.

(80) "Vacated roads" are roads that have been made impassable and are no longer to be used for forest management purposes or commercial forest harvesting activities.

(81) "Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation and duff so that it does not gain the volume and velocity which causes soil movement or erosion.

(82) "Water development" means water bodies developed for human purposes that are not part of a stream such as waste treatment lagoons, reservoirs for industrial use, drainage ditches, irrigation ditches, farm ponds, stock ponds, settling ponds, gravel ponds, cooling ponds, log ponds, pump chances, or heli-ponds that are maintained for the intended use by human activity.

(83) "Waters of the state" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, wetlands, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(84) "Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include marshes, swamps, bogs, and similar areas. Wetlands do not include water developments as defined in section (82) of this rule.

(85) "Written plan" means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted.

Stat. Auth.: ORS 527.710(11)
Stats. Implemented: ORS 527.630(5), 527.674 & 527.714
Hist.: FB 31, f. 6-14-72, ef. 7-1-72; FB 39, f. 7-3-74, ef. 7-25-74; FB 1-1978, f. & ef. 1-6-78; FB 5-1978, f. & ef. 6-7-78; FB 3-1983, f. & ef. 9-13-83; FB 1-1985, f. & ef. 3-12-85; FB 2-1985(Temp), f. & ef. 4-24-85; FB 2-1987, f. 5-4-87, ef. 8-1-87; FB 4-1988, f. 7-27-88, cert. ef. 9-1-88; FB 4-1990, f. & cert. ef. 7-25-90; FB 1-1991, f. & cert. ef. 5-23-91; FB 7-1991, f. & cert. ef. 10-30-91; FB 3-1994, f. 6-15-94, cert. ef. 9-1-94; FB 5-1994, f. 12-23-94, cert. ef. 1-1-95; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97, Renumbered from 629-024-0101; DOF 6-2002, f. & cert. ef. 7-1-02; DOF 13-2002, f. 12-9-02 cert. ef. 1-1-03; DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06; DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06; DOF 7-2006(Temp), f. & cert. ef. 6-27-06 thru 12-23-06

629-640-0100
General Vegetation Retention Prescription for Type F Streams

(1)(a) Operators shall apply the vegetation retention requirements described in this rule to the riparian management areas of Type F streams.

(b) Segments of Type F streams that are different sizes within an operation shall not be combined or averaged together when applying the vegetation retention requirements.

(c) Trees left to meet the vegetation retention requirements for one stream type shall not count towards the requirements of another stream type.

(d) Placement of large wood key pieces when conducted pursuant to OAR Chapter 629 is an operation as defined by ORS 527.620(12). The goal of the placement of large wood key pieces is to deliver wood that is relatively stable, but can reconfigure to a limited degree and work with the natural stream flow to restore and maintain habitat for aquatic species. Large wood key piece placement operations shall:

(A) Rely on the size of wood for stability and exclude the use of any type of artificial anchoring;

(B) Emulate large wood delivery configurations that occur from natural riparian processes over time; and

(C) Be designed to restore and maintain natural aquatic habitat over time rather than construct engineered habitat structures.

(2) Operators shall retain:

(a) All understory vegetation within 10 feet of the high water level;

(b) All trees within 20 feet of the high water level; and

(c) All trees leaning over the channel.

(3) Operators shall retain within riparian management areas and streams all downed wood and snags that are not safety or fire hazards. Snags felled for safety or fire hazard reasons shall be retained where they are felled unless used for stream improvement projects.

(4) Notwithstanding the requirements of section (2) of this rule, vegetation, snags and trees within 20 feet of the high water level of the stream may be felled, moved or harvested as allowed in other rules for road construction, yarding corridors, temporary stream crossings, or for stream improvement.

(5) Operators shall retain at least 40 live conifer trees per 1000 feet along large streams and 30 live conifer trees per 1000 feet along medium streams. This includes trees left to meet the requirements described in section (2) of this rule. Conifers must be at least 11 inches DBH for large streams and 8 inches DBH for medium streams to count toward these requirements.

(6) Operators shall retain trees or snags six inches or greater DBH to meet the following requirements (this includes trees left to meet the requirements of sections (2) and (5) of this rule):

(a) If the live conifer tree basal area in the riparian management area is greater than the standard target shown in Table 2 where the harvest unit will be a harvest type 2 or type 3 unit (as defined by ORS 527.620), or Table 3 where the harvest unit will be a harvest type 1, partial harvest, or thinning, operators shall retain live conifer trees of sufficient basal area to meet the standard target.

(b) If the live conifer tree basal area in the riparian management area is less than the standard target (as shown in Table 2 where the harvest unit will be a harvest type 2 or type 3 unit, or Table 3 where the harvest unit will be a harvest type 1, partial harvest, or thinning) but greater than one-half the standard target shown in Table 2, operators shall retain all live conifer trees six inches DBH or larger in the riparian management area (up to a maximum of 150 conifers per 1000 feet along large streams, 100 conifers per 1000 feet along medium streams, and 70 conifers per 1000 feet along small streams).

(c) If live conifer tree basal area in the riparian management area is less than one-half the standard target shown in Table 2:

(A) Operators may apply an alternative vegetation retention prescription as described in OAR 629-640-0300 where applicable, or develop a site specific vegetation retention prescription as described in OAR 629-640-0400; or

(B) Operators shall retain all conifers in the riparian management area and all hardwoods within 50 feet of the high water level for large streams, within 30 feet of the high water level for medium streams, and within 20 feet of the high water level for small streams.

(7) In the Coast Range, South Coast, Interior, Western Cascade, and Siskiyou geographic regions, hardwood trees and snags six inches or greater DBH may count toward the basal area requirements in subsection (6)(a) of this rule as follows:

(a) All cottonwood and Oregon ash trees within riparian management areas that are beyond 20 feet of the high water level of large Type F streams, may count toward the basal area requirements.

(b) Up to 10 percent of the basal area requirement may be comprised of sound conifer snags at least 30 feet tall and other large live hardwood trees, except red alder, growing in the riparian management area more than 20 feet from the high water level and at least 24 inches DBH.

(8) In the Eastern Cascade and Blue Mountain geographic regions, hardwood trees, dying or recently dead or dying trees and snags six inches or greater DBH may count toward the basal area requirements in subsection (6)(a) of this rule as follows:

(a) The basal area of retained live hardwood trees may count toward meeting the basal area requirements.

(b) Up to 10 percent of the basal area retained to meet the basal area requirement may be comprised of sound conifer snags at least 30 feet tall.

(c) For small Type F streams, the maximum required live conifer tree basal area that must be retained to meet the standard target is 40 square feet. The remaining basal area required may come from retained snags, dying or recently dead trees, or hardwoods if available within the riparian management area.

(9) Notwithstanding the requirements indicated in this rule, operators may conduct precommercial thinning and other release activities to maintain the growth and survival of conifer reforestation within riparian management areas. Such activities shall contribute to and be consistent with enhancing the stand's ability to meet the desired future condition.

(10) When determining the basal area of trees, the operator may use the average basal area for a tree's diameter class, as shown in Table 4, or determine an actual basal area for each tree. The method for determining basal area must be consistent throughout the riparian management area.

(11)(a) For large and medium Type F streams, live conifer trees retained in excess of the active management target and hardwoods retained beyond 20 feet of the high water level of the stream that otherwise meet the requirements for leave trees may be counted toward requirements for leave trees within harvest type 2 or harvest type 3 units (pursuant to Section 9, Chapter 9, Oregon Laws 1996 Special Session).

(b) For small Type F streams, all retained live trees that otherwise meet the requirements for leave trees may count toward requirements for leave trees within harvest type 2 or harvest type 3 units (pursuant to Section 9, Chapter 9, Oregon Laws 1996 Special Session).

(12) Trees on islands with ground higher than the high water level may be harvested as follows:

(a) If the harvest unit is solely on an island, operators shall apply all the vegetation retention requirements for a large Type F stream described in this rule to a riparian management area along the high water level of the channels forming the island.

(b) Otherwise, operators shall retain all trees on islands within 20 feet of the high water level of the channels forming the island and all trees leaning over the channels. In this case, conifer trees retained on islands may count toward the basal area requirement for adjacent riparian management areas so long as the trees are at least 11 inches DBH for large streams and eight inches DBH for medium streams.

(13) When applying the vegetation retention requirements described in this rule to the riparian management areas, if an operator cannot achieve the required retention without leaving live trees on the upland side of a road that may be within the riparian management area and those trees pose a safety hazard to the road and will provide limited functional benefit to the stream, the State Forester may approve a plan for an alternate practice to modify the retention requirements on a site specific basis.

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

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 3-1994, f. 6-15-94, cert. ef. 9-1-94, Renumbered from 629-057-2230; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97; DOF 6-2005(Temp), f. & cert. ef. 8-2-05 thru 1-27-06; DOF 8-2005, f. 12-13-05, cert. ef. 1-1-06; DOF 7-2006(Temp), f. & cert. ef. 6-27-06 thru 12-23-06

Department of Human Services, Child Welfare Programs
Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 11-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 413-015-0720, 413-015-0900
Subject: OAR 413-015-0720 about interviewing and OAR 413-015-0900 about medical examinations are being amended to provide direction for consideration of the request by victim of a physical or sex abuse who is at least 15 years of age to have a "personal representative" present during these activities if the presence will not compromise the child protective services (CPS) assessment. These amendments make permanent the temporary rule changes adopted on January 1, 2006.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0720
Interviewing Alleged Victims and Siblings

The CPS worker must interview and observe the alleged victims and their siblings in accordance with the following guidelines:

(1) If one child within the family appears to be a victim of child abuse, the CPS worker must interview and observe siblings and other children living in the household. The CPS worker must consider interviewing other children with whom the alleged abuser had recent access.

(2) The CPS worker must notify the parents or caregivers the same day a child has been interviewed. The CPS supervisor or designee must approve an extension of this time frame.

(3) The CPS worker must conduct interviews in a manner that assures privacy for the child.

(4) If the parent or caregiver is the alleged abuser or if the presence of the parent or caregiver might impede the interview, the CPS worker may interview children independent of their parents or caregivers.

(5) A CPS worker must allow a child who is the victim of a person crime as defined in ORS 147.425, and who is at least 15 years of age at the time of the abuse, to have a personal representative to be present during an interview. If a CPS worker believes that the personal representative would compromise the CPS assessment, the CPS worker may prohibit a personal representative from being present during the interview.

(6) The CPS worker must observe the child's injuries or signs of neglect. The CPS worker may need to remove a child's clothing to make adequate observations. In that event, the CPS worker must:

(a) Use discretion and make the child as comfortable as possible.

(b) Seek parental consent and assistance, when possible and appropriate.

(c) Consider requesting a worker or other support person, who is the same gender as the child, be present to serve as a witness and provide comfort for the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 147.425, 418.005

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 20-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 11-2006, f. 6-30-06, cert. ef. 7-1-06

413-015-0900
Obtaining Medical Examination

The CPS worker should secure a medical examination of the child and obtain the child's medical history when necessary to determine treatment needs, to reassure the child and family, or to assist in completing the CPS assessment:

(1) If there is evidence of trauma to the child, the CPS worker must make arrangements to transport the child to a medical facility. The CPS worker should discuss with the parent or caregiver the need for medical evaluation of treatment. The CPS worker may ask parents to take the child to a medical facility for a medical evaluation or treatment. The CPS worker may accompany the parent to a medical facility and must request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Health Information."

(2) If the parent refuses to secure necessary medical examination or treatment, and the CPS worker has reasonable cause to believe that an exam will reveal evidence of abuse, the worker must contact the LEA immediately and seek a juvenile court order to obtain protective custody of the child for the purpose of obtaining a medical exam.

(3) A child 12 years of age or older may refuse a physical examination if the sole purpose of the exam is to preserve evidence of sexual abuse.

(4) A child who is the victim of a person crime as defined in ORS 147.425, and who is at least 15 years of age at the time of the abuse, may have a personal representative present during a medical examination. If a CPS worker believes that a personal representative would compromise the CPS assessment, a CPS worker may prohibit a personal representative from being present during the medical examination.

(5) When the CPS worker is making a determination of medical neglect, the CPS worker must consult with a health care professional.

(6) If there is an indication of a life-threatening condition, or of a deteriorating condition that may become life threatening, the CPS worker must seek medical consultation immediately.

(7) If there is reason to believe a child has been exposed to dangerous chemicals such as those found in a chemical drug lab, the CPS worker must make arrangements to have the child tested for chemical exposure within 24 hours of learning of the exposure.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.185, 418.015 & 419B.005 - 419B.050
Hist.: CWP 25-2003, f. & cert. CWP 11-2006, f. 6-30-06, cert. ef. 7-1-06ef. 7-1-03; CWP 20-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 11-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 12-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 413-015-0405
Subject: OAR 413-015-0405 is being amended to add the expectation that child protective services (CPS) workers provide a pamphlet to families at the beginning of each assessment. This pamphlet will describe the assessment and court process and the rights of parents during that process. This rule is also being amended to include the expectation that a CPS worker notify the District Attorney's office (MDT chair) within 3 business days whenever, during a sex abuse assessment/investigation, a parent or guardian who is identified as an alleged perpetrator is asked and agrees to leave the home voluntarily. This rule amendment makes permanent a temporary amendment adopted in January and February of 2006.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0405
CPS Assessment

The following actions are usually taken to assess a child's safety, to establish a child safety plan, and to complete the CPS assessment. The steps do not occur in a prescribed order but are controlled by the specific circumstances in a given case. The steps are described in a logical order in these rules, but they are not necessarily in the order they must be completed.

(1) Consult with CPS supervisor. Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at key points during the assessment, such as:

(a) Before making initial contact with the family;

(b) Prior to a decision to place a child in protective custody;

(c) When a referral indicates potential danger to the worker;

(d) When a referral involves allegations that child abuse occurred in a licensed child caring agency;

(e) When a referral involves a foster care home certified by the Department;

(f) When making dispositions in complicated or sensitive situations or cases;

(g) When the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of the Department of Human Services (DHS) or Oregon Youth Authority (OYA).

(h) Prior to initiating court action; and

(i) Prior to a decision to close a case during or at the end of the CPS assessment.

(2) Review relevant records. The CPS worker must review relevant paper and electronic records maintained by the Department for historical information on the family and the child that may be useful in completing the assessment. The CPS worker must review the documents to identify information related to:

(a) Safety threats and risk influences;

(b) Worker safety;

(c) Child and family support systems and protective capacity; and

(d) History of or a pattern of abuse.

(3) Contact the reporter. The CPS worker must contact the reporter or other collateral sources for additional information if the referral does not contain adequate information to proceed with the assessment.

(4) Contact and work with other entities. The CPS worker must contact other entities including LEAs, public and private schools, tribes, and multi-disciplinary teams (MDTs) as necessary to complete the CPS assessment. The requirements for making these contacts are further described in "Working with Other Entities," OAR 413-015-0600 though 0615.

(5) Determine ICWA Status. The CPS worker must initiate the process to determine the child's ICWA status and notify the tribe if applicable:

(a) Complete a form CF 1270, "Verification of ICWA Eligibility," to assist in determining ICWA eligibility.

(b) Contact the child's tribe when an Indian child is the subject of a CPS assessment. Oregon Tribes must be notified within 24 hours after information alleging abuse is received by the Department. Consult with the ICWA manager to determine whether there is reasonable cause to believe that the child is ICWA eligible.

(c) If the Indian child is enrolled or eligible for enrollment in an Oregon tribe, notify the child's tribe if the child may be placed in protective custody.

(d) Consult with the local department ICWA liaison or a supervisor if the worker has questions regarding the involvement of a tribe or the ICWA status of a child.

(6) Identify legal parents and putative fathers. The CPS worker or designee must make a reasonable effort to identify legal parents and putative fathers within 30 days after a child is taken into protective custody. Information about putative fathers must be recorded on form CF 418, "Father(s) Questionnaire" and filed in the case record.

(7) Notify Parent or Caregiver of CPS Process. The CPS worker must provide the parent or caregiver with the "What you need to know about a Child Protective Services assessment" pamphlet, which includes written information regarding the CPS assessment process, including the court process and the rights of the parent and caregiver.

(8) Notify Parent or Caregiver of intent to interview. The CPS worker must notify parents of the intent to interview a child, unless notification could compromise the child's safety or a criminal investigation.

(9) Conduct Interview. The CPS worker must interview people, as necessary, to complete the CPS assessment. The requirements for interviewing parents and children are described in OAR 413-015-0700 to 0740.

(10) Inquire about and determine employment. The CPS worker must make inquiries about the employment status of the alleged perpetrator. If the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of DHS or OYA, the CPS worker must notify a CPS supervisor. The CPS supervisor must confirm the person's employee status by contacting a Central Office Field Services representative. If the CPS supervisor determines the alleged perpetrator is an employee of the DHS or OYA, the CPS supervisor must notify the DHS, Office of Human Resources, at the time of the assessment and at the time the assessment is reviewed as required in section (18) of this rule. The CPS supervisor must document the notifications in FACIS.

(11) Conduct safety assessment. The CPS worker must conduct the safety assessment using the GAP within the times lines set out in OAR 413-015-0500 through 0514. The safety assessment time lines are based on the department response determined by the screener during the screening process, described in OAR 413-015-0210(1)(a) through (c).

(12) Develop safety plan. When a safety threat has been identified as a result of the safety assessment, the CPS worker must immediately develop a safety plan with the involvement of the family and tribe, if applicable and practicable. OAR 413-015-0500 through 0514 provide specific time lines and requirements for a safety plan.

(13) Photograph and document. The CPS worker must take photographs, as necessary, to complete the CPS assessment. The requirements for taking photographs are described in OAR 413-015-0800, "Photographs and Documents of Abuse."

(14) Obtain medical examinations. The CPS worker must obtain medical examinations, as necessary, to complete the CPS assessment. The requirements for obtaining medical examinations are described in "Medical Examination and Medical History," OAR 413-015-0900 though 0905.

(15) Provide notice to the District Attorney responsible for the county MDT. When assessing an allegation of sexual abuse, if a CPS worker develops a safety plan that includes a parent or caregiver, who is the alleged perpetrator, consenting to leave the family home, the CPS worker must notify the district attorney responsible for the MDT in the county where the child resides by:

(a) Providing this notice in writing; and

(b) Providing this notice within three business days of the date the parent or caregiver leaves the family home.

(16) Provide notice of child placed in protective custody. If a child is placed in protective custody (see OAR 413-015-0410), the CPS worker must notify parents, including a non-custodial parent; caregivers; and the child's tribe, if applicable, in writing.

(17) Record assessment activities. The CPS worker must record assessment activities and information gathered during the assessment process. OAR 413-015-0500 through 0514 provide specific requirements and procedures for making findings and documenting information such as safety threats that have been identified, the capacity of parents or caregivers to protect the child, the safety plan components, identity of relatives who are willing to contribute to the safety plan, and cultural considerations.

(18) Notify reporting party. The CPS worker must make a concerted effort to contact the person who made the report of suspected child abuse when the Department has made contact with the family and has concluded the CPS assessment.

(19) Determine disposition of CPS assessment. The CPS worker must determine a disposition to complete the CPS assessment. The requirements for determining dispositions are described in OAR 413-015-1000, "The CPS Assessment Dispositions."

(20) Obtain supervisory review. A CPS supervisor or designee must review and approve a completed CPS assessment within five working days of the electronic submission of the assessment by the CPS worker. After the assessment is reviewed by a CPS supervisor, if the alleged perpetrator is an employee of DHS or OYA, the CPS Supervisor must inform the DHS, Office of Human Resources, of the disposition. If the disposition is founded, the CPS supervisor also informs the DHS, Office of Human Resources of the type of abuse. The CPS supervisor must document the notification in FACIS.

(21) Enter FACIS data. Each local department office may designate an individual to enter the CPS supervisor's electronic verification of review and approval into FACIS.

(22) Notify parents or caregivers of CPS assessment dispositions. The CPS worker must notify the child's parents, including a non-custodial legal parent, and caregivers of all CPS assessment dispositions (unfounded, unable to determine, or founded). If providing the notice would increase the risk of harm to a child or adult victim, an exception to notification may be made with CPS supervisor approval based on documentation of risk.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 15-2005(Temp), f. & cert. ef. 10-20-05 thru 3-31-06; CWP 17-2005(Temp) f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 1-2006, f. & cert. ef. 2-1-06; CWP 3-2006(Temp), f. & cert. ef. 2-1-06 thru 6-30-06; CWP 12-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Changing OARs affecting Child Welfare programs
Adm. Order No.: CWP 13-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Adopted: 413-015-0302
Rules Amended: 413-015-0300, 413-015-0305, 413-015-0310
Subject: OAR 413-015-0302 is being adopted and OAR 413-015-0300, 413-015-0305, and 413-015-0310 are being amended to eliminate the requirement that Child Welfare and the law enforcement agency cross report "immediately" to one another. As adopted and amended, these rules identify which child abuse reports require cross reporting within 24 hours and which reports will be cross reported within 10 days. These rules were originally adopted and amended as temporary rules on January 1, and are now being proposed for permanent adoption and amendment.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0300
Cross Reporting Defined

The Department and law enforcement agencies are required by ORS 419B.015 to notify each other when a report of child abuse, as defined in ORS 419B.005, is received. This process is known as cross reporting, and the notification is called a cross report. The following rules explain when and how a report of child abuse received by the Department or a law enforcement agency is cross reported. Information is not cross reported until it is received.

Stat. Auth.: ORS 418.005 & 419B.015
Stats. Implemented: ORS 418.005, 419B.015, 419B.017
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06

413-015-0302
Purpose of Cross Reporting

The purpose of the cross report is to share reports of alleged child abuse between the Department and law enforcement agencies.

Stat. Auth.: ORS 418.005, 419B.017
Stats. Implemented: ORS 418.005, 419B.015, 419B.017
Hist.: CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06

413-015-0305
Cross Reporting Requirements

(1) Who is Required to Cross Report and to Whom

(a) When a report of child abuse is received by a Department screener, the screener or designee must cross report to a law enforcement agency in the county where the report was made. If the abuse is alleged to have occurred in a different county, the screener must cross report a second time to the law enforcement agency in the county where the alleged abuse occurred.

(b) When a report of child abuse is received by a law enforcement agency, the law enforcement agency must cross report to the local office of the Department in the county where the report was made.

(2) What to include in a Cross Report A cross report from either the Department or law enforcement agencies must include:

(a) The information provided by the person making the child abuse report. This may include, the name of and contact information for the confidential reporter, the names and addresses of the child, the names and addresses of the child's parent or caregiver, the child's age, the nature and extent of the abuse, any evidence of previous abuse, the explanation given for the abuse, where the abuse occurred, identity and whereabouts of the alleged abuser and any other information provided by the person making the report that would be helpful in establishing the cause of the abuse and the identity and whereabouts of the alleged abuser; and

(b) The name and contact information for the assigned CPS worker and officer, if known.

(3) When and How to Cross Report

(a) The Department. When and how the Department must cross report to a law enforcement agency is described below.

(A) The same day.

(i) The Department must cross report to a law enforcement agency on the same day the screener determines that a report of alleged child abuse requires an immediate response by the Department and/or immediate notification to law enforcement. This includes, but is not limited to any reports of:

(I) Moderate to severe physical abuse;

(II) Visible injuries to a child;

(III) Sexual abuse; or

(IV) Suspicious or unexpected death of a child.

(ii) The reports of child abuse that the Department cross reports on the same day must be cross reported in one of the following ways:

(I) Verbal Cross report. When a cross report is verbal and the Department and law enforcement do not respond to the report of child abuse together, a completed screening report must be sent to the law enforcement agency;

(II) Electronic Transmission; or

(III) Hand Delivery.

(B) No later than ten days.

(i) All other reports of child abuse, including reports assigned for CPS assessment and closed at screening, must be cross reported within a time frame that ensures the receipt of the cross report by law enforcement no later than ten days after receiving the report.

(ii) The reports of child abuse that the Department cross reports within a time frame that ensures the receipt of the cross report no later than ten days must be cross reported in one of the following ways:

(I) Electronic transmission;

(II) Hand delivery; or

(III) Mail.

(C) Department cover sheet. In order for law enforcement agencies to quickly and easily prioritize reports and respond accordingly, all written cross reports from the Department must have a cover sheet. The following information must be included on the cover sheet:

(i) Date and time of the cross report;

(ii) How the cross report is made;

(iii) If additional cross reports occurred, and if so, to what agencies;

(iv) Name and number of the screener or designee making the cross report;

(v) If the report was assigned or not assigned;

(vi) Name and number of the assigned caseworker;

(vii) Cross reporting time frame;

(viii) If the report is an original or follow-up cross report; and

(ix) Date of the original cross report, if it is a follow up cross report.

(D) Supplemental cross reporting by the Department The Department may receive information not previously cross reported but apparently related to a report of child abuse involving the same victim and the same alleged perpetrator that has been previously cross reported. If the information relates to the same incident of abuse, the screener must make a supplemental cross report of the additional information to each law enforcement agency that received the prior cross report. Supplemental information that is determined to be critical, given the information in the original report, must be cross reported immediately. All other supplemental information must be cross reported within a time frame that ensures the receipt of the information no later than ten days after the information was received.

(b) Law Enforcement. When and how law enforcement agencies must cross report to the Department is described below.

(A) Immediate:

(i) Law enforcement agencies must cross report to the Department immediately when a law enforcement agency determines that a report of alleged child abuse requires a joint immediate response.

(ii) The reports of child abuse that law enforcement agencies cross report immediately must be cross reported by verbal cross report to the local office of the Department without delay.

(B) Next Business Day.

(i) Law enforcement agencies must cross report to the Department all other reports of child abuse no later than the end of the next business day after receiving the report.

(ii) The reports of child abuse that law enforcement agencies cross report no later than the end of the next business day must be cross reported in one of the following ways:

(I) Verbal report;

(II) Electronic transmission; or

(III) Hand delivery.

Stat. Auth.: ORS 418.005, 419B.017

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

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06

413-015-0310

Department Documentation and Verification Requirements

Documentation and Verification:

(1) If the Department cross reports a report of child abuse on the same day the report is received, the Department screener or designee must document in FACIS:

(a) The date the cross report is made from Child Welfare to law enforcement;

(b) To which law enforcement agency the cross report is made; and

(c) How the cross report is made.

(2) Copies of the cover sheet must be maintained in the case record.

(3) If the cross report is faxed, the screener or designee must attach the fax transmittal confirmation sheet to each cover sheet.

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

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

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 18-2005(Temp), f. 12-30-05 cert. ef. 1-1-06 thru 6-30-06; CWP 13-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 14-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 413-015-0115, 413-015-1000
Subject: OAR 413-015-0115 is being amended to provide a definition of "personal representative" according to Senate Bill 198 from the 2005 legislative session (ORS 147.425). This definition is necessary to understand the right of a victim to the presence of a personal representative during interviewing and medical examination in a child protective services (CPS) investigation. This OAR is also being amended to provide a definition for "substance" according to Senate Bill 907 from the 2005 legislative session (ORS 419B.005). This definition clarifies the meaning of "substance" in the additions to the Physical Neglect and threat of harm CPS dispositions. OAR 413-015-1000 is being amended to add language to the physical neglect and threat of harm dispositions providing clarification to CPS workers when making assessment dispositions related to unlawful exposure to substances. These amendments were adopted as temporary rules on January 1 and are now being adopted as permanent rule changes.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0115

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

(1) "Caregiver" is a guardian, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child.

(2) "Child" means a person under 18 years of age.

(3) "Child abuse" means any form of abuse, including abuse through neglect and abuse or neglect by a third party, of a person under age 18.

(4) "Child protective services (CPS)" means a specialized social service program that the Department provides on behalf of children who are abused or who are at substantial risk of child abuse by a parent or caregiver.

(5) "Child protective services assessment" means activities and interventions that evaluate potential safety threats, risk influences, and caregiver protective capacity and determine whether or not child abuse has occurred. Activities include development of a safety plan and identification of services.

(6) "Child protective services supervisor (CPS supervisor)" means an employee of the Department trained in child protective services and designated as a supervisor.

(7) "Child protective services worker (CPS worker)" means an employee of the Department who has completed the mandatory department training for child protective service workers.

(8) "Critical case junctures" are events in family development or case work practice that may increase or otherwise affect the risk to a child's safety, permanency, or well-being.

(9) "Department" means the Department of Human Services Child Welfare Program.

(10) "Department response" means how the Department intends to respond to a report of child abuse after a report of alleged abuse is screened.

(11) "FACIS" means the Family and Child Information System.

(12) "Family Decision Meeting (FDM)" means a family focused intervention facilitated by professional staff that is designed to build and strengthen family supports and the natural care-giving systems for the children. Family decision meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision meeting is to establish a plan that may include a permanency plan, concurrent permanency plan, placement recommendation, or service recommendation and agreements, which provide for the safety, attachment, and permanency needs of the child. Family decision meetings emphasize the family's unique plans for its children. The family members collaborate, rather than just participate in the meeting. It is also essential that the professionals in the meeting have direct involvement with the child and the family and are not just members of a committee.

(13) "Guided Assessment Process (GAP)" is a tool used to determine the presence of a safety threat that requires consideration of risk influences and parent or caregiver protective capacity.

(14) "Harm" means impairment, damage, detriment, or injury to a child's physical, sexual, emotional, or mental development or functioning.

(15) "ICWA" means the Indian Child Welfare Act.

(16) "Immediate safety threat" means behavior, conditions, or circumstances that are presently beyond the parent's or caregiver's current ability to manage and are likely to result in harm to a child.

(17) "Multi-disciplinary team (MDT)" is a county investigative team, described in ORS 418.747, that includes law enforcement personnel, child protective service workers, district attorneys, school officials, health department staff, and juvenile department personnel.

(18) "Personal representative" is a person who is at least 18 years of age and is selected by a child who is the victim of a person crime as defined in ORS 147.425, and who is at least 15 years of age at the time of the crime, to be present and supportive during the CPS assessment. The personal representative may not be a person who is a suspect in, party or witness to, the crime.

(19) "Protective capacity" means a parent's or caregiver's strengths or abilities to manage existing safety threats, prevent additional safety threats from arising, or stop risk influences from creating a safety threat.

(20) "Protective custody" means custody authorized by ORS 419B.150.

(21) "Referral" means a report that has been assigned for the purpose of CPS assessment.

(22) "Report" means information provided to the Department that constitutes an allegation of child abuse.

(23) "Risk influences" means those circumstances and situations that contribute to the severity of identified safety threats and that are considered by the CPS worker when a safety plan is developed.

(24) "Safe" means there is an absence of safety threats or there is sufficient protective capacity to manage the existing safety threats.

(25) "Safety assessment" means actions or interventions, which include face-to-face contact with the child and parent, or caregiver, to determine whether a child is safe.

(26) "Safety plan" means a documented set of actions or interventions that describe how a child's safety is achieved by eliminating or managing a safety threat.

(27) "Safety threat" means behavior, conditions, or circumstances that are likely to result in harm to a child.

(28) "Screener" means a department employee with training required to provide screening services.

(29) "Screening" means the process used by a screener to determine the Department's response when information alleging abuse is received.

(30) "Substance" means any controlled substance as defined by ORS 475.005, prescription medications, over the counter medications or alcoholic beverages.

(31) "Substantial harm" means immobilizing impairment, life threatening damage, or significant or acute injury to a child's physical, sexual, psychological, or mental development or functioning.

(32) "Team Decision Meeting (TDM)" means a facilitated meeting with family, extended family, community members, service providers, and child welfare staff held for the purpose of making child placement-related decisions.

(33) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's caregiver or other member of the child's household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 419B.005-419B.050
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06

413-015-1000
The CPS Assessment Dispositions

(1) This rule describes child abuse for the purpose of making CPS assessment dispositions.

(2) Following the completion of the CPS assessment, the CPS worker must determine whether there is reasonable cause to believe child abuse occurred. The possible determinations are:

(a) "Founded," which means there is reasonable cause to believe that child abuse occurred.

(b) "Unfounded," which means no evidence of child abuse was identified or disclosed.

(c) "Unable to determine," which means there are some indications of child abuse, but there is insufficient data to conclude that there is reasonable cause to believe that child abuse occurred.

(3) When determining whether there is reasonable cause to believe child abuse occurred, the CPS worker shall consider, among others, the following parental behavior, conduct, and conditions:

(a) Abandonment, including parental behavior showing an intent to permanently give up all rights and claims to the child.

(b) Child selling, including the selling of a child that consists of buying, selling, bartering, trading or offering to buy or sell the legal or physical custody of a child.

(c) Mental injury (psychological maltreatment), including cruel or unconscionable acts or statements made, threatened to be made, or permitted to be made by the parent or caregiver that has a direct effect on the child. The parent or caregiver's behavior, intentional or unintentional, must be related to the observable and substantial impairment of the child's psychological, cognitive, emotional or social well-being and functioning.

(d) Neglect, including failure, through action or omission, to provide and maintain adequate food, clothing, shelter, medical care, supervision, protection, or nurturing. Chronic neglect is a persistent pattern of family functioning in which the parent or caregiver does not sustain or meet the basic needs of a child resulting in an accumulation of harm that can have long term effect on the child's overall physical, mental, or emotional development. Neglect includes the following:

(A) Physical neglect, which includes:

(i) Failing to provide for the child's basic physical needs including adequate shelter, food, and clothing.

(ii) Permitting a child to enter or remain in or upon premises where methamphetamines are being manufactured.

(iii) Unlawful exposure of a child to a substance that subjects a child to substantial harm to the child's health or safety. When the CPS worker is making a determination of physical neglect based on substantial harm to the child's health due to unlawful exposure to a substance, this determination must be consistent with medical findings.

(B) Medical neglect is a refusal or failure to seek, obtain, or maintain necessary medical, dental, or mental health care. Medical neglect includes withholding medically indicated treatment from disabled infants with life threatening conditions. However, failure to provide the child with immunizations or routine well child care alone does not constitute medical neglect. When the CPS worker is making a determination of medical neglect, the CPS worker must consult with a health care professional.

(C) Lack of supervision and protection, including failure to provide supervision and protection appropriate to the child's age, mental ability, and physical condition.

(D) Desertion, which includes the parent or caregiver leaving the child with another person and failing to reclaim the child, or parental or caregiver failure to provide information about their whereabouts, providing false information about their whereabouts, or failing to establish a legal guardian or custodian for the child.

(E) Psychological neglect, which includes serious inattention to the child's need for affection, support, nurturing, or emotional development. The parent or caregiver behavior must be related to the observable and substantial harm of the child's psychological, cognitive, emotional, or social well-being and functioning.

(e) Physical abuse, including an injury to a child that is inflicted or allowed to be inflicted by non-accidental means that results in harm. Physical abuse may include injury that could not reasonably be the result of the explanation given. Physical abuse may also include injury that is a result of discipline or punishment. Examples of injuries that may result from physical abuse include:

(A) Head injuries;
(B) Bruises, cuts, lacerations;
(C) Internal injuries;
(D) Burns or scalds;
(E) Injuries to bone, muscle, cartilage, and ligaments;
(F) Poisoning;
(G) Electrical shock;
(H) Death.

(f) Sexual abuse, which includes a person's use or attempted use of a child for the person's own sexual gratification, the sexual gratification of another person, or the sexual gratification of the child. Sexual abuse includes incest, rape, sodomy, sexual penetration, fondling, and voyeurism.

(g) Sexual exploitation, including the use of a child in a sexually explicit way for personal gain, for example, to make money, in exchange for food stamps or drugs, or to gain status. Sexual exploitation also includes using children in prostitution or using children to create pornography.

(h) Threat of harm, including all activities, conditions, and circumstances that place the child at threat of substantial harm of physical abuse, sexual abuse, neglect, mental injury, or other maltreatment. This also includes a threat of harm to a child's health or safety as a result of unlawful exposure of a child to a substance. When the CPS worker is making a determination of threat of harm to a child's health due to unlawful exposure to a substance, the CPS worker must consult with a medical professional.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 409.185, 418.015 & 419B.005 - 419B.050
Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 6-2005, f. & cert. ef. 4-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 15-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Adopted: 413-070-0520, 413-070-0524, 413-070-0528, 413-070-0532, 413-070-0536, 413-070-0540, 413-070-0544, 413-070-0548, 413-070-0552, 413-070-0556, 413-070-0560
Subject: OARs 413-070-0520, 413-070-0524, 413-070-0528, 413-070-0532, 413-070-0536, 413-070-0540, 413-070-0544, 413-070-0548, 413-070-0552, 413-070-0556, 413-070-0560 are being adopted to: 1) indicate that Another Planned Permanent Living Arrangement (APPLA) is one of the five types of permanency plans for children placed in the Department's legal custody for substitute-care placement. APPLA is the least permanent of all permanency plans and must be used only when all other permanency plans have been ruled out; 2) describe the categories in APPLA; 3) describe what an APPLA permanency plan and the APPLA service plan must include; 4) describe the review process the Department must follow if APPLA is the permanency plan; and 5) describe what the case-

worker must document in the family's case record if APPLA is a permanency plan for a child.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-070-0520
Purpose

The federal Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2116 (1997) and the Department's rules (specifically OAR 413-040-0017 about Reunification and Concurrent Plans and Department Policy I-E.3.6, "Achieving Permanency", OAR 413-070-0500 to 413-070-0517) require the Department to develop, document, and implement a permanency plan for every child placed in the Department's legal custody for substitute care placement. The Department has five permanency plans to choose from for these children. The five permanency plans are: Reunification with parents — see OAR 413-040-0017; Achieve adoption — see OAR 413-110-0300 to 413-110-0360; Arrange guardianship or legal custody — see ORS 419B.365; Permanent placement with a fit and willing relative — see OAR 413-070-0060 to 413-070-0093; and Another planned permanent living arrangement (APPLA, which is any permanency plan other than reunification, adoption, guardianship, or permanent placement with a fit and willing relative). These rules (OAR 413-070-0520 to 413-070-0560) describe the appropriate use of APPLA.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0524
Definitions

The following terms are defined for use in these rules (OAR 413-070-0520 to 413-070-0560):

(1) "APPLA" means Another Planned Permanent Living Arrangement. APPLA is one of the five types of permanency plans.

(2) "Compelling reason" means a convincing and persuasive reason why it would not be in a child's best interests to be returned home, placed for adoption, placed with a guardian, or placed permanently with a fit and willing relative.

(3) "Department" means the Department of Human Services Child Welfare Program.

(4) "Family" means a child's parent/guardian(s), sibling(s), and kin.

(5) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(6) "Permanent foster/kinship care" means a long-term placement decision between the foster/kinship care family and the Department, approved by the juvenile court, in which the permanent foster/kinship care family makes a commitment to raise a child until the age of majority, and be accessible to and supportive of the child in adulthood.

(7) "Relative" or "Relatives" means:

(a) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great who is related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419.004(16);

(b) Aunts, uncles, adult first cousins and adult first cousins (once removed) who are related to the child through the biological or adoptive mother or the legal or adoptive father of the child as defined by ORS 419.004(16); and

(c) Stepparent(s) or ex-stepparents who have parented the child.

(8) "Service plan" means a written description of the services and activities designed to achieve goals for child safety, a permanent home, and the child's well-being (see Department Policy I-B.3.1, "Service Plans: Service Agreement or Letter of Expectations and Family Decisions Meetings," OAR 413-040-0000 to 413-040-0071).

(9) "Substitute care" means the out-of-home placement of a child who is in the legal or physical custody and care of the Department.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0528
Values

The values that underlie permanency planning for children are as follows:

(1) Every child needs and deserves a safe, nurturing, and permanent home.

(2) Children need and benefit from familial attachments.

(3) The purpose of permanency planning is to locate a permanent family or, if that is not possible, develop lifetime supportive relationships for a child in an out-of-home placement.

(4) Permanency planning must begin when a child enters substitute care; planning should be driven by the particular needs of each child; planning should be family-focused, culturally competent, and continuous; and planning should be accomplished with urgency.

(5) Permanency for a child is best achieved by placing the child in a family-like setting that provides the child with caring, nurturing relationships and an enduring sense of stability.

(6) APPLA is the least permanent of all the permanency plans and must be used only when the other plans have been ruled out.

(7) When APPLA is utilized as a child's permanency plan, the plan should be regularly reviewed to determine whether a more permanent plan has become appropriate for the child.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0532
APPLA, Described

Another Planned Permanent Living Arrangement (APPLA) is a plan for a stable, secure living arrangement, developed for a child, that includes building relationships with significant people in the child's life that will continue beyond substitute care. "Planned" means the arrangement is intended, designed, considered, premeditated or deliberate. "Permanent" means enduring, lasting, or stable. An APPLA plan includes not only the physical placement of the child, but also the quality of care, supervision, and nurture the child will be provided by a specified adult or adults. APPLA is the least preferred permanency plan for a child.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0536
Uses of APPLA

(1) The Department may identify APPLA as a permanency plan for a child only if the Department has determined that there is a *compelling reason* (defined in OAR 413-070-0524) that it would not be in the best interests of the child to be placed on a permanent basis:

(a) With a parent;

(b) In an adoptive home;

(c) In a guardianship; or

(d) In a permanent placement with a fit and willing relative.

(2) For purposes of implementing an APPLA permanency plan, the Department may document and the court may determine that there is a compelling reason that it would not be in the best interests of the child to implement a more preferred permanency plan in circumstances that include, but are not limited to the following:

(a) The child is an older teen, who rejects all of the other more favored permanency plans.

(b) The child's tribe has identified an APPLA as the preferred plan for an Indian child.

(c) The adult with whom the child has formed a permanent attachment is unable or unwilling to adopt the child or become the child's guardian.

(3) The examples provided in section (2) of this rule are not intended to eliminate from consideration any permanency plan for any group of children in substitute care. Each child's permanency plan must be based on the best interests and individual needs and circumstances of each child and determined on a case-by-case basis. A child's age or disability alone should never be a disqualifier for a more preferred permanency plan, such as adoption or guardianship.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0540
Decision-making Process

The following process will be used to identify APPLA as the permanency plan of a child:

(1) If it appears that the child cannot be reunified with a parent, placed for adoption, placed with a guardian, or permanently placed with a fit and willing relative, the child's caseworker must convene a team of individuals knowledgeable about the child's needs to discuss permanency plans for the child. The team must include the child's caseworker, and should include, but need not be limited to, the child's parents (unless their parental rights have been terminated or their participation in the meeting would be harmful to the child), the child's attorney, the court-appointed special advocate, the child's substitute caregiver, and the child, if appropriate.

(2) The team must provide the child and parents an opportunity to identify available permanency resources.

(3) After section (2) of this rule has been accomplished, the team must:

(a) Discuss and explore the child's needs and best interests;

(b) Explore and discuss the various permanency options that would meet the needs and best interests of the child; and

(c) If considering APPLA, rule out all other more preferred permanency options.

(4) After section (3) of this rule has been accomplished, the team may recommend APPLA as the best permanency plan for the child.

(5) Although the team provides input, Department staff present at the meeting are responsible for selecting the permanency option for the child. The Department will incorporate the team's recommendations for permanency to the extent that these recommendations protect the child, achieve permanency for the child, and provide the child with support in adulthood.

(6) If APPLA is selected, the Department must develop a permanency plan recommendation that meets the requirements of an APPLA for the child and a list of reasons why implementation of each of the other, more preferred permanency plans is not in the child's best interests.

(7) The caseworker's supervisor must review the Department's recommended plan and the reasons that each of the more preferred permanency plans is not in the child's best interests.

(8) After reviewing a plan under section (7) of this rule, the supervisor of the caseworker must give written approval for the plan if the supervisor determines that:

(a) There is a compelling reason (defined in OAR 413-070-0524) why a more preferred permanency plan is not in the child's best interests; and

(b) The APPLA developed by the Department is the appropriate plan for the child.

(9) The child's caseworker must schedule a permanency hearing and obtain approval for implementation of the APPLA plan from the court.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0544
APPLA Categories

An APPLA permanency plan may follow one of the categories described in this rule:

(1) APPLA – Permanent Foster Care. To qualify as APPLA – Permanent Foster Care, the arrangement must not be likely to disrupt and must include a commitment and a plan for how the substitute care provider will continue a familial relationship with the child beyond the child's majority. See Department Policy I-E.3.6.1, "Permanent Foster/Kinship Care", OAR 413-070-0700 to 413-070-0750, for more details on this permanency plan.

(2) APPLA — Independence. An APPLA — Independence plan may be appropriate for an older teen who has left substitute care or is receiving subsidy, and should focus not only on the child's educational, vocational, and treatment needs, but also on the needs of the child to develop or maintain relationships with adults who can play a significant role in the child's life after the child leaves substitute care.

(3) APPLA — Other:

(a) An APPLA — Other plan may be appropriate for a child in a psychiatric residential facility, Developmental Disabilities placement, or residential treatment facility who will not be discharged from the facility while the Department maintains legal custody of the child; a child for whom no placement that will commit to permanency can be found; or an older child who does not agree to a permanent foster care agreement or who is already living independently.

(b) This APPLA plan must include all of the following:

(A) Identification of the most secure, long-term, stable placement for the child. Group care or residential care is not generally considered appropriate as a permanent, long-term living arrangement. If the child's departure from group care is likely while the Department maintains legal custody of the child, a different plan should be chosen for the child.

(B) A strategy to develop relationships with significant people who will remain in the child's life beyond the time the child leaves substitute care. This strategy includes the identification of a permanent adult caregiver or adult parent figure that will play a permanent or important role in the child's life.

(C) When applicable, a plan to transition a developmentally delayed child to an appropriate program for adults who are developmentally disabled.

(D) A description of the reasonable efforts (OAR 413-070-0515(6)) made by the Department to put the services and structures described in this rule in place to meet the needs of the child and to enhance the stability of the child's living arrangement when the child is not living with a specified adult.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0548
Contents of APPLA Plan

An APPLA permanency plan must include all of the following:

(1) An APPLA service plan (see OAR 413-070-0552).

(2) A description of how permanent ties with family members, advocates, and others who provide a nurturing and supportive environment for the child will be established and maintained. This description may include the following:

(a) A description of how the parents and siblings of the child will actively participate in the life of the child if appropriate.

(b) For each existing relationship the child has with another adult who can sustain a significant relationship with the child, a description of how the relationship will be maintained.

(3) The comprehensive transition plan required by Department Policy I-B.2.3.5, "Independent Living Programs", OAR 413-030-0400 to 413-030-0455.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0552
APPLA Service Plan

In addition to meeting the requirements of Department Policy I-B.3.1, "Service Plans: Service Agreement or Letter of Expectation", OAR 413-040-0000 to 413-040-0071, the APPLA permanency plan must have a service plan that identifies all of the following:

(1) The relatives, advocates, guardians, current and former foster parents, or other individuals who can provide for the child lifelong support, but not permanent placement, a sense of continuity, belonging, and stability, and supportive, caring relationships. Individuals identified may include coaches, mentors, teachers, or employers. Attempts to locate these support resources must be documented in the case file.

(2) The services that will ensure the emotional, medical, educational, cultural, and physical needs of the child are being met.

(3) The services that will strengthen and nurture the relationship between the identified support persons and the child: for example, visitation schedule and inclusion of the support person in the child's counseling.

(4) The services that will prepare the child to live in the least restrictive setting possible at the most appropriate time.

(5) The services that will provide the child with a reasonable opportunity to achieve one of the permanency plans listed in OAR 413-070-0536(1).

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0556
APPLA Permanency Plan Reviews

If APPLA is the permanency plan for a child in its legal custody, the Department will review that plan, prior to each review conducted by the Citizen Review Board in accordance with ORS 419A.106 and prior to the permanency hearing required by ORS 419B.470(2), to determine the appropriateness of the permanency plan. The APPLA permanency plan should be reviewed to determine whether:

(1) A different permanent plan should be implemented for the child, such as reunification, adoption, guardianship, or permanent placement with a fit and willing relative; and

(2) The current placement is the least restrictive setting that meets the health and safety needs of the child.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

413-070-0560
APPLA Permanency Plan Documentation Requirements

The caseworker must document all of the following in the case record:

(1) The recommendations of the Department described in OAR 413-070-0540(1) and the approval of the supervisor required by OAR 413-070-0540(6) showing why APPLA is the most appropriate permanency option for the child.

(2) The efforts of the Department to identify and recruit a permanent placement for the child.

(3) How the current placement and services meet the special needs of the child and what structures are in place to support the current placement.

(4) Any approved exception to the 30-day face-to-face contact with the child required by OAR 413-080-0060.

(5) The compelling reason (defined in OAR 413-070-0524) why it would not be in the best interests of the child to be placed with a parent, freed for adoption, permanently placed with a fit and willing relative, or placed with a legal guardian.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 16-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 3-1-06
Rules Amended: 413-130-0010, 413-130-0080, 413-130-0110
Subject: OAR 413-130-0010 and 413-130-0080 are being amended to make permanent temporary rule amendments effective on January 1, 2006, that reduced the maximum payment to adoptive families for non-recurring expenses directly related to the adoption process from $2,000 per child to $1,500 per child. Non-recurring expenses are court costs, attorney fees, home study fees, pre-placement visit costs and other expenses that are directly related to the legal adoption of a special needs child. In addition, OAR 413-130-0110 is being amended to use standard formatting.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-130-0010
Definitions

(1) "Adoption assistance" means financial and/or medical assistance to adoptive families to assist them with the costs associated with their adoptive child's needs. Financial benefits are funded by DHS's adoption assistance budget. Assistance can be in the form of cash and/or medical coverage, an agreement only or special payments.

(2) "Adoption assistance benefits" means all or any portion of the adoption assistance package of benefits which include monthly payments, nonrecurring payment, special payments and medical assistance.

(3) "Adoption Assistance Review Committee" is a committee composed of DHS field and central office staff who have expertise in the area of adoption. It meets monthly, or as necessary, to provide recommendations regarding the type of benefits in situations where a review has been requested as part of the negotiations process.

(4) "Agreement only" is an agreement between DHS and the parents signed prior to the finalization of the adoption, to provide adoption assistance when/if a need for payment and/or medical coverage arises prior to the child's 18th birthday.

(5) "Medical assistance" means payment for medical services in accordance with the administrative rules of DHS.

(6) "Monthly Payments" means adoption assistance payments paid monthly by DHS to the family on behalf of the child which are determined by negotiation between the adoptive family and the agency worker, considering relevant factors which include but are not limited to the needs of the child, the services required to meet those needs, cost of such services, the family's ability to pay for the services, and the community resources available.

(7) "Nonrecurring payment" means a one-time payment up to $1,500, which DHS may pay to an adoptive family to assist with the expenses incurred in legally finalizing the adoption of a special needs child. Nonrecurring expenses may include the reasonable and necessary adoption fees, court costs, attorney fees, mediation costs, and other expenses which are directly related to the legal adoption of a special needs child.

(8) "Payment" means cash assistance to adoptive families to meet the child's needs.

(9) "Qualified Vendor Attorney" is an attorney who agrees to accept DHS's rate of reimbursement as payment in full for finalizing the adoption of a child who is eligible for adoption assistance.

(10) "Special payments" means payment for unanticipated, short-term costs which are directly related to the child's special needs or are essential to the welfare of the child, and are not covered by the adoptive family's insurance or by Medicaid as negotiated between DHS and the family.

Stat. Auth.: ORS 418.005, 418.340
Stats. Implemented: ORS 418.330-418.340
Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06

413-130-0080
Nonrecurring Payment for Adoption Expenses

(1) DHS may make a one-time payment of up to $1,500, nonrecurring payment to an adoptive family to assist with the costs incurred in legally finalizing the adoption of a special needs child. Nonrecurring expenses are the reasonable and necessary adoption fees, court costs, attorney fees, mediation costs, and other expenses which are directly related to the legal adoption of a special needs child. Other expenses are defined as the costs of adoption incurred by, or on behalf of, the parents and for which the parents carry the burden of payment, such as the adoption study, health and psychological examinations, supervision of the placement prior to adoption, transportation, and the reasonable costs of lodging and food for the child and/or the adoptive parents during travel when necessary to complete the adoption process. This payment may not duplicate expenses covered by Interstate Compact for Placement of Children expenses covered by DHS contract with a private agency, or expenses already covered by some other resource available to the adoptive family.

(2) Documentation of the nonrecurring adoption expenses will be required and must be submitted prior to execution of the adoption assistance agreement. The agreement, indicating the nature and amount of the nonrecurring expenses, must be signed prior to the final decree of adoption.

(3) The legal fees, when reimbursement is requested, are included in the nonrecurring expenses. It is the responsibility of the adoptive family to choose a privately retained attorney or enter into an agreement with an DHS "vendor" attorney. Vendor attorneys are those who have an agreement with DHS to process DHS adoptions for the currently established vendor fee plus costs for filing and birth certificates. DHS will make payment directly to the vendor attorneys after adoption is legalized. For other attorneys, the adoptive family is responsible for payment and DHS will reimburse the family for reasonable charges. Reasonable charges will be considered equal to the current vendor rate, and only in extraordinary circumstances may a higher amount be considered.

(4) Nonrecurring payments will be made when the agency receives the final order of adoption.

Stat. Auth.: ORS 418.005, 418.340
Stats. Implemented: ORS 418.330-418.340
Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06

413-130-0110
Administration of Approved Adoption Assistance

(1) It is the responsibility of DHS staff and licensed private agency staff, to notify or advise prospective adoptive parents of the availability of adoption assistance for children with special needs, provide adoptive parents with a copy of the adoption assistance policy, and assist the family in making application, if appropriate.

(2) Applicants must submit a written application for adoption assistance to the DHS central office Permanency and Adoptions Unit through their respective DHS branch office or private adoption agency with appropriate documentation and clarification as requested.

(3) Prospective adoptive parents who apply for adoption assistance must be approved by their respective adoption agency as being suitable adoptive parents who meet all state standards.

(a) Licensed adoption agencies recommending adoption assistance for prospective adoptive parents are responsible to verify and document on the adoption assistance application that efforts were made to place the child without adoption assistance;

(b) The DHS branch offices submitting applications must assure that the adoptive placement status has been approved by the central office Adoption Unit;

(c) Central office adoption assistance staff are responsible to complete adoption assistance eligibility determinations, negotiate benefits, issue agreements, and maintain records.

(4) Prior to the finalization of adoptions, and to issuance of any benefits, written adoption assistance agreements are completed that:

(a) Are signed by the adoptive parent(s) and the adoption assistance coordinator. The adoption assistance agreements establish the child's monthly eligibility for benefits as well as nonrecurring expenses;

(b) State the duration of the agreement;

(c) State the amount of assistance benefits (if any), and specify:

(A) The amount of the adoption assistance monthly payment (if any); and

(B) The nature and amount of any other payments, services, and assistance to be provided, including nonrecurring adoption expenses;

(d) State that the agreement remains in effect regardless of the adoptive parents and/or the child's state of residence;

(e) State whether the child will receive medical benefits, and specify the child's eligibility for Title XIX and Title XX;

(f) State that the adoptive parents have a right to a fair hearing.

(5) The initial effective date of adoption assistance shall be determined by the central office Adoption Unit, taking into consideration the request of the adoptive family and the recommendations of the adoption agency/DHS branch. The effective date cannot be prior to the completion of a signed assistance agreement, and must be effective no later than the date the adoption is finalized.

(6) Annually the DHS adoption assistance program shall send a letter to adoptive families, except those with an agreement only, inquiring whether there has been a change in circumstances or need for benefits.

(7) No assistance may be provided to parents if the parents are no longer legally and financially responsible for the support of the child, or the child is no longer receiving care and support from the adoptive parents. Examples include marriage, military enlistment.

(8) In the case of an adopted child who becomes available again for adoption due to the adoptive parent(s)' relinquishment of the child, the termination of the adoptive parent(s)' parental rights to the child, or the death of the adoptive parent(s), the determination of eligibility of the adopted child for adoption assistance shall remain based on the eligibility of the child as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for Adoption Assistance benefits. The child must also meet special needs criteria at the time the child again becomes available for adoption. (This rule is intended to meet the requirements of Sec. 473 (42 USC. 673)(a)(2)(C) of the Social Security Act.)

(9) If a child receiving adoption assistance benefits is placed in substitute care, adoption assistance benefits may be adjusted, continued, or suspended. If the family is involved in the child's treatment, and the plan is for the child to return home, the family may ask to have the adoption assistance benefits suspended, continued, or adjusted to reflect current expenses. When the child returns to the care of the parents, adoption assistance benefits will be renegotiated.

(10) Adoptive parents must immediately inform the agency when a change in circumstances indicates that there is no longer a need for adoption assistance benefits.

(11) The agency may terminate the agreement upon 30 days written notice to adoptive parents when the child is no longer in the home, or the adoptive parents are no longer providing for the child's support, or in the event of legal or legislative action requiring discontinuance of adoption assistance.

(12) An adoption assistance agreement shall automatically terminate, as required by Oregon law, when the child is 18 years old.

(13) An adoption assistance agreement shall be terminated when the child leaves the home with no plan to return as in such situations as marriage, military enlistment, emancipation.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.330 – 418.340
Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 22-1999, f. & cert. ef. 11-24-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 17-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Adopted: 413-140-0026, 413-140-0055
Rules Amended: 413-140-0000, 413-140-0010, 413-140-0030, 413-140-0040, 413-140-0080, 413-140-0110, 413-140-0120
Rules Repealed: 413-140-0070
Rules Ren. & Amend: 413-140-0020 to 413-140-0035, 413-140-0025 to 413-140-0065, 413-140-0100 to 413-140-0045
Subject: OAR 413-140-0000, 413-140-0010, 413-140-0030, 413-140-0040, 413-140-0080, 413-140-0110, and 413-140-0120 are being amended; OAR 413-140-0026 and 413-140-0055 are being adopted; OAR 413-140-0020, 413-140-0025, and 413-140-0100 are being renumbered to 413-140-0035, 413-140-0065, and 413-140-0045, respectively, and amended; and OAR 413-140-0070 is being repealed to: clarify the role of DHS in private or independent adoptions; correct erroneous statutory and regulatory citations; improve the form and organization of these rules; update contents for clarity and completeness; increase the home study fee permitted for independent adoption home studies, from "not exceeding $794" to "may not exceed $1,500"; and to include the existing fee for a placement report for an independent adoption in the administrative rules. OAR 413-140-0030 is also being amended to make permanent temporary rule changes adopted on January 1, 2006.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-140-0000
Purpose and Role of the Department in Independent Adoptions

(1) The purpose of these rules (OAR 413-140-0000 to 413-140-0120) is to establish the administrative process necessary to achieve an independent adoption in Oregon.

(2) With respect to an independent adoption (defined in OAR 413-140-0010), the Department has a gatekeeper role, oversight responsibility, and identifies concerns for the court.

(3) A petition for an independent adoption and supporting documentation filed with the court must be served on the Department within 30 days of filing with the court. The Department is responsible for reviewing adoption petitions and supporting documentation for independent adoptions, issuing a 90-day waiting period waiver when appropriate for adoption petitions involving children who are minors, and pursuant to OAR 413-140-0035, issuing a waiver of the home study. Materials served on the Department are reviewed for compliance with Oregon and federal law, prior to the issuance of the 90-day waiting period waiver and, if applicable, the waiver of the home study.

(4) These rules also apply to adoptive placements by licensed adoption agencies that are finalized in Oregon.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 109.305 - 109.410, 109.741, 409.010
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0010
Definitions

The following definitions apply to OAR 413-140-0000 to 413-140-0120:

(1) "Birth parent" means the man or woman who is legally presumed under Oregon law to be the father or mother of genetic origin of the child.

(2) "Certificate of Approval" means a document that:

(a) Is issued by a contracted adoption agency or by an Oregon licensed adoption agency, and approved by the Department; and

(b) Approves a home study and certifies that the prospective adoptive family has met the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.

(3) "Contracted adoption agency" means a licensed adoption agency in Oregon holding a current contract with the Department to conduct home studies and placement reports for independent adoptions.

(4) "Foreign adoption" means an adoption in which a child born in a foreign country is adopted under the laws of that country or readopted in Oregon. A foreign adoption is sometimes called an "international adoption", and may be subject to the requirements and regulations of the Intercountry Adoption Act when implemented and brought into force between the United States and other countries that have become parties to it.

(5) "Gestational carrier" is a woman who carries a fetus whose biological origin is from two other people.

(6) "Home study", in accordance with ORS 109.304, means a written evaluation of the suitability of a prospective adoptive parent to adopt and parent a child who may be placed for adoption. The home study is completed prior to the filing of a petition to adopt, in accordance with Department reporting format and standards, and states whether or not the prospective adoptive parents meet the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.

(7) "Household" means all persons who occupy the housing unit.

(8) "Independent adoption" means any private or non-DHS adoption of a person under the age of 18 in which the consent is given by a person or entity other than the Department.

(9) "Licensed adoption agency" means an adoption agency licensed by the state of Oregon to place children for adoption, or an adoption agency that holds a license from another state and is authorized under the laws of that state to place children for adoption.

(10) "Petitioner" means the person or persons seeking to adopt a child.

(11) "Placement report" as defined in ORS 109.304 means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and must include information, such as: the child's background and placement; the child's medical and genetic history; the history of each birth parent; the status and adjustment of the child in the adoptive home; and the status and adjustment of each prospective adoptive parent of

the child. The placement report is sometimes called a "post-placement report" or "court report".

(12) "Re-adoption" means an adoption of a child who was originally adopted in the child's country of origin and who is being re-adopted in Oregon by the adoptive parents.

(13) "Step-parent" means a person who is the spouse of the child's parent by a subsequent marriage.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.741
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 24-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0026
Service of Petition

(1) As required under ORS 109.309(6), a petitioner must cause copies of the documents required to be filed with the court to be served upon the Director of DHS by certified mail with return receipt or personal service, within 30 days after the documents have been filed with the court.

(2) Copies of the petition for an independent adoption and the documents required to be filed with the court must be mailed to:Director, Department of Human Services, 500 Summer Street NE, E-7, Salem, OR 97301-1066, Attention: Independent Adoptions.

(3) Date of service shall be the date the Director receives a copy of the petition, all required documents, and the fee for the placement report if applicable (see OAR 413-140-0040).

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 109.309, 409.010
Hist: CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0030
Contents of Petition

(1) Every petition for the adoption of a child must include a declaration of the child's connection with Oregon in accordance with ORS 109.309(a), the information required by ORS 109.309(6)(a)(A), and, in accordance with ORS 109.309(5), the significant connection that either the child or the supervising adoption agency has with the county in which the petition is being filed.

(2) All of the following documents and information must be served upon the Director of DHS:

(a) A statement containing:

(A) The full names and permanent addresses of the petitioner and child;

(B) The full names and permanent addresses of---

(i) All persons whose consent to the adoption is required under ORS 109.312, when these names and addresses are known or may be readily ascertained by the petitioner;

(ii) The persons with whom the child has lived during the last five years and the places where the child has lived during that period, if the names and addresses may be readily ascertained by the petitioner;

(iii) If known to the petitioner, any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or parenting time or visitation with the child;

(iv) The supervising Oregon licensed adoption agency, if any, or the relative or person that privately placed the child for adoption; and

(v) A person who has resided in Oregon continuously for a period of six months prior to the filing of petition who must be a petitioner, a birth parent, or the child.

(b) The documents demonstrating consent under ORS 109.312 to the adoption of the child.

(c) Documentation relating to alternative notice by publication and show cause hearing, if applicable, under ORS 109.322 to 109.330.

(d) A copy of the child's consent required under ORS 109.328 if the child being adopted is 14 years of age or older but has not reached the age of 18.

(e) Except for those persons who qualify for a waiver of the home study or placement report in accordance with OAR 413-140-0035(5) or 413-140-0040(7), written evidence documenting a valid (see OAR 413-140-0035(4)) home study that has been approved by either the Department or by an Oregon licensed adoption agency recommending the adoption by the prospective adoptive family who has met the requirements of DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310. If the petitioner is not an Oregon resident, the petitioner must also submit a Certificate of Approval (defined in OAR 413-140-0010) from a contracted adoption agency (defined in OAR 413-140-0010, a list of contracted adoption agencies is available on the website of the Department). The fee for a Certificate of Approval is paid directly to the contracted adoption agency that issues the certificate.

(f) A written disclosure statement, prepared on form CF 960, Adoption Disclosure Statement, which contains an itemized accounting of all money paid, or estimated to be paid, by the petitioner for fees, costs, and expenses related to the adoption, including all legal, medical, living, and travel expenses.

(g) If applicable, a check or money order for the Placement Report (OAR 413-140-0040(7)) made payable to the Department of Human Services.

(h) In the case of a step-parent (defined in OAR 413-140-0010) adoption, evidence that the petition was served on all persons whose consent is required under ORS 109.312, and each of the child's eligible grandparents who have established rights under ORS 109.119, if the names and addresses are known or may be readily determined.

(i) When a parent of the child is deceased or incapacitated (as defined in section (5) of this rule), either:

(A) Evidence that the petition was served on the parents of the deceased or incapacitated parent, if the names and addresses are known or may be readily ascertained by the petitioner; or

(B) Evidence that the petitioner has requested of the court a waiver of the service described in paragraph (A) of this subsection for good cause.

(j) A completed report of the medical and genetic history of the child and of each biological parent, required under ORS 109.342, on prescribed Department forms CF 246 and CF 246A. The medical report must be in English, written in ink, and be as thorough as possible. A medical and genetic history is not required when a child is adopted by a step-parent (defined in OAR 413-140-0010).

(k) A statement of verification that each birth parent and petitioner have been advised of the voluntary adoption registry established under ORS 109.450, have been given information on how to access those services, and (if applicable) a statement requesting the court to waive the notification upon a finding of good cause.

(l) A statement that one petitioner, the child, or one birth parent, has resided in Oregon continuously for a period of six months prior to the date of the petition.

(m) A copy of the Adoption Report Form (Form 45-24, Center for Health and Statistics), with parts one and two filled out.

(n) If applicable, a statement of compliance with the Interstate Compact on the Placement of Children (ICPC) under ORS 417.200 to ORS 417.260 and DHS Child Welfare Policy I-B.3.4.2 "Intestate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330.

(o) Documentation verifying that notice under ORS 109.346 was given to each consenting birth parent, except for any of the following situations:

(A) An adoption in which a child born in a foreign country is adopted under the laws of that country or readopted in Oregon.

(B) An adoption in which a child born in a foreign country is subsequently adopted in Oregon and in which the identity or whereabouts of each birth parent of the child is unknown.

(C) An adoption in which a birth parent is retaining parental rights.

(p) In accordance with ORS 109.309(11), if the Indian Child Welfare Act of 1978, U.S.C., Title 25, Sections 1901-1963, applies, the petition must include:

(A) A statement of the efforts to notify the appropriate Indian tribe or tribes of the adoption; and

(B) A statement of the efforts to comply with placement preferences of the Indian Child Welfare Act, or the placement preferences of the appropriate Indian tribe.

(3) A petitioner who is a step-parent, relative, or person petitioning for re-adoption (defined in OAR 413-140-0010) who qualifies for a waiver under OAR 413-140-0035(5) or OAR 413-140-0040(7) may request that the Department waive the home study and/or placement report at the time of filing a petition to adopt.

(4) Additional Requirements for Specific Categories of Independent Adoptions. As applicable, the following documents and information must be served upon the Director of DHS:

(a) Step-parent Adoption.

(A) The names and addresses of each of the child's eligible grandparents who have established rights under ORS 109.119, if the names and addresses are known or may be readily determined; or if applicable a statement requesting the court to waive the requirement upon a finding of good cause in accordance with ORS 109.309.

(B) Request for Waiver of the Home Study and Placement Report (CF 249D), if applicable.

(C) If there is a request for waiver of the home study:

(i) A copy of the criminal background check report from the Oregon State Police if the adult household members of the prospective adoptive family are Oregon residents.

(ii) If the adult household members of the prospective adoptive family have lived in Oregon for less than 5 years, an FBI clearance report must be sent directly to the Department.

(iii) For non-Oregon residents, the criminal history, the child abuse clearance, and the FBI clearance, if applicable, from the state where the adult household members reside.

(b) Re-adoption (defined in OAR 413-140-0110).

(A) Copies of all pertinent foreign documents submitted in and received from the country of origin, with English translations.

(B) A copy of the foreign adoption decree, translated into English.

(C) Current medical and genetic history information submitted using the CF 246 and CF 246A forms.

(c) Relative Adoption.

(A) Request for Waiver of the Home Study and Placement Report (CF 249D), if necessary (see OAR 413-140-0035 and OAR 413-140-0040).

(B) If there is a request for waiver of the home study:

(i) A copy of the criminal background check report from the Oregon State Police if the adult household members of the prospective adoptive family are Oregon residents.

(ii) If the adult household members of the prospective adoptive family have lived in Oregon for less than 5 years, an FBI clearance report must be sent directly to the Department.

(iii) For non-Oregon residents, the criminal history, the child abuse clearance, and the FBI clearance, if applicable, from the state where the adult household members reside.

(d) Special Categories of Independent Adoption.

(A) Artificial Insemination.

(i) For adoptions relating to artificial insemination of a surrogate, under ORS 109.239, if the donor of the semen used in artificial insemination is not the mother's husband, such donor has no right, obligation or interest with respect to a child born as a result of the artificial insemination. "Surrogate" in this context means a woman who bears a child for another person, often for pay, through artificial insemination.

(ii) To consider an adoption resulting from artificial insemination as a step-parent adoption, documentation must be provided that:

(I) The petitioner who provided the semen (donor-petitioner) and the surrogate mother have agreed that the donor-petitioner has the rights and responsibilities of fatherhood; and

(II) The donor-petitioner relied on the agreement when he donated his semen.

(B) Gestational Surrogacy.

(i) An adoption involving a gestational carrier (defined in OAR 413-140-0010) is a gestational surrogacy if a petitioner is donor of either sperm or egg, the embryo is implanted into the womb of the gestational carrier, and the gestational carrier carries the child to full term. The child legally belongs to the biological parents, who, as petitioners, must provide evidence that supports the assertion that they are the biological parents in accordance with ORS 109.239 and 109.243.

(ii) To consider a gestational surrogacy as a relative adoption (under subsection (4)(c) of this rule), the following additional documentation must be provided:

(I) Consent from the gestational carrier; and

(II) Consent from the gestational carrier's husband, if married and not impotent or sterile.

(5) As used in this rule, "incapacitated" means (as defined at ORS 109.309(7)(c)) a condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person lacks the capacity to meet the essential requirements for the person's physical health or safety. As used in this section, "Meet the essential requirements for the person's physical health or safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene, and other care without which serious physical injury or illness is likely to occur.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 109.119, 109.234, 109.239, 109.309, 109.312, 109.330, 109.342, 109.353, 109.385, 109.400, 109.450, 109.701 to 109.784, 417.200, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 32-2000, f. & cert. ef. 11-7-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 24-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0035

Home Study, Fees, Waivers, and Certificates of Approval

(1) Unless waived by the Department under ORS 109.309(6) and this rule, a home study (defined in OAR 413-140-0010) is required for the filing of a petition for an independent adoption (defined in OAR 413-140-0010).

(a) Oregon Residents:

(A) Except as provided in paragraph (C) of this subsection, the home study must be conducted by a contracted adoption agency (defined in OAR 413-140-0010).

(B) The allowable fee for a home study for an independent adoption is established by the Department. This fee is paid directly to the contracted adoption agency performing the service. This fee may not exceed $1,500.

(C) If the home study is completed by a licensed adoption agency (defined in OAR 413-140-0010) that is not a contracted adoption agency, a Certificate of Approval (defined in OAR 413-140-0010) from a contracted adoption agency is required, along with a copy of the original home study.

(i) The fee for the Certificate of Approval is paid directly to the contracted adoption agency.

(ii) The fee for the Certificate of Approval may not exceed $150.

(D) Travel Reimbursement.

(i) A petitioner or an attorney for the petitioner reimburses travel expenses directly to the agency performing the service.

(ii) Travel reimbursement is limited to reasonable travel expenses, for example commercial carrier fares; parking and garage fees; necessary taxi, airport shuttle, or bus fares; private car mileage allowances not to exceed the standard federally approved mileage rate; and actual and necessary expenses for lodging and meals.

(E) An eligible person who qualifies for a waiver under OAR 413-040-0035(5) may request in writing that the Department waive the home study at the time of filing a petition to adopt.

(b) Non-Oregon Residents. Potential adoptive parents who are not Oregon residents but who are finalizing the adoption in Oregon must submit a valid (see OAR 413-140-0035(4)) home study completed by a licensed adoption agency, or by a person authorized to conduct home studies in the state in which the potential adoptive parent resides.

(2) Certificates of Approval for Non-Oregon Residents.

(a) A Certificate of Approval must be issued by a contracted adoption agency if a potential adoptive parent who is the subject of the home study is not a first degree blood relative of the child who is being adopted. The fee for this Certificate of Approval:

(A) May not exceed $150; and

(B) Is paid directly to the contracted adoption agency.

(b) An out-of-state home study for an agency adoption requires a Certificate of Approval issued by an Oregon licensed adoption agency.

(A) For purposes of this rule, "agency adoption" means an adoption in which a birth parent or other persons required to consent under ORS 109.312 sign releases or surrenders to an authorized adoption agency in accordance with ORS 418.270, giving guardianship and control over a child for the purpose of adoption, and the agency gives its written consent to the adoption of the child.

(B) There is no fee for this Certificate of Approval if the adoptive placement is made by the licensed adoption agency.

(c) All of the following requirements apply to the approval process for a home study under subsections (a) and (b) of this section.

(A) A request for approval of the home study is made to the adoption agency and must contain the full names, addresses, phone number, birth dates, and social security numbers of the potential adoptive parents.

(B) The request must include a complete copy of the home study, and have written verification that the agency, or person who conducted the study, is authorized to carry out adoption work under the laws of the state where the prospective adoptive parents reside.

(C) The adoption agency agreeing to review a home study from out of state may request additional information before granting a Certificate of Approval.

(D) The adoption agency issuing a Certificate of Approval must ensure that child abuse reports and criminal history checks, including FBI clearances, if necessary, are completed and noted in the home study.

(E) The adoption agency that completes or approves a home study must ensure that the home study includes the information outlined in Attachment A, Part I, Confidential Adoption Home Study Report, from the contract used for a contracted adoption agency. This document is available on the Department website, and the required information must include a biographical narrative of each prospective adoptive parent; detailed description of any children in the household and any other adults in the home; marital relationships and family lifestyle; finances; description of housing and housekeeping standards; understanding of and motivation for adoption; results of criminal history check and child abuse history; summary of current medical condition, and drug and alcohol use; references; summary of the degree to which prospective adoptive parents meet minimum standards for adoptive homes, DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310; and the signature of the home study writer and either the director of the adoption agency or its authorized representative, including the approval date of the home study.

(F) The decision about whether to grant a Certificate of Approval must be based on DHS Child Welfare Policy I-G.2.1, "Minimum Standards for Adoptive Homes", OAR 413-120-0300 and 413-120-0310.

(3) An adoption agency that completes or approves a home study must comply with all of the following requirements:

(a) Maintain an original written copy of the study for one year after finalization in the event that a Judgment of Adoption is contested.

(b) Upon a written request of the petitioner, send a copy of the home study to the petitioner's attorney, if applicable, to be filed with the court.

(c) Comply with the confidentiality requirements in ORS 7.211 if the home study leads to a finalized adoption.

(4) Validity of the Home Study.

(a) A home study is valid for a maximum period of two years from the date of completion.

(b) After two years from the date of completion of a home study, in order for the study to remain valid:

(A) The home study must not have been used for a previously finalized adoption; and

(B) The agency completing the original study must provide a current update to the study indicating the changes that have occurred.

(5) Waiver of the Home Study. Following filing of the adoption petition with the court, and upon written request of a petitioner, the Department may waive the home study under the circumstances described in any of the following subsections:

(a) The petition is to adopt the stepchild of a petitioner, and there is evidence that---

(A) The petition has been served on all persons whose consent is required under ORS 109.312; and

(B) The petition was served on each of the child's grandparents who have established rights under ORS 109.119, if the names and addresses are known or can be readily determined by the petitioners.

(b) A petitioner is a grandparent, sibling, aunt, or uncle of the child, and the child has resided with the petitioners:

(A) Since birth and for at least six months; or

(B) On a continuous basis for one or more years immediately prior to the filing of the adoption petition.

(c) The petition is to adopt the child of a biological or adoptive parent, the petitioners will be the legal parents of the adoptee, and the biological or adoptive parent will retain parental rights.

(d) The petition is to adopt a child, belonging to the biological parents, being brought to term and delivered by a gestational carrier. Petitioners must provide evidence that supports the assertion that the petitioners are the biological parents of the child being adopted.

(e) The petitioners or the child are currently receiving services from the Office of Safety and Permanency for Children of the Department of Human Services, or have received such services within the last 12 months. There must be sufficient information that will allow the Department to determine that the adoption is in the best interest of the child and that the home study may be waived.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 7.211, 109.309, 109.312, 409.010

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 3-1999, f. & cert. ef. 3-22-99; SOSCF 2-2000, f. & cert. ef. 1-14-00; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0020, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0040

Placement Report: Conditions, Waivers, And Fees

(1) A placement report (defined in OAR 413-140-0010) must be filed in every adoption proceeding unless the Department files a waiver of the report with the court.

(2) A placement report for an independent adoption may only be considered for waiver by the Department when the child's connection with Oregon is described in the petition in accordance with ORS 109.311 and 109.309.

(3) The Department must waive the placement report to the court in an adoption where one of the child's biological or adoptive parents retains parental rights.

(4) The Department may not assign the completion of a placement report to a contracted adoption agency unless a copy of the Disclosure Statement is received.

(5) Waiver of Placement Report. The Department may file a waiver of the placement report under the circumstances described in any of the following subsections:

(a) The petition is to adopt the step-child of a petitioner, and there is evidence that the petition has been served on:

(A) Each person whose consent is required under ORS 109.312; and

(B) Each of the child's grandparents who have established rights under ORS 109.119 if the names and addresses are known or may be readily determined by the petitioners.

(b) The petitioners and the child are currently receiving services from the Office of Safety and Permanency for Children of the Department of Human Services or a licensed adoption agency (defined in OAR 413-140-0010) or have received such services in the past 12 months, and there is sufficient information available to allow the Department or a licensed adoption agency to recommend in writing that the adoption is in the best interest of the child.

(c) The child is 14 years of age or older, has consented to his or her adoption, and the Department or a licensed adoption agency has sufficient information available to recommend that the adoption is in the best interest of the child.

(d) A petitioner is a grandparent, sibling, aunt, or uncle of the child, and the child:

(A) Has resided with the petitioners since birth and for at least six months; or

(B) If placed immediately after birth, has resided with the petitioners on a continuous basis for one or more years immediately prior to the filing of the petition for adoption.

(e) The child's adoption in a foreign nation meets all requirements of ORS 109.385, and all of the following requirements are met:

(A) There is documented proof that the foreign adoption (defined in OAR 413-140-0010) and the child's entry into the United States fully complies with federal immigration and naturalization laws.

(B) The adoption is verified with original or certified true copies of all documents necessary for completion of the foreign adoption, including a copy of the foreign adoption decree.

(C) All documents written in a foreign language are translated into English.

(D) If there has not been a re-adoption (defined in OAR 413-140-0010) of the child in Oregon, and an adoption petition is filed by the persons whose names are listed as the adoptive parents on the foreign adoption decree:

(i) A copy of the foreign adoption decree must be submitted as proof of the foreign adoption.

(ii) Copies must be submitted of all foreign documents, with English translations, that have been filed with the foreign court.

(6) A placement report, unless waived, must be completed, after the filing of a petition, by a contracted adoption agency under the following conditions:

(a) Before the Department will authorize the preparation of a placement report to the court, a petition and all related documents must be served on the Department within 30 days of petition filing, along with the full fee, or justification for a fee waiver. Service is not considered complete until the Department has received copies of all required documentation provided to the court as well as the required fees.

(b) Upon satisfactory service of the petition and documents, the Department assigns completion of the placement report to a contracted adoption agency. Assignment is made to the contracted adoption agency that completed the home study, or to the agency requested by the petitioners, if that agency has a current contract with the Department to conduct independent home studies and placement reports.

(c) The Department assigns and provides all necessary information and materials to the designated contracted adoption agency within 30 days of completed service of petitions and documents upon the Adoption Services Unit of the Department.

(7) Fees, Travel Reimbursement, and Other Procedures.

(a) The fee for a placement report for an independent adoption (defined in OAR 413-140-0010) is $675. The petitioner must pay this fee to the Department, prior to the issuance of the 90-day waiting period waiver or the Notice to the Court. This fee may be adjusted to a lower amount in any of the following situations:

(A) The petitioners qualify for a fee waiver of part or all of the fee in accordance with OAR 413-140-0070.

(B) A voluntary adjustment of the fee to a lower amount is made by the contracted adoption agency.

(C) The interview of the petitioners was done in another jurisdiction;

(D) The interview with a birth parent (defined in OAR 413-140-0010) could not be completed.

(b) Travel reimbursement must be limited to reasonable travel expenses, such as commercial carrier fares; parking and garage fees; necessary taxi, airport shuttle or bus fares; private car mileage allowances not to exceed the standard federally approved mileage rate; and actual and necessary expenses for lodging and meals.

(c) A contracted adoption agency preparing a placement report must bill for services rendered in preparation of a placement report using the CF 961 form, Independent Adoption Invoice.

(d) The contracted adoption agency may not investigate and prepare a placement report for an independent adoption until the required fee has been received by the Department.

(8) Each placement report for an independent adoption must be completed following Department procedures and the reporting format agreed upon in the contract.

(9) A copy of each finished placement report must be sent by the assigned contracted adoption agency to the court and to the Adoption Services Unit of the Department.

(10) In the event the placement report cannot be completed within 60 days from the date the Department assigned it to a contracted adoption agency, the contracted adoption agency must:

(a) Notify the court in writing of the delay, stating the specific reasons for the delay, and the anticipated additional time necessary to prepare and submit a full and complete report; and

(b) Provide a copy of the notification of the delay to the Adoption Services Unit of the Department.

(11) The Department furnishes to the petitioner's attorney copies of any information filed with the court.

Stat. Auth.: ORS 409.010, 418.005
Stats. Implemented: ORS 109.119, 109.309, 109.311, 109.385, 109.390
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 3-1999, f. & cert. ef. 3-22-99; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0045
Waiver of Fees

(1) Contracted adoption agencies may, on a case-by-case basis, absorb some costs and accept a reduced fee, or full waiver of the home study and/or placement report fee, in consideration of the household income (see section (4) of this rule) of the prospective adoptive parents.

(2) The determination by the Department of a reduction or waiver of a fee is based on the fee waiver schedule that the Department establishes each calendar year (available on the Department website), using the annual Poverty Guidelines of the United States Department of Heath and Human Services.

(3) A potential adoptive parent or petitioner is not entitled to any consideration for a waiver of a fee unless a request for waiver or reduction of the fee is submitted to the Adoption Services Unit of the Department, in writing, along with documentation of household income. A copy of the most recent Federal Tax Report 1040 form (if filed in the past two years) and verification of household income, is required.

(4) For purposes of this rule, household (defined in OAR 413-140-0010) income includes before tax cash receipts from all sources such as wages or salaries; public assistance, entitlements, and benefits; private support and assistance payments; and payments from investments, rents, pensions, allotments, compensations, child support, alimony, public assistance, annuities, grants, interest, winnings, and entitlements.

(5) Confirmation of household income is made on forms supplied by the Department (available on its website), along with supporting documents and records of income before any waiver of fee is authorized.

(6) In the event a fee waiver is authorized based upon erroneous information, the petitioner is liable for the full cost of the home study and/or placement report, and any amounts associated with recovery of those costs.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 109.309, 409.010
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0045, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0055
Limits to Adoption

(1) If a contracted adoption agency is conducting a home study or considering a Certificate of Approval, the contracted adoption agency may not approve a home for adoption if there are eight or more children under the age of 18 residing in the adoptive home until the director of the contracted adoption agency convenes a review committee of at least three human services professionals — with experience in adoption and services to families and children — to review and approve the adoption application.

(2) The findings and recommendations of the review committee under section (1) of this rule must be included in a home study report or Certificate of Approval, including any dissenting or minority findings and recommendations.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.309
Hist.: CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0065
Criminal Background Check

If a waiver of a home study (defined in OAR 413-140-0010) is requested:

(1) For purposes of this rule, a "subject individual" means each petitioner (defined in OAR 413-140-0010) and all members of the petitioner's household over 18 years of age.

(2) Each subject individual must file a copy of a consent to a check of the Department's child protection records and a criminal records check.

(a) The criminal records information on each subject individual must be provided to the Department before a request for the waiver of the home study will be considered.

(b) If a subject individual is an Oregon resident, the subject individual must use the prescribed Department form for requesting the criminal background check (available on the Department website); and

(c) If a subject individual has resided in Oregon for less than five years or is not an Oregon resident, the subject individual must arrange for an FBI criminal history clearance to be sent directly by the FBI to the Department.

(d) If a petitioner resides in another state, each subject individual must arrange for the criminal background check and the child abuse report to be sent directly by the state agency authorized to issue these clearances to the Department.

(e) Applicants for a criminal history check are responsible for paying all fees associated with acquiring and providing criminal history information.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.309, 109.312
Hist.: SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; Renumbered from 413-140-0025, CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0080
Interview with Birth Parents

(1) The agency that is conducting the home study (defined in OAR 413-140-0010) must make every reasonable attempt to contact and interview each birth parent (defined in OAR 413-140-0010) of the child.

(2) An agency placing a child or conducting a home study must interview each birth parent who can be located and is willing to be interviewed regarding the social and genetic background and legal status of the child to determine the ethnic (including Indian tribal membership) and health history of the child, and the attitude of each birth parent toward the adoption. In the event a birth parent is not interviewed, the reasons for not interviewing must be included in the placement report, as well as a description of efforts made to interview.

(3) Pursuant to ORS 109.346, the attorney for the birth parent, the attorney for the adoptive parent, or the agency representative taking the birth parent's consent must notify each consenting birth parent of the right of the birth parent to payment for---

(a) Three adoption-related counseling sessions prior to surrender or relinquishment of the child for adoption; and

(b) Three sessions of adoption-related counseling after surrender or relinquishment of the child for adoption.

(4) If applicable, a petitioner's attorney must submit to the Department an affidavit verifying that each consenting birth parent received notice of the right to payment for adoption-related counseling. A form is available on the Department website.

(5) Adoption-related counseling under this rule, unless otherwise agreed to by the prospective adoptive parent and the birth parent, must be provided by a licensed professional counselor or another professional listed in ORS 109.346.

(6) The prospective adoptive parent must pay all costs --- not covered by insurance or by the Oregon Health Plan --- of the adoption-related counseling required by this rule, if the counseling is received within one year of the date of surrender or relinquishment of the child for adoption.

(7) The requirements of this rule do not apply to an adoption in which:

(a) A parent retains parental rights;

(b) A child born in a foreign country is adopted under the laws of that country or has a re-adoption (defined in OAR 413-140-0010) in Oregon; or

(c) A child born in a foreign country is adopted in Oregon and the identity or whereabouts of the child's birth parents are unknown.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.346, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1998, f. & cert. ef. 1-28-98; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0110
Release of Information

(1) No person or agency (public or private) may disclose to a birth parent (defined in OAR 413-140-0010) or to a parent of an adopted child the name, identity, or whereabouts of the other without consent of the other party.

(2) A signed Authorization for Use & Disclosure of Information form (DHS 2099) — or a similar document which satisfies DHS Privacy Policy AS-100-03, "Uses and Disclosures of Client or Participant Information", Section 1g of Guidance for Procedure Development — must be submitted for the Department to consider release of information from the adoption file

to the adoption agency or to the attorney for a petitioner (defined in OAR 413-140-0010).

(3) Any information considered a sealed record under ORS 7.211 may not be released without a court order.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 7.211, 109.440, 409.010
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

413-140-0120
Storage and Destruction of Information Concerning Adoptions

(1) All records and written material regarding a petition for an independent adoption (defined in OAR 413-140-0010) and a placement report (defined in OAR 413-140-0010) in the possession of the Department or a licensed adoption agency are confidential and must be stored in locked file cabinets. The Department must comply with the Oregon State Archives, Records Retention Schedule for Adoption Program Services.

(2) A licensed adoption agency that has completed a home study or placement report for an independent adoption must comply with all of the following requirements:

(a) Forward copies of the home study and/or placement report to the Department's Adoption Services Unit.

(b) Comply with state rules and regulations pertaining to retention and destruction of public records in accordance with ORS 7.211, 109.425, 109.435 to 109.507, ORS chapter 192, and other applicable laws.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 7.211, 109.381, 109.425, 109.435 to 109.507, 409.010
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 50-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 17-2006, f. 6-30-06, cert. ef. 7-1-06

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

Rule Caption: FCHP Non-Contracted DRG Hospital Reimbursement Rates, to correct tables.
Adm. Order No.: OMAP 28-2006
Filed with Sec. of State: 6-22-2006
Certified to be Effective: 6-23-06
Notice Publication Date: 3-1-06
Rules Amended: 410-120-1295
Rules Repealed: 410-120-1295(T)
Subject: The General Rules Program administrative rules govern Office of Medical Assistance Programs' (OMAP) payment for services provided to clients. OMAP permanently amended 410-120-1295, having temporarily amended the rule to reference the following reimbursement documents, with tables corrected on December 23, 2006:

FCHP Non-Contracted DRG Hospital Reimbursement Rates, effective for services rendered October 1, 2005 through December 31,2005; and

January 1, 2006 through December 31, 2006.

These documents are necessary to apply the formula established by the reimbursement methodology in ORS 414.743 and are referenced in rule to give correct and appropriate information to hospitals and managed care organizations when applying the formula to claims for reimbursement for services rendered to medical assistance clients. The statute is based upon the budget period that coordinates with the managed care and OMAP contracts. The effective date of the contracts coincides with the effective date of the reimbursement rate documents.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1295
Non-Participating Provider

(1) For purposes of this rule, a Provider enrolled with the Office of Medical Assistance Programs (OMAP) that does not have a contract with an OMAP-contracted Prepaid Health Plan (PHP) is referred to as a Non-Participating Provider.

(2) For covered services that are subject to reimbursement from the PHP, a Non-Participating Provider, other than a hospital governed by (3)(b) below, must accept from the OMAP-contracted PHP, as payment in full, the amount that the provider would be paid from OMAP if the client was fee-for-service (FFS).

(3) The OMAP-contracted Fully Capitated Health Plan (FCHP) that does not have a contract with a Hospital, is required to reimburse, and Hospitals are required to accept as payment in full the following reimbursement:

(a) The FCHP will reimburse a non-participating Type A and Type B Hospital fully for the cost of covered services based on the cost-to-charge ratio used for each hospital in setting the capitation rates paid to the FCHP for the contract period (ORS 414.727);

(b) All other non-participating hospitals, not designated as a rural access or Type A and Type B Hospital, for dates of service on or after October 1, 2003 reimbursement will be based upon the following:

(i) Inpatient service rates are based upon the capitation rates developed for the budget period, at the level of the statewide average unit cost, multiplied by the geographic factor, the payment discount factor and an adjustment factor of 0.925;

(ii) Outpatient service rates are based upon the capitation rates developed for the budget period, at the level of charges, multiplied by the statewide average cost to charge ratio, the geographic factor, the payment discount factor and an adjustment factor of 0.925.

(4) The geographic factor, and the statewide average unit costs for inpatient service rates for subsection (3)(b)(i) and for outpatient service rates for subsection (3)(b)(ii), are calculated by the Department's contracted actuarial firm. The FCHP Non-Contracted DRG Hospital Reimbursement Rates are on the Department's Web site at: www.dhs.state.or.us/policy/healthplan/guides/hospital/main.html. Each document shows rates for a specific date range. The document dated:

(a) October 1, 2003, is effective for dates of service October 1, 2003 through September 30, 2004;

(b) October 1, 2004, is effective for dates of service October 1, 2004 through September 30, 2005;

(c) October 1, 2005, is effective for dates of service October 1, 2005 through December 31, 2005; (corrected December 23, 2005)

(d) January 1, 2006, is effective for dates of service January 1, 2006 through December 31, 2006 (corrected December 23, 2005).

(5) A non-participating hospital must notify the FCHP within 2 business days of an FCHP patient admission when the FCHP is the primary payer. Failure to notify does not, in and of itself, result in denial for payment. The FCHP is required to review the hospital claim for:

(a) Medical appropriateness;

(b) Compliance with emergency admission or prior authorization policies;

(c) Member's benefit package

(d) The FCHP contract and OMAP Administrative Rules.

(6) After notification from the non-participating hospital, the FCHP may:

(a) Arrange for a transfer to a contracted facility, if the patient is medically stable and the FCHP has secured another facility to accept the patient;

(b) Perform concurrent review; and/or

(c) Perform case management activities.

(7) In the event of a disagreement between the FCHP and Hospital, the provider may appeal the decision by asking for an administrative review as specified in OAR 410-120-1580.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.743
Hist.: OMAP 10-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 22-2004, f. & cert. ef. 3-22-04; OMAP 23-2004(Temp), f. & cert. ef. 3-23-04 thru 8-15-04; OMAP 33-2004, f. 5-26-04, cert. ef. 6-1-04; OMAP 75-2004(Temp), f. 9-30-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 4-2005(Temp), f. & cert. ef. 2-9-05 thru 7-1-05; OMAP 33-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 35 2005, f. 7-21-05, cert. ef. 7-22-05; OMAP 49-2005(Temp), f. 9-15-05, cert. ef. 10-1-05 thru 3-15-06; OMAP 63-2005, f. 11-29-05, cert. ef. 1-1-06; OMAP 66-2005(Temp), f. 12-13-05, cert. ef. 1-1-06 thru 6-28-06; OMAP 72-2005(Temp), f. 12-29-05, cert. ef. 1-1-06 thru 6-28-06; OMAP 28-2006, f. 6-22-06, cert. ef. 6-23-06

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Rule Caption: Medicaid Prescription Drug Assistance for Fully Dual Eligible Medicare Part D Clients.
Adm. Order No.: OMAP 29-2006
Filed with Sec. of State: 6-22-2006
Certified to be Effective: 6-29-06
Notice Publication Date: 6-1-06
Rules Adopted: 410-121-0149
Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs' (OMAP) payments for pharmaceutical products and services provided to clients. OMAP temporarily adopted 410-121-0149 to authorize the State to pay for medications for dual eligible clients with Medicare Part D coverage. Due to recommendations from the Governor, DHS continued authorization for coverage beyond the expiration of the Temporary filing, therefore, OMAP must adopt the rule permanently to avoid lapse of

coverage in rule. Pending a decision regarding the appropriate time to discontinue coverage, OMAP will amend this rule accordingly.

OMAP also amended this rule to have the authority to pay Medicare Part D co-payments for SB 5548 Transplant clients under OAR 410-121-1195 when purchasing prescription drugs necessary for the direct support of organ transplants. The pharmacy will bill OMAP for these co-payments. This portion of the rule will remain permanently amended, until further notice.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0149

Medicaid Prescription Drug Assistance for Fully Dual Eligible Medicare Part D Clients

(1) This rule is intended to assist pharmacies that are not able to verify that the fully dual eligible client is enrolled in one of the federal Medicare Prescription Drug Plans or that the client is eligible for low-income subsidy assistance. OMAP will continue to work with the federal Medicare program to resolve these ongoing issues with Part D coverage. OMAP may terminate this assistance to pharmacies at any time.

(2) Effective January 14, 2006, for the purposes described in Subsection (1), enrolled pharmacies may send the Office of Medical Assistance Programs (OMAP) claims for Part D drugs and cost-sharing obligations of clients who have both Medicare and Medicaid coverage (fully dual eligible clients) if:

(a) The drug(s) was covered by OMAP for fully dual eligible clients prior to January 1, 2006; and

(b) The pharmacy has attempted to bill Medicare's Part D system but cannot resolve the claim by:

(A) Continuing to bill the Medicare Part D plan as the primary payer identified through an E-1 query (an electronic eligibility inquiry done by a pharmacy);

(B) Trying to resolve the issue with the Medicare Part D plan directly;

(C) Billing Wellpoint/Anthem, Medicare's Point of Sale Solution.

(3) If all the criteria in Subsection (2) are met, then OMAP will consider paying the claim or a portion of the claim, as follows:

(a) The pharmacy must contact the DHS Medicare hotline at 1-877-585-0007 to obtain authorization for claim submission;

(b) The fully dual eligible client is responsible for paying the appropriate $1/$3 or $2/$5 Medicare copayment, whichever is applicable

(c) OMAP payment authorization will be limited to not greater than a one-month supply; and

(d) Reimbursement amount from OMAP will be limited to the amount the Part D drug plan would have paid, had the Part D drug plan adjudicated the claim first, or the amount OMAP would pay for Medicaid clients who are not also Medicare beneficiaries

(4) This rule supersedes all other rules relating to the limitations and exclusions of drug coverage for clients with Medicare Part D

Stat. Auth. ORS 409.010, 409.050, 2005 OL, Ch. 754 (SB 1088)
Statutes Implemented: ORS 414.065
Hist.: OMAP 1-2006(Temp), f. & cert. ef. 1-18-06 thru 6-29-06; OMAP 29-2006, f. 6-22-06, cert. ef. 6-29-06

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Rule Caption: Mental Health enrollment for children receiving Child Welfare services.
Adm. Order No.: OMAP 30-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 6-1-06 thru 10-27-06
Notice Publication Date:
Rules Adopted: 410-141-0050
Subject: The Oregon Health Plan (OHP-Division 141) Administrative rules govern enrollment in managed care for the Office of Medical Assistance Programs' services provided to clients. OMAP temporarily adopted 410-141-0050 to reflect necessary modifications to presume enrollment in OHP Mental Health Organizations for children who are eligible.

OMAP temporarily adopted text for this issue in OAR 410-141-0060, effective May 4, 2006 through October 27, 2006, however with other revisions filed permanently in 410-141-0060, effective July 1, 2006, this action was interrupted. Therefore, OMAP removed the text from 410-141-0060, placed it into this new rule and returned the rule to temporary status with this filing. The end effective date for temporary action is not changed. OMAP intends to permanently adopt this rule on or before October 27, 2006.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0050

MHO Enrollment for Children Receiving Child Welfare Services

(1) Pursuant to and in the administration of the authority in OAR 410-141-0060, Children, Adults and Families (CAF) or Oregon Youth Authority (OYA) selects Prepaid Health Plans (PHPs) or a Primary Care Manager (PCM) for a child receiving CAF Child Welfare Services or OYA Services, with the exception of children in subsidized adoption and guardianship. This rule implements and further describes how the Department of Human Services (DHS or Department) will administer its authority under OAR 410-141-0060 for purposes of making enrollment decisions and OAR 410-141-0080 for purposes of making disenrollment decisions for children receiving CAF Child Welfare Services or OYA Services;

(A) The Department has determined that, to the maximum extent possible, all children receiving CAF services should be enrolled in Mental Health Organizations (MHOs) at the next available enrollment date following eligibility, redetermination, or upon review by the Department, unless Disenrollment from a MHO is authorized by the Department in accordance with this section and OAR 410-141-0080:

(i) Notwithstanding OAR 410-141-0060(4)(a) or 410-141-0080(2)(b)(E), children receiving CAF services are not exempt from mandatory Enrollment in an MHO on the basis of Third Party Resources (TPR) mental health services coverage;

(ii) A decision to use FFS open card for a child receiving CAF services should be reviewed by the Department if the child's circumstances change and at the time of redetermination to consider whether the child should be enrolled in a MHO.

(B) When a child receiving CAF services is being transferred from one MHO to another, or for children transferring from Fee-For-Service (FFS) to a MHO, the MHO must facilitate coordination of care consistent with OAR 410-141-0160:

(i) MHOs are required to work closely with the Department to ensure continuous MHO Enrollment for children receiving CAF services;

(ii) If the Department determines that Disenrollment should occur, the MHO will continue to be responsible for providing Covered Services until the Disenrollment date established by the Department, which shall provide for an adequate transition to the next responsible MHO.

(C) It is not unusual for a child receiving CAF services to experience a change of placement that may be permanent or temporary in nature. Consistent with OAR 410-141-0080(2)(b)(F), DHS will verify the address change information to determine whether a child receiving CAF services no longer resides in the MHO's Service Area:

(i) A temporary absence as a result of a temporary placement out of the MHO's Service Area does not represent a change of residence if DHS determines that the child is reasonably likely to return to a placement in the MHO's Service Area at the end of the temporary placement;

(ii) Unless a corresponding change in MHO capitation rates is implemented, a child receiving CAF services placed in Behavioral Rehabilitation Services (BRS) settings will be enrolled in the MHO that serves the region in which the BRS setting is located, unless an out of area exception is requested by the MHO and agreed to by DHS for purposes related to continuity of care.

(D) If the child receiving CAF services is enrolled in a MHO on the same day the child is admitted to psychiatric residential treatment services (PRTS), the MHO shall be responsible for Covered Services during that placement even if the location of the facility is outside of the MHO's Service Area:

(i) The child receiving CAF services is presumed to continue to be enrolled in the MHO with which the child was most recently enrolled. An admission to a PRTS facility shall be deemed a temporary placement for purposes of MHO Enrollment. Any address change or DHS system identifier (e.g., C5 status) change associated with the placement in the PRTS facility does not constitute a change of residence for purposes of MHO Enrollment and shall not constitute a basis for Disenrollment from the MHO, notwithstanding OAR 410-141-0080(2)(b)(F). If DHS determines that a child was disenrolled for reasons not consistent with these rules, DHS shall re-enroll the child with the appropriate MHO and assign an Enrollment date that provides for continuous MHO coverage with the appropriate MHO. If the child had been enrolled in a different MHO in error, the Department will disenroll the child from that MHO and recoup the Capitation Payments;

(iii) Immediately upon discharge from Long Term Psychiatric Care and prior to admission to a PRTS, a child receiving CAF services should be enrolled in an MHO. At least two weeks prior to discharge of a child receiving CAF services from Long Term Psychiatric Care (SAIP, SCIP or STS) facility to a PRTS facility, the long term care facility shall consult with the Department about which MHO will be assigned in order to provide for Enrollment in the MHO and shall make every reasonable effort within the laws governing confidentiality to consult with the MHO that will be

assigned in order to provide for continuity of care upon discharge from Long Term Psychiatric Care.

(E) Notwithstanding OAR 410-141-0060(6)(d) and (7) and 410-141-0080(2)(b)(H), if a child receiving CAF services is enrolled in a MHO after the first day of an admission to PRTS, the date of Enrollment shall be effective the next available Enrollment date following discharge from PRTS to the MHO assigned by the Department:

(i) For purposes of these rules and to assure continuity of care for the child upon discharge, the next available Enrollment date shall mean immediately upon discharge;

(ii) At least two weeks prior to discharge, the PRTS facility shall consult with the Department about which MHO will be assigned and shall make every reasonable effort within the laws governing confidentiality to consult with the MHO that will be assigned in order to provide for continuity of care upon discharge.

Stat. Auth.: ORS 409
Stats. Implemented: 414.065
Hist.: OMAP 30-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 10-27-06

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

Rule Caption: Amend rule to reflect policy changes on non-crisis comprehensive services.
Adm. Order No.: MHD 2-2006
Filed with Sec. of State: 6-28-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 309-041-1220
Subject: Amends Service Waitlist Rule to reflect terms of modified settlement of Staley v Kitzhaber (USDC CV00-0078-ST) and subsequent policy changes to implement non-crisis comprehensive services.
Rules Coordinator: Diana Nerby—(503) 945-6398

309-041-1220
Criteria for Selection from Wait List

(1) Selection Factors. When a vacancy in an existing service occurs or a new service is developed, the following factors will be considered in assigning an individual to a vacancy:

(a) Date of entry on the wait list;

(b) Appropriateness of available service to individual need;

(c) Urgency of need; and

(d) The individual's preferences.

(2) Order of Selection. Generally, the individual who has been on the wait list the longest will be assigned to the first service vacancy which arises that is appropriate to that individual's needs. This selection order is subject to the following exceptions:

(a) An individual in crisis having no vocational service and needing such service to resolve the crisis may be given first consideration for an appropriate vocational vacancy regardless of date of entry on the wait list;

(b) An individual in crisis having no residential service and needing such service to resolve the crisis may be given first consideration for an appropriate residential vacancy regardless of date of entry on the wait list; and

(c) No fewer than 300 adult individuals will be selected for entry into non-crisis comprehensive services pursuant to the Staley v Kitzhaber (USDC CV00-0078-ST) settlement agreement during the period July 1, 2001, through June 30, 2009.

(A) The number of individuals receiving non-crisis comprehensive services must be no fewer than the following: 20 individuals by June 30, 2003; 40 individuals by June 30, 2005; 170 individuals by June 30, 2007; 300 individuals by June 30, 2009.

(B) Individuals receiving non-crisis comprehensive services must be adults, 18 years of age or older; must be enrolled in case management; must be eligible for Oregon's Medicaid Waiver for Comprehensive Services; must not at the time of selection be authorized to receive Crisis services as defined in OAR 411-320-0160(7); and individuals and their legal representatives must be ready to accept and move into the developed services within the time frames established and published by the Department.

(C) Priority consideration must be given to individuals previously identified for non-crisis comprehensive services but whose plans were developed during the previous biennium but not completed.

(D) Local Criteria. When Community Developmental Disability Program resources are insufficient to serve all otherwise eligible individuals in the area of service, additional considerations for determining individual selection may be established by Community Developmental Disability Programs under these conditions:

(i) Increasing local capacity must be a local criteria consideration; and

(ii) Local criteria for selection must reflect local needs and resources including the identified needs of the individuals in the service area, the development budget available, the resource opportunities available and the number of individuals requesting services; and

(iii) Established local criteria must be applied consistently across all otherwise qualified individuals in the service area.

(iv) When individuals under consideration for non-crisis comprehensive services meet the criteria established in paragraphs (2)(c)(B) and (C) **and** have comparable needs **and** are equally appropriate for those services, priority will be given to the individual currently living in the family home.

Stat. Auth.: ORS 409.050 & ORS 410.070
Stats. Implemented: ORS 427.007 & 430.640
Hist.: MHD 8-1992, f. & cert. ef. 11-16-92; MHD 8-2001(Temp) f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 3-2002, f. 2-26-02, cert. ef. 2-27-02; MHD 2-2006, f.. 6-28-06, cert. ef. 7-1-06

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Department of Human Services, Public Health Chapter 333

Rule Caption: Updates rules related to Radiation Protection Services.
Adm. Order No.: PH 11-2006
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 6-16-06
Notice Publication Date: 5-1-06
Rules Amended: 333-103-0001, 333-103-0005, 333-103-0010, 333-103-0015, 333-103-0020, 333-103-0025, 333-103-0030, 333-103-0035
Subject: The Department of Human Services (DHS) is permanently amending their Oregon Administrative Rules increasing the fees for radioactive materials licensees. The fees have not been increased for over 12 years and are necessary to cover current expenses.
Rules Coordinator: Christina Hartman—(971) 673-1291

333-103-0001
Purpose and Scope

(1) The rules in this division establish fees for sources of radiation and provide for their payment. Sources of radiation, as defined in OAR 333-100-0005(125), include, but are not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material in sealed and unsealed form (normal form and special form), and radioactive material uses.

(2) Except as otherwise specifically provided, the rules in this division apply as follows:

(a) Radiation producing machines, radiation facility registration, radiation machine vendors and/or services, accredited hospital radiology inspectors, and non-ionizing sources of radiation are subject to OAR chapter 333, divisions 101, 105, 106, 108, 109, 112, 115, 119, or 122;

(b) Radioactive materials pursuant to OAR chapter 333 divisions 102, 105, 110, 113, 115, 116, 117, or 121;

(c) General licenses and registrations pursuant to divisions 101 and 102 of these rules;

(d) Microwave Oven Service Licensees;

(e) Radiological Analyses; and

(f) Tanning Device Registrations.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; DOA 13-2006, f.& cert. ef. 6-21-06; PH 11-2006, f. & cert. ef. 6-16-06

333-103-0005
Biennial Fee for Radiation Machines

(1) For the purpose of this division, a radiation machine is defined under OAR 333-100-0005.

(2) Each radiation machine shall be validated biennially by a radiation machine fee in the following amounts:

(a) Hospital, radiologist, chiropractic, osteopathic or medical X-ray machine, $173;

(b) Hospital X-ray machine when X-ray machine inspection is performed by an accredited hospital radiology inspector rather than an Agency inspector, $88;

(c) Industrial or podiatry x-ray machine, $115;

(d) Dental, academic or veterinary X-ray machine, $87.

(3) The radiation machine fee shall be due and payable for each radiation machine on or before July 1 of each biennium.

(4) A certificate of validation or acknowledgement of validation for the current biennium must be posted on or near the radiation machine by the registrant.

(5) In any case in which a registrant has submitted the proper fee prior to the expiration of a validation certificate, such existing validation certificate shall not expire until the issuance of a new validation certificate for the current biennium.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 11-2006, f. & cert. ef. 6-16-06

333-103-0010
Annual Fee for Specific Licenses

(1)(a) Each specific license listed in section (2) of this rule, as defined in OAR 333-102-0203, shall be licensed (validated) pursuant to sections (2), (3), (4), (5), and (6) of this rule by a specific license fee.

(b) Upon written request and approval by the agency, fees for new licenses or additional sources may be prorated on a quarterly basis for the current fiscal year.

(2) Each specific license type appearing in the following fee schedule shall be licensed (validated) separately with a specific license fee as indicated:

(a) Analytical/Leak Test/Fixed X-Ray Fluorescence, $458(F);
(b) Basic License, $812(F);
(c) Brachytherapy, $1,836(F);
(d) Broad Scope A, $3,000(F);
(e) Broad Scope B, $1,836(F);
(f) Broad Scope C, $916(F);
(g) Distribution, $916 (F);
(h) Fixed Gauge, $228(S);
(i) High, medium and low doserate brachytherapy, $2,296(S);
(j) Imaging and Localization, $916(F);
(k) In Vitro Laboratory, $304(F);
(l) Industrial Radiography:
(A) Fixed Facility, $3,000(F);
(B) Field Use, $3,000(F);
(m) Instrument Calibration, $688(S);
(n) Investigational New Drug, $1,376(F);
(o) Irradiator Self-Shielded, $916 (S);
(p) Manufacturing/Compounding, $2,448(F);
(q) Mobile Nuclear Medicine, $2,448(F);
(r) NORM (no processing), $612(F);
(s) Nuclear Pharmacy, $3,000(F);
(t) Other Measuring Device, $132(S);
(u) Portable Gauge:
(A) X-Ray Fluorescence, $458(S);
(B) All other portable gauges, $612(S);
(v) Radiopharmaceutical Therapy, $1,376(F);
(w) RAM/NOS Facility, $3,000(F);
(x) Research & Development, $1,376(F);
(y) Sealed Sources for Diagnosis, $458(S);
(z) Source Material, $3,000(F);
(aa) Special Nuclear Material (sealed), $916(S);
(bb) Special Nuclear Material (unsealed), $2,296(F);
(cc) Teletherapy (external beam), $3,000(S);
(dd) Unique, $No Fee;
(ee) Uptake and Dilution, $612(F);
(ff) Use of Xenon Gas, $612(F);
(gg) Waste Packaging, $3,000(F);
(hh) Well Logging, $1,376(S).
(NOTE: (F) means facility; (S) means source.)

(3) Each specific license validation fee shall be due and payable:

(a) On or before July 1 of each year;

(b) For each specific license source of radiation listed in section (2) of this rule for which application pursuant to OAR 333-102-0295 for an Oregon Radioactive Materials License has been made;

(c) For each additional specific license source of radiation in an amendment to an existing Oregon Radioactive Materials License pursuant to OAR 333-102-0320.

(4) A license (certificate of validation) or acknowledgement of validation for each specific license issued pursuant to section (3) of this rule for the then or current fiscal year shall be provided by the Agency. The certificate of validation for the then or current fiscal year shall be retained by the licensee and attached to the license pursuant to requirements in OAR 333-111-0005.

(5) The specific license fee that validates specific sealed sources also validates possession of one additional sealed source during source exchange (one new source and one spent source) for a period not to exceed 10 working days.

(6) Sealed sources manufactured and distributed as reference sources that do not exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 are exempt from specific license fees and validation if used pursuant to a specific license listed in section (2) of this rule. The license validation fee for reference sources that exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 or reference sources authorized alone without additional licensed radioactive material shall be $916, pursuant to subsection (2)(b) of this rule.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 11-2006, f. & cert. ef. 6-16-06

333-103-0015
Annual Registration Fee for General Licenses and Devices

(1) Any general license granted by the Agency must be validated annually by the general license registration fee listed in section (2) of this rule, unless otherwise exempted by subsection (2)(e) of this rule. General License registration fees as defined in OAR 333-103-0003 shall:

(a) Validate each general licensed source of radiation due July 1 of each year for sources of radiation; and

(b) Validate each new application to register general license material pursuant to OAR 333-101-0007; and

(2) The general licenses appearing in the following fee schedule shall be registered on the appropriate Agency form and shall be validated annually by a general license registration fee:

(a) Each healing arts facility that uses radioactive material for In Vitro laboratory or clinical testing authorized by OAR 333-102-0130, $132;

(b) Each radiation source in a generally licensed measuring, gauging or controlling device authorized pursuant to OAR 333-102-0115(1), $132;

(c) For radioactive material contained in devices designed and manufactured for the purpose of producing light, except Tritium exit signs, or an ionized atmosphere that exceed the limits in 333-102-0105, $132 per device for the first six devices after which a Basic Specific License is required.

(d) Each general licensee possessing or using depleted uranium for the purpose of providing a concentrated mass in a small volume of the product or device pursuant to OAR 333-102-0103, $132;

(e) Each General Licensee possessing or using source material for research, development, educational, commercial or operational purposed pursuant to OAR 333-102-0101, $200;

(f) General licenses not specifically identified in subsections (a), (b), (c) and (d) of this section are exempt from the payment of an annual general license registration fee.

(g) Each out-of-state or NRC specific licensee granted a general license pursuant to OAR 333-102-0340 to conduct activities within the state of Oregon for a period not to exceed 180 days in a calendar year must pay a registration validation fee as required by OAR 333-103-0030(6).

(h) State and local government agencies are required to register each generally licensed device but are exempt from the fees required in this section.

(3) Notwithstanding subsection (2)(g) of this rule, the general license fee shall be due and payable on or before July 1 of each year.

(4) A certificate of validation for the then current fiscal year shall be provided by the Agency. The certificate for the then current fiscal year must be retained by the licensee and attached to the general license.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 11-2006, f. & cert. ef. 6-16-06

333-103-0020
Biennial Fee for Microwave Oven Service Licensees

(1) Each specific license issued by the Agency for microwave oven service shall be subject to a biennial $87 specific license fee.

(2) The specific license fee shall be due and payable on or before July 1 of each biennium.

(3) A certificate of validation or acknowledgement of validation for the then current fiscal year shall be provided by the Agency. The current certificate of validation must be retained by the licensee.

(4) Unless validated by the annual fee, each specific license shall be deemed to expire on June 30 of each year.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 15-1994, f. & cert. ef. 6-5-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06

333-103-0025
Annual Fee for Tanning Devices

(1) Each tanning device must be validated annually by a tanning device fee of $76.

(2) The tanning device fee shall be due and payable for each tanning device on or before January 1 of each year.

(3) A certificate of validation or acknowledgement of validation for the then current fiscal year must be posted on or near the tanning device, by the registrant.

(4) In any case in which a registrant has submitted the proper fee prior to the expiration of a validation certificate, such existing validation certificate shall not expire until the issuance of a new validation certificate for the then current fiscal year.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 13-1993, f. & cert. ef. 9-27-93; HD 15-1994, f. & cert. ef. 5-6-94; PH 11-2006, f. & cert. ef. 6-16-06

333-103-0030
Reciprocal Recognition Fee

(1) Any radiation machine or radioactive material source brought into the state for use under reciprocity must pay a fee equal to 100 percent of the appropriate license or registration validation fee, listed in OAR 333-103-0005 or 333-103-0010, not to exceed $3,000 in a year.

(2) Reciprocal fees shall be due and payable prior to entry into the state.

(3) An acknowledgement of fee payment, such as a certificate of validation, will be provided by the Agency. The acknowledgement of fee payment must be retained by the licensee or registrant and attached to the license or registration.

(4) Reciprocal fees shall not be transferred or refunded.

(5) Reciprocal fees shall expire 12 months from the issue date.

(6) Any use of radioactive material in Oregon pursuant to OAR 333-102-0340 exceeding 30 consecutive days or 180 calendar days shall require an application for an Oregon specific radioactive materials license pursuant to OAR 333-102-0295.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06

333-103-0035
Fees For Radiological Analyses

(1) An individual, agency, or company that requests that the Agency Radiation Laboratory perform radiological analyses on samples must pay a fee to the Agency in accordance with the schedule in section (2) of this rule. The responsible individual submitting the sample(s) must first obtain a request form from the Agency. This form contains the fee schedule and the types of radiological analyses offered. That individual must then submit the completed form along with the sample and the appropriate fee to the Agency. The Agency will send the results by return mail in accordance with the estimated time as per section (3) of this rule.

(2) Fee Schedule: Water — Solid:

(a) Gamma Isotopic — $206 — $236;

(b) Low-level Iodine-131 — $212;

(c) Tritium (H-3) — $92.

NOTE: A $100 surcharge shall be added to the fee for a one-day completion schedule for a Gamma Isotopic analysis.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06

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Rule Caption: Updates rules related to Radiation Protection Services.
Adm. Order No.: PH 12-2006
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 6-16-06
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Subject: The Department of Human Services (DHS) is permanently amending their Oregon Administrative Rule relating to Radiation Protection Services.

Rules Coordinator: Christina Hartman—(971) 673-1291

333-100-0005
Definitions

As used in these rules, these terms have the definitions set forth below. Additional definitions used only in a certain division will be found in that division.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "particle accelerator" is an equivalent term.

(3) "Accelerator-produced material" means any material made radioactive by a particle accelerator.

(4) "Act" means Oregon Revised Statutes 453.605 to 453.807.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq), defined as one disintegration per second, and the curie (Ci), defined as 3.7 x 1010 disintegrations per second.

(6) "Adult" means an individual 18 or more years of age.

(7) "Agency" means Radiation Protection Services of the Department of Human Services.

(8) "Agreement State" means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(9) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(10) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DAC's) specified in Appendix B, Table I, to 10 CFR Part 20.1001 to 20.2401; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

(11) "ALARA" (acronym for "As Low As Reasonably Achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(12) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(13) "Annual" means occurring every year or within a consecutive twelve month cycle.

(14) "Annual Limit on Intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(15) "As Low As Reasonably Achievable" see "ALARA."

(16) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Agency.

(17) "Becquerel" (Bq) means the International System of Units (SI) unit of activity. One becquerel is equal to one disintegration or transformation per second (dps or tps).

(18) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(19) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(20) "Byproduct material" means:

(a) Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction process. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(21) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year must begin in January and subsequent calendar quarters must be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant may change the method observed for determining calendar quarters except at the beginning of a calendar year.

(22) "Calibration" means the determination of

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(23) "CFR" means Code of Federal Regulations.

(24) "Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

(25) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days; for Class W, Weeks, from 10 to 100 days; and for Class Y, Years, of greater than 100 days. For purposes of these rules, "lung class" or "inhalation class" are equivalent terms.

(26) "Clinical laboratory" means a laboratory licensed pursuant to ORS 438.110 to 438.140.

(27) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(28) "Committed dose equivalent" (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(29) "Committed effective dose equivalent" (HE, 50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues (HE,50 = WT,HT,50).

(30) "Contamination" (Radioactive) means: deposition or presence of radioactive material in any place where it is not desired, and particularly in any place where its presence can be harmful. The harm may be in compromising the validity of an experiment or a procedure, or in being a source of danger to persons. Contamination may be divided into two types: Fixed and removable. Removable contamination may be transferred easily from one object to another by light rubbing or by the use of weak solvents such as water or alcohol. Removable contamination is evaluated and recorded in units of microcuries or dpm. Fixed contamination is not easily transferred from one object to another and requires mechanical or strong chemicals to remove it from its current location. Fixed contamination is evaluated and recorded in units of mR/hr.

(31) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material that decays at the rate of 3.7 x 1010 disintegrations or transformations per second (dps or tps).

(32) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(33) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(34) "Deep dose equivalent" (Hd) which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm2).

(35) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(36) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(37) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(38) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(39) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem (see "Rem"). (See OAR 333-100-0070(2) for SI equivalent sievert.)

(40) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, "limits" is an equivalent term.

(41) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(42) "Effective dose equivalent" (HE) means the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factor (WT) applicable to each of the body organs or tissues that are irradiated (HE = WT HT).

(43) "Electronic product" means any manufactured product or device or component part of such a product or device that is capable of generating or emitting electromagnetic or sonic radiation such as, but not limited to, X-rays, ultrasonic waves, microwaves, laser light or ultraviolet light.

(44) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(45) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(46) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(47) "Explosive material" means any chemical compound, mixture, or device that produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(48) "Exposure" means:

(a) The quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. The SI unit of exposure is the coulomb per kilogram.

(b) Being exposed to ionizing radiation or to radioactive material.

(49) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(50) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(51) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(52) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm2).

(53) "Fixed gauge" means a measuring or controlling device that is intended to be mounted at a specific location, stationary, and not moved, that is, not portable.

(54) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(55) "General license" means a license granted by rule, in contrast to an issued license, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(56) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(57) "Gray" (Gy) means the International System of Units (SI), unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad). (See OAR 333-100-0070(2))

(58) "Hazardous waste" means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

(59) "Healing arts" means:

(a) The professional disciplines authorized by the laws of this state to use X-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this agency, they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or

(b) Any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

(60) "High radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from any source of radiation or from any surface that the radiation penetrates.

(61) "Human use" means the internal or external administration of radiation or radioactive material to human beings.

(62) "Individual" means any human being.

(63) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(64) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(65) "Inhalation class" (see "Class").

(66) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Agency.

(67) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(68) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(69) "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. It includes any or all of the following: Alpha particles, beta particles, electrons, positrons, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, fission fragments and other atomic and subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(70) "Laser" means any device which, when coupled with an appropriate laser energy source, can produce or amplify electromagnetic radiation by the process of controlled stimulated emission.

(71) "License" means a license issued by the Agency in accordance with rules adopted by the Agency.

(72) "Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license granted or issued by the Agency. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), Naturally Occurring and Accelerator Produced Radioactive Material (NARM) refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(73) "Licensee" means any person who is licensed by the Agency in accordance with these rules and the Act.

(74) "Licensing state" means any state with rules or regulations equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of NARM.

(75) "Limits" (dose limits) means the permissible upper bounds of radiation doses.

(76) "Lost or missing licensed or registered source of radiation" means licensed or registered source(s) of radiation whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(77) "Lung class" (see "Class").

(78) "Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in division 118 of this chapter.

(79) "Member of the public" means an individual, except when that individual is receiving an occupational dose.

(80) "Minor" means an individual less than 18 years of age.

(81) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

(82) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material.

(83) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(84) "Naturally-occurring radioactive material" (NORM) means any nuclide that is found in nature as a radioactive material (i.e., not technologically produced).

(85) "Natural thorium" means thorium-232 in equilibrium with all decay products.

(86) "Natural uranium" means a mixture of the uranium isotopes 234, 235 and 238 (approximately 0.7 weight percent uranium- 235 and the remainder by weight essentially uranium-238), found in nature, that is neither enriched nor depleted in the isotope uranium 235.

(87) "Nonstochastic effect" means a health effect that varies with the dose and a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, "deterministic effect" is an equivalent term.

(88) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material". See "Special form."

(89) "NRC" is the acronym for Nuclear Regulatory Commission.

(90) "Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

(91) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for a licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received from background radiation, or as a patient from medical practices, or from voluntary participation in medical research programs, or as a member of the public.

(92) "Package" means packaging together with its radioactive contents as presented for transport.

(93) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(94) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

(95) "Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual. See "Individual monitoring devices."

(96) "Pharmacist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy. (See also Authorized Nuclear Pharmacist).

(97) "Physician" means an individual licensed by the Oregon State Board of Medical Examiners to dispense drugs in the practice of medicine.

(98) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(99) "Portable gauge" means a measuring or controlling device that is intended to be portable, that is, not fixed to a specific location. All portable gauges require a specific license (there is no general license granted for portable generally licensed devices in the State of Oregon).

(100) "Public dose" means the dose received by a member of the public by exposure to sources of radiation from licensed or registered operations. Public dose does not include occupational dose, or dose received from background radiation, or dose received as a patient from medical practices, or dose from voluntary participation in medical research programs.

(101) "Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130 %F (54.4 %C). A pyrophoric solid is any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

(102) "Qualified expert" means an individual, approved by the Agency, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual must:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed 1 year of documented, full time training in the appropriate field and also 1 year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual must have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Agency for specific activities.

(103) "Quality factor" (Q) means the modifying factor (listed in Tables 1004(b).1 and 1004(b).2 of 10 CFR Part 20.1004 provided at the end of this division) that is used to derive dose equivalent from absorbed dose.

(104) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(105) "Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray). See OAR 333-100-0070(2) for SI equivalent gray.

(106) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons, and other atomic or nuclear particles or rays;

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the Agency has determined to present a biological hazard to the occupational or public health and safety but does not include electromagnetic radiation which can be generated during the operation of an electronic product licensed by the Federal Communications Commission;

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the Agency has determined to present a biological hazard to the occupational or public health and safety.

(107) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(108) "Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

(109) "Radiation safety officer" means:

(a) An individual who has the knowledge, responsibility, and authority to apply appropriate radiation protection rules; or

(b) The representative of licensee management, authorized by the Agency, and listed on the specific license as the radiation safety officer, who is responsible for the licensee's radiation safety program.

(110) "Radioactive material" means any solid, liquid, or gas that emits radiation spontaneously. Radioactive material, as used in these rules, includes:

(a) Byproduct material, as defined in OAR 333-100-0005, naturally occurring radioactive material, and accelerator produced material; and

(b) Source material and byproduct material, as defined in OAR 333-100-0005.

(111) "Radioactive waste" means radioactive material that is unwanted or is unusable, as defined in division 50 of chapter 345. No radioactive material may be disposed of in Oregon except as provided in division 50 of chapter 345.

(112) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(113) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(114) "Registrant" means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to these rules and the Act.

(115) "Registration" means the identification of any material or device emitting radiation, and the owner of such material or device must furnish information to the Agency in accordance with the rules adopted by the Agency.

(116) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(117) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

(118) "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(119) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(120) "Restricted area" means an area to which access is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(121) "Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58 x 10-4 Coulombs/kilogram of air (see "Exposure" and division 120).

(122) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(123) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(124) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(125) "Sealed Source and Device Registry" means the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and Agreement States, that summarize the radiation safety information for sealed sources and devices and describe the licensing and use conditions approved for the product.

(126) "Shallow dose equivalent" (Hs), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm2) averaged over an area of 1 square centimeter.

(127) "SI" means the abbreviation for the International System of Units.

(128) "Sievert" means the International System of Units (SI), unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem). See OAR 333-100-0070(2).

(129) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(130) "Source material" means material, in any physical or chemical form, including ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(131) "Source material milling" means any activity that results in the production of byproduct material, as defined by the definition in OAR 333-100-0005, "Byproduct material."

(132) "Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation. Source of radiation, pursuant to this rule, includes, but is not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material sealed and unsealed form (normal form and special form), and radioactive material uses.

(133) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect

on June 30, 1983, and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31. 1996, and constructed prior to April 1, 1998, may continue to be used. Any other special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(134) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(135) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination must not exceed one (1). For example, the following quantities in combination would not exceed the limitation and are within the formula:

* * 175 (grams contained U-235) + 50 (grams U-233) + 50 (grams Pu) = 1 350 200 200

(136) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(137) "Stochastic effect" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(138) "Supervision" as used in these rules, means the responsibility for, and control of, the application, quality, radiation safety and technical aspects of all sources of radiation possessed, used and stored through authorization granted by the Agency.

(139) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(140) "Termination" means:

(a) The end of employment with the licensee or registrant or, in the case of individuals not employed by the licensee or registrant, the end of work assignment in the licensee's or registrant's restricted area in a given calendar quarter, without expectation or specific scheduling of re-entry into the licensee's or registrant's restricted area during the remainder of that calendar quarter; or

(b) The closure of a registered or licensed facility and conclusion of licensed or registered activities, pursuant to a registration or specific license.

(141) "Test" means the process of verifying compliance with an applicable rule.

(142) "These rules," mean all parts of the Oregon Administrative Rules promulgated under ORS 453.605 through 453.807.

(143) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(144) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in OAR 333-120-650(1)(d).

(145) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package.

(146) "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(147) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. NOTE: "Ore" refers to fuel cycle materials pursuant to 10 CFR Part 150.

(148) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

(149) "Uranium — depleted, enriched" means:

(a) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(b) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(150) "Validation certificate" means the official document issued upon payment to the Agency of the appropriate fee listed in division 103 of these rules. The license or registration is subject and void without the annual validation certificate.

(151) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equivalent, sievert and rem.)

(152) "Waste" means radioactive waste.

(153) "Week" means 7 consecutive days starting on Sunday.

(154) "Weighting factor" (WT) for an organ or tissue (T) means:

(a) The proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of WT are:

(A) Gonads 0.25
(B) Breast 0.15
(C) Red Bone Marrow 0.12
(D) Lung 0.12
(E) Thyroid 0.03
(F) Bone Surfaces 0.03
(G) Remainder 0.30 (see note below)
(H) Whole Body 1.00

Note: Assignment of 0.30 for the remaining organs results from a weighting factor of 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, WT = 1.0, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(155) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(156) "Worker" means an individual engaged in work under a license or registration issued by the Agency and controlled by a licensee or registrant, but does not include the licensee or registrant.

(157) "Working level" (WL) means any combination of short-lived radon progeny in 1 liter of air that will result in the ultimate emission of 1.3 x 105 MeV of potential alpha particle energy. The short-lived radon-222 progeny are: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220 the progeny are: polonium-216, lead-212, bismuth-212, and polonium-212.

(158) "Working level month" (WLM) means an exposure to 1 working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

(159) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the

beginning of the year and that no day is omitted or duplicated in consecutive years.

[ED. NOTE: Tables and Appendices referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-100-0045
Communications

All communications and reports concerning these rules, and applications filed thereunder, should be addressed to Radiation Protection Services, Office of Environmental Public Health, 800 NE Oregon Street, Suite 640, Portland, OR 97232.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-100-0055
Records

Each licensee and registrant must maintain records showing the receipt, transfer, and disposal of all sources of radiation. Additional record requirements are specified elsewhere in these rules.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-100-0057
Maintenance of Records

Each record required by this division must be legible throughout the retention period. For the purposes of these rules and unless otherwise specified, records must be retained a minimum of five years. The record may be the original or a reproduced copy or a microfilm provided that the copy or microfilm is authenticated by authorized personnel and that the microfilm is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability of producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-100-0060
Inspections

(1) Each licensee and registrant must afford to the Agency at all reasonable times opportunity to inspect sources of radiation and radioactive material and the premises and facilities wherein such sources of radiation and radioactive material are used or stored.

(2) Each licensee and registrant must make available to the Agency for inspection, upon reasonable notice, records maintained pursuant to the rules in this chapter.

(3) Within the available resources of the Agency, X-Ray Machine Registrants must be inspected at the following frequency based upon the class of X-Ray machine(s) registered:

(a) Every Year: Hospitals and Radiologists.

(b) Every Two Years: Chiropractors, Medical and Osteopaths.

(c) Every Three Years: Academic, Dental, Industrial, Podiatry, and Veterinary.

(4) Not withstanding the above, the Agency may inspect more frequently as deemed necessary to protect public health and safety.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 16-1994, f. & cert. ef. 6-27-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-100-0065
Tests

Each licensee and registrant must perform, or permit the Agency to perform, such tests as the Agency deems appropriate or necessary for the administration of the rules in this division and divisions 101, 105, 106, 108, 109, 112, 113, 115, 116, 117, 119, and 121 of this chapter including, but not limited to, tests of:

(1) Sources of radiation and radioactive material;

(2) Facilities wherein sources of radiation and radioactive material are used or stored;

(3) Radiation detection and monitoring instruments; and

(4) Other equipment and devices used in connection with the utilization or storage of licensed or registered sources of radiation and radioactive material.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-81-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-100-0070
Units of Exposure and Dose

The Metric Conversion Act of 1975 (PL 94-168) urged the increasing awareness and use of the International System of Units (SI). The generally accepted regulatory values in the narrative portions of this document are followed by the SI equivalents in parentheses. Where appropriate, schedules and appendices are provided with notes concerning conversion factors. The inclusion of the SI equivalent is for informational purposes only.

(1) The unit of exposure is the coulomb per kilogram (C/kg). One roentgen is equal to 2.58x10-4 coulomb per kilogram of air.

(2) The units of radiation dose are:

(a) Gray (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (100 rad);

(b) Rad is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy);

(c) Rem is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(d) Sievert is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

(e) As used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in 10 CFR 20 part 20.1004 Table 1004(b).1.

(3) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rem per hour or sieverts per hour, as provided in (2)(b) of this rule, 1 rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of the regulations in this part, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee may use the fluence rate per unit dose equivalent or the appropriate Q value from 10 CFR 20 part 20.1004 Table 1004(b).2 (at the end of this division) to convert a measured tissue dose in gray or rad to dose equivalent in sievert rem.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.625 - 453.635
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0005
Application for Registration of Radiation Machines

No X-ray machine may be operated on or after July 1, 1996 unless the machine has a valid X-ray machine registration. Each person having a radiation machine must:

(1) Apply, in writing, for registration of such machines with the Agency prior to the operation of a radiation machine. All operable radiation machines must be registered and the appropriate fee, which is listed in division 103 of these rules, must be paid. Hospitals wishing to register any radiation machine must meet the additional requirements of OAR 333-101-0200. To avoid radiation machine registration and fees, the X-ray tube must be removed or the machine must be disassembled. Application for registration must be completed on forms furnished by the Agency and must contain the following information or such other information as may be required:

(a) Name of the owner or person having administrative control and responsibility for use. “Person” is defined in OAR 333-100-0005 to include “organization”;

(b) Address and telephone number where the machine is located and used except that a central headquarters address may be given for a mobile machine used at various temporary field locations;

(c) A description of the type, model and control panel serial number of the radiation machine (state I.D. number if issued) and its rated capacity in peak kilovolts and maximum milliamperes;

(d) A description of the use (dental, medical, industrial, veterinary, research, etc.) of the machine;

(e) Date of application and signature of registrant;

(f) The individual and the signature of the individual designated under section (3) of this rule;

(g) If the facility is mobile, the geographic areas within the state to be covered; and

(h) Name of the radiation machine supplier, installer and service agent.

(2) The registrant must notify the Agency within 30 days of any change which increases the radiation output or rating of the radiation machine or of any other change which renders the information required in section (1) of this rule no longer accurate.

(3) When required by the Agency, the registrant must designate an individual who will be responsible for radiation protection for the machine. Such individual must:

(a) Be qualified by training and experience concerning all hazards and precautions involved in operating the machine for which he or she is responsible;

(b) Recommend a detailed program of radiation safety for effective compliance with the applicable requirements of these rules;

(c) Give instructions concerning hazards and safety practices to individuals who may be occupationally exposed to radiation from the machine; and

(d) Make surveys and carry out other procedures as required by these rules.

(4) When, in the opinion of the Agency, the individual designated to be responsible for radiation safety does not have qualifications sufficient to insure safe use of the machine for which he or she is responsible, the Agency may order the registrant to designate another individual who meets the requirements of this division.

(5) Each registrant must prohibit any person from furnishing radiation machine servicing or services as described in OAR 333-101-0020(4) to his radiation machine facility until such person provides evidence that he has been licensed with the Agency as a provider of services in accordance with OAR 333-101-0020.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0007
Application for General License Registration for Radioactive Materials Gauges, In Vitro Testing, Source Material, Reference and Calibration Sources, and Reciprocal Recognition of Specific Radioactive Materials License

Except for specific licensees granted a general license under OAR 333-102-0340 for reciprocal use of specific license radioactive material, each person, pursuant to OAR 333-102-0103, 333-102-0115(1), 333-102-0125, or 333-102-0130, having general license radioactive material must:

(1) Apply for registration of such materials with the Agency within thirty (30) days of possession of such device, in vitro radioactive material used for testing, or source material. Application for registration must be completed on forms furnished by the Agency and must include the name of the general license supplier, installer, and service agent.

(2) The general license registrant must notify the Agency within thirty (30) days of any change in information required in section (1) of this rule.

(3) Each general license registrant must prohibit any person from furnishing servicing or services to any general license device until such person provides evidence that the servicing agent has been registered with the Agency as a provider of services in accordance with OAR 333-101-0020.

(4) Each general license granted pursuant to OAR 333-102-0340 must provide the specific information required pursuant to that rule.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0010
Exemptions

(1) Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this division, providing dose equivalent rate averaged over an area of 10 square centimeters does not exceed 5 microSv (0.5 millirem) per hour at five centimeters from any accessible surface of such equipment. The production, testing or factory servicing of such equipment is not exempt.

(2) Radiation machines while in transit or inoperable are exempt from the requirements of this division. For the purposes of registration and fees, the Agency considers an X-ray unit to be inoperable only if the machine's X-ray tube (insert) has been removed or the machine disassembled. With the X-ray tube in place, and the machine assembled, the unit is considered to be operable. If a machine is "in storage," it must be registered and charged a registration fee. However, an "inoperable" machine need not be registered or assessed a fee.

(3) Domestic television receivers are exempt from the requirements of this division.

(4) Electron microscopes are exempt from the requirements of this division, provided that the dose equivalent rate, averaged over an area of 10 square centimeters, does not exceed 5 microSv (0.5 millirem) per hour at five centimeters from any accessible surface of the equipment.

NOTE: Electron microscope: A type of microscope which uses electrons to produce magnified images and may therefore produce ionizing radiation incidental to its use.

(5) Electron beam welding machines and electron beam furnaces are exempt from the requirements of this division, provided that the dose equivalent rate, averaged over an area of 10 square centimeters, does not exceed 5 microSv (0.5 millirem) per hour at five centimeters from any accessible surface of the equipment.

(6) Persons licensed under OAR 333-102-0200 or equivalent specific licenses rules under an Agreement State or the U.S. Nuclear Regulatory Commission are exempt from this requirement.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0015
Transfer or Disposal of Radiation Producing Machines or Equipment

Whenever radiation producing machines or equipment, including general license devices containing radioactive material, are transferred or disposed of, the Agency must be notified in writing by the registrant within 30 days of the date of such transfer or disposal, and include the name and address of the person to whom it was transferred or its final disposition.

NOTE: General License radioactive materials can only be transferred pursuant to requirements in OAR 333-102.

Stat. Auth.: ORS 453.605 - 453.755
Stats. Implemented: ORS 453.605 - 453.755
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0020
Application for License of Sales, Services, Consultation, and Servicing For Radiation Machines

(1) Each person who is engaged in the business of selling, leasing, transferring, lending, installing or offering to install radiation machines or tanning beds, or is engaged in the business of furnishing or offering to furnish radiation machines, X-ray automatic film processor, X-ray processing chemicals, radioactive material (unless such activities are authorized under a specific license), or tanning servicing or services in this state, must apply for license of such services with the Agency within 30 days following the effective date of this rule or thereafter prior to furnishing or offering to furnish any such services.

(2) Application for a license must be completed on forms furnished by the Agency and must contain the following information or such other information as may be required:

(a) Name, address and telephone number of the following:

(A) The individual or the company to be licensed; and

(B) The owner(s)of the company.

(b) The services that will be provided;

(c) The area of the state and other states to be covered;

(d) A list of the individuals qualified to provide these services; and

(e) The date of application and signature of the individual responsible for the company, beneath a statement of the items specified in OAR 333-101-0020(3).

(3) Each person applying for license under this division must specify:

(a) That they have read and understand the requirements of these rules;

(b) The services for which they are applying for license;

(c) The training and experience that qualify them or their technical staff to discharge the services for which they are applying for license;

(A) Training for radiation machine vendors must include, but must not be limited to, a minimum of one day of training in radiation use and safety.

(B) The training specified in OAR 333-101-0020(3)(c)(A) must be taught by an Agency approved instructor. Approval will be based upon the following criteria;

(i) Current Radiologic Technologist license with the Oregon Board of Radiologic Technology and a minimum of two years of work experience in Radiologic Technology; and

(ii) Experience in the use of radiation measurement instruments; or
(iii) "Qualified Expert" as defined in OAR 333-100-0005; or
(iv) "Health Physics Consultant" as defined in OAR 333-101-0003.
(C) Subjects to be covered must include but not be limited to:
(i) Nature of x-rays;
(ii) Radiation units;
(iii) Biological effects of x-ray radiation;
(iv) Principals of radiation protection;
(v) Radiation survey instruments;
(vi) Personnel monitoring equipment; and
(vii) Applicable federal and state radiation regulations.
(d) The type of measurement instruments to be used, frequency of calibration, source of calibration; and
(e) The type of personnel dosimeters supplied, frequency of reading and replacement or exchange schedule.
(4) All radiation machine vendors who install or repair radiation machines must have measurement instruments that will assure compliance with all x-ray machine, or tanning bed installation requirements according to all applicable federal standards, as well as instruments to properly check items such as collimation, HVL, kVp, mA, time, and radiation output, or assure these tests are made by a qualified expert as needed, and that the information is included in the installation report.
(5) For the purpose of OAR 333-101-0020, services may include but must not be limited to:
(a) Sales or leasing of radiation machines, installation and/or servicing of radiation machines and associated radiation machine components;
(b) Calibration of radiation machines;
(c) Calibration and use of radiation measurement instruments or devices;
(d) Radiation protection or health physics consultations or surveys;
(e) Personnel dosimetry services (not otherwise licensed under these rules);
(f) Installation and/ or servicing of automatic x-ray film processors; and
(g) Providing x-ray film processing chemicals.
(6) No individual shall perform services that are not specifically stated for that individual on the notice of licensure (certificate of validation or acknowledgment of validation) issued by the Agency.
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0023
Application for License of Sales, Consulting Services, and Servicing for Radioactive Materials Devices under General License

(1) Each person who is engaged in the business of selling, installing, surveying, consulting, training, or servicing radioactive material in general license measuring, gauging, or controlling devices, or selling In Vitro testing kits, or source material, or is engaged in the business of furnishing or offering to furnish radioactive material consulting services in this state, must apply for license of such services with the Agency within 30 days following the effective date of this rule or thereafter prior to furnishing or offering to furnish any such services.
(2) Application for a license must be completed on forms furnished by the Agency.
(3) Each person applying for license under this division must specify:
(a) That they have read and understand the requirements of these rules;
(b) The services for which they are applying for license; and
(c) The training and experience that qualify them or their technical staff to discharge the services for which they are applying for license.
(4) All vendors must have measurement instruments that will assure compliance with all applicable standards, as well as instruments to properly check items such as collimation, time, and radiation output, or assure these tests are made by a qualified expert, and that the information is included in the installation report.
(5) For the purpose of OAR 333-101-0020, services may include but must not be limited to:
(a) Installation and/or servicing of radiation machines and associated radiation machine components;
(b) Calibration of general license radioactive material used for measuring, gauging, or controlling;
(c) Radiation protection or health physics consultations or surveys; and
(d) Personnel dosimetry services (not otherwise licensed under these rules).
(6) No individual shall perform services that are not specifically stated for that individual on the license application (certificate of validation or acknowledgement of validation) issued by the Agency.
(7) Persons licensed under OAR 333-102-0200 (specific radioactive materials license) are exempt from these requirements.
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0025
Out-of-State Radiation Machines

(1) Whenever any radiation machine is to be brought into the state for any temporary use (a period not in excess of 30 days), the person proposing to bring such machine into the state must give written notice to the Agency (at least two working days) before such machine is to be used in the state. The notice must include:
(a) The type of radiation machine;
(b) The nature, duration and scope of use;
(c) The exact locations where the radiation machine is to be used; and
(d) The States in which this machine is registered.
(2) If for a specific case, the two working-day period would impose an undue hardship on the person, upon application to the Agency, permission to proceed sooner may be granted.
(3) The person referred to in section (1) of this rule must:
(a) Comply with all applicable rules of the Agency;
(b) Supply the Agency with such other information as the Agency may reasonably request; and
(c) Not operate within the state on a temporary basis in excess of 180 calendar days per year.
(4) Notwithstanding sections (1), (2), and (3) of this rule, registered general licenses for out-of-state radioactive material under specific license may be brought into the state for use at temporary jobsites only under the provisions of OAR 333-102-0340.
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0035
Issuance of Notice of Registration for X-ray Machines

(1) Upon a determination that an applicant meets the requirements of the rules, the Agency must issue a registration and/or a validation certificate.
(2) The Agency may incorporate in the notice of registration at the time of issuance or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the registrant's receipt, possession, use and transfer of radiation machines as it deems appropriate or necessary.
(3) Prior to issuance of an X-ray machine registration to a hospital, the X-ray machine will be approved by an X-ray machine inspector employed by the Agency, or inspected by an accredited radiology inspector.
(4) Prior to issuance of an X-ray machine registration to a facility other than a hospital, the X-ray machine must be approved by an X-ray machine inspector employed by the Agency.
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0045
Renewal of Notice of Registration

(1) Application for renewal of registration must be filed in accordance with OAR 333-101-0005 or 333-101-0020.
(2) In any case in which a registrant has filed an application in proper form for renewal, not less than 30 days prior to the expiration of his existing notice of registration, such existing notice of registration shall not expire until the application status has been determined by the Agency.
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0050
Report of Changes

The registrant must notify the Agency in writing before making any change which would render the information contained in the application for registration and/or the notice of registration no longer accurate.
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0060
Assembler and/or Transfer Obligation

(1) Any person who sells, leases, transfers, lends, disposes, assembles or installs radiation machines in this state must notify the Agency within 15 days of:

(a) The name and address of persons who have received these machines;

(b) The manufacturer, model and serial number of each radiation machine transferred; and

(c) The date of the transfer of each radiation machine.

(2) No person shall make, sell, lease, transfer, lend, assemble or install radiation machines or the supplies used in connection with such machines unless such supplies and equipment when properly placed in operation and used must meet the requirements of these rules.

(3) In the case of diagnostic x-ray systems which contain certified components, a copy of the assembler's report prepared in compliance with requirements of the federal diagnostic X-ray standard (21 CFR 1020.30(d)) must be submitted to the Agency within 15 days following completion of the assembly. Such report must suffice in lieu of any other report by the assembler.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0065
Additional Requirements

(1) No person shall use a radiation machine unless that person is registered with the Radiation Control Agency in accordance with OAR 333-101-0005 or is exempt from the registration under OAR 333-101-0010 or 333-101-0025.

(2) No registrant shall use a radiation machine unless a current certificate of validation has been issued for that machine.

(3) The registrant must comply with any additional requirements or conditions listed on the then current certificate of validation on which the Agency has deemed appropriate or necessary to minimize danger to public health and safety or property.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-81-91; Renumbered from 333-101-0030; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0070
X-ray Machine Registration Fee Proration

(1) Not withstanding the registration requirements of division 103 of these rules, the Agency must, at the written request of the X-ray machine owner, adjust the registration expiration date of any X-ray machine to coincide with the registration expiration date of other X-ray machines currently registered to the machine owner.

(2) When requested in writing the Agency must prorate the registration fee according to the following:

(a) If a machine is registered for 19 to 24 months in a biennium, the registration fee shall be 100 percent;

(b) If a machine is registered for 13 to 18 months in a biennium the registration fee shall be 75 percent;

(c) If a machine is registered for 7 to 12 months in a biennium the registration fee shall be 50 percent;

(d) If a machine is registered for 1 day to 6 months in a biennium the registration fee shall be 25

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0090
Investigation and Civil Penalty

(1) If after an investigation by an Agency-employed X-ray machine inspector, the Agency has reason to believe that an act prohibited by division 101 of these rules has been committed, the Agency may impose a civil penalty not to exceed $5,000. The Agency reserves the right to pursue other remedies against alleged violators and may take any other disciplinary action at its discretion that it finds proper.

(2) In establishing the amount of the penalty for each violation, the Agency must consider, but not be limited to, the following factors:

(a) The gravity and magnitude of the violation;

(b) The person's, as defined in OAR 333-100-0005, previous record of complying or failing to comply with division 101 of these rules;

(c) The person/company's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and

(d) Such other considerations as the Agency may consider appropriate.

(3) Civil penalties must be imposed in the manner provided by ORS 183.090.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0200
Hospital X-ray Machine Registration

(1) Prior to issuance of an X-ray machine registration to a hospital, the X-ray machine must be approved by an X-ray machine inspector employed by the Agency or inspected by an Agency-accredited hospital radiology inspector; and

(2) If inspection is performed by an accredited hospital radiology inspector, the test results must be reviewed and approved by the Agency; and

(3) All standards adopted by rule of the Agency are met; and

(4) A properly completed registration application has been submitted by the X-ray machine owner; and

(5) All required fees have been paid.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0220
Hospital Radiology Inspector Qualifications

(1) All applicants for licensure as hospital radiology inspectors must possess at a minimum one of the following combinations of education and experience:

(a) One year of experience using X-ray machines and associated auxiliary equipment, and at least one of the following:

(A) Certification by the American Board of Radiology or the American Board of Health Physics;

(B) A doctoral degree in a physical or biological science; or

(C) A doctor of medicine degree or a degree recognized by the Agency as an equally qualified health professional degree.

(b) Two years of experience using X-ray machines and associated auxiliary equipment, and a master's degree in a physical or biological science.

(c) Four years of experience using X-ray machines and associated auxiliary equipment, and a bachelor's degree in a physical or biological science.

(d) Six years of experience using X-ray machines and associated auxiliary equipment, and an associate's degree in a physical or biological science.

(2) Experience of an applicant includes, but is not limited to, measuring ionizing radiation, evaluating radiation safety and documenting radiation protection needs in a diagnostic radiology setting.

(3) In addition to meeting the education and experience requirements of this section, applicants must be tested on knowledge of Agency rules governing the X-ray machine inspection program, including but not limited to, safety requirements and inspection procedures.

(4) Applicants must also complete such additional written or practical testing as the Agency may require.

(5) An accreditation must not be issued or renewed to an applicant unless the applicant has paid all required fees.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0230
Hospital Radiology Inspector Testing

(1) The Agency must offer quarterly examinations for licensure. A schedule of examination dates and times will be available upon request. The Agency reserves the right to alter or adjust examination dates, times and locations as it deems necessary and will notify applicants whenever possible.

(2) Testing will be done by the Agency or the Agency's representative and upon passing the test, the Agency will issue a radiology inspector accreditation.

(3) Applicants must qualify for examination upon compliance with all applicable provisions of OAR 333-101-0020. Applicants must not be allowed to sit for the examination if documentation is incomplete or incorrect.

(4) Documentation must be submitted to the Agency office within seven days of the examination date. No accreditation will be issued without proper documentation.

(5) Applicants providing documentation to the Agency must submit the official transcript in a sealed envelope, issued from the school or training organization. The school must attest to the documents authenticity and accuracy.

(6) Applicants taking the examination must present photographic identification, such as a driver's license, before sitting for the examination.

(7) Each applicant must complete a written examination to test the applicant's knowledge in the following subjects:

(a) Licensure and registration requirements and applicable radiation rules including:

(A) Registrant's administrative responsibilities;

(B) Registrant's X-ray machine operator responsibilities;

(C) Registrant's X-ray machine responsibilities;

(D) Registrant's responsibilities regarding film, film processing, and all quality control related to the hospital radiology department; and

(E) Hospital radiology inspector responsibilities.

(b) Agency inspection procedures and practice application;

(c) The basic principles of radiation safety; and

(d) Inspection equipment and tools.

(8) The applicant must pass the examination by a score of at least 75 percent.

(9) All examinations must be prescheduled.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807.

Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0240

Hospital Radiology Inspector Accreditation

(1) Accreditation as a radiology inspector shall be valid for two years and shall expire in the second year on the last day of the month of issuance unless renewed.

(2) An accreditation may be renewed if the radiology inspector has complied with the continuing education requirements specified in OAR 333-101-0260 and has paid the renewal fee.

(3) An accreditation for the current period must be provided by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0260

Hospital Radiology Inspector Continuing Education

(1) Each radiology inspector requesting an accreditation renewal must complete 10 clock hours of continuing education every two years from the date of accreditation to qualify for renewal of accreditation.

(2) Accreditation will not be renewed without receipt of the required continuing education report, by the Agency.

(3) Accredited hospital radiology inspectors failing to obtain 10 clock hours of continuing education every two years, must reapply, complete 5 hours of continuing education for the current year, and successfully pass a written examination.

(4) Continuing education includes attendance or participation at a radiology instructional program presented, organized or under the auspices of any organization or association. For example, lectures, post-secondary school, or post-graduate courses, scientific sessions at conventions, or correspondence courses.

(5) Subject matter must be related to the law and rules regulating hospital radiology inspectors, and the regulatory concept pertaining to radiation machines and their use in the State of Oregon.

(6) Documentation must include the name of the sponsoring institution/association or organization, title of presentation, description of content, name of instructor or presenter, date, clock hours, and a statement of attendance or completion provided by the sponsor.

(7) Submission to the Agency of proof of participation in continuing education is the responsibility of the hospital radiology inspector. Such proof must be held by the hospital accredited radiology inspector until submitted to the Agency biennially at the time of renewal.

(8) Hours obtained in excess of the 10 required for each two-year period must not be carried forward as credit for the subsequent two-year continuing education requirement.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0270

Hospital Responsibilities Re: X-ray Machines

Each hospital that is utilizing the services of an accredited radiology inspector must comply with the following and any other applicable sections of these rules:

(1) Contact the Agency, in writing, for information and authorization to allow the hospital to use the services of an accredited radiology inspector:

(a) Contact must be made three months prior to the facility's one year inspection due date or before March 1 of each renewal year by the registrant;and

(b) Contact with the Agency must be remade and a new authorization given by the Agency for every renewal period.

(2) Continually have available the services of an accredited radiology inspector or notify the Agency if they have terminated the services of the accredited radiology inspector.

(3) Records of safety inspections must be dept for two years after completion of the last inspection.

(4) Have procedures in place and followed which comply with all applicable parts of divisions 100, 101, 106, 109, 111, and 120 of these rules.

(5) Have an inspection and safety program in place which complies with all applicable parts of divisions 100, 101, 106, 109, 111 and 120 of these rules.

(6) Make records, X-ray machines, and related equipment available for inspection by the Agency during normal working hours.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0280

Agency Responsibilities Regarding the Radiology Inspection

The Agency responsibilities must include the following as well as other applicable sections of these rules:

(1) Do annual audits of hospital programs to monitor accredited radiology inspector results and to monitor changes in the performance of registered X-ray machines during the registration period.

(2) Evaluate registrant test results provided by the accredited radiology inspectors.

(3) Grant or deny X-ray machine registrations, accreditation of hospital radiology inspectors and issue documents of registration and accreditation.

(4) Deny, condition, suspend, or revoke an X-ray machine registration or radiology inspector accreditation.

(5) Grant a provisional registration permitting temporary operation pending compliance with Agency standards.

(6) Investigate any alleged prohibited act and resolve complaints against accredited radiology inspectors and their employers.

(7) Impose civil penalties.

(8) Develop programs to evaluate hazards associated with the use of X-ray machines.

(9) Develop testing, training and continued education standards for accreditation of radiology inspectors.

(10) Promulgate standards and make regulations relating to the registration of X-ray machines, accreditation of radiology inspectors, X-ray machine operation, physical surroundings and equipment related to the operation of the X-ray machines, operator training, and approved X-ray machine operating practices.

(11) Test applicants for radiology inspector accreditation.

(12) Collect and disseminate information relating to X-ray machine users.

(13) Provide technical assistance and safety information to X-ray machine users.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-101-0290

Accredited Hospital Radiology Inspector Responsibilities

The accredited radiology inspector's responsibilities must include the following and compliance with any other applicable sections of these rules:

(1) Be currently accredited by the Agency as an accredited hospital radiology inspector.

(2) Each accredited hospital radiology inspector conducting a registration inspection on a hospital X-ray machine must collect information and do tests in the manner required by the Agency.

(3) Each accredited hospital radiology inspector must make calculations in the manner prescribed by the Agency and must enter the results and such other information as the Agency may require, on a form provided by the Agency.

(4) Each accredited hospital radiology inspector must make all inspection records and results available for audit or investigation by Agency inspectors.

(5) Accredited hospital radiology inspectors must not misrepresent in any way, a device identifying an X-ray machine registration.

(6) Accredited hospital radiology inspectors must not alter, obscure, deface, or remove a device identifying registration of an X-ray machine.

(7) Accredited hospital radiology inspectors must possess equipment appropriate and capable of doing the testing, monitoring, etc., required by applicable Agency standards.

(8) Assure all X-ray output and scatter radiation monitoring equipment have been calibrated within the past 12 months with X-rays in the same energy range as the diagnostic equipment being evaluated. Such calibration must be traceable to the National Institute of Standards and Technology (NIST).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0001
Purpose and Scope

(1) This division prescribes rules applicable to all persons in the State of Oregon governing licensing of radioactive material, and for exemptions from licensing requirements. No person may receive, produce, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license pursuant to this division or divisions 105, 113, 115, 116, 117, or 121 of this chapter.

(2) In addition to the requirements of division 102, all licensees are subject to applicable requirements in divisions 100, 103, 111, 118, and 120 of this chapter. The requirements of this division are in addition to, and not in substitution for, other requirements of this chapter. In any conflict between the requirements in this division and a specific requirement in another division of the rules in this chapter, the specific requirement governs.

(3) This division establishes general licenses for the possession and use of source material and depleted uranium, for radioactive material contained in certain items, and for ownership of radioactive material.

(4) This division gives notice to all persons who knowingly provide to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this division, that they may be individually subject to Agency actions pursuant to OAR 333-100-0035 or 333-100-0040.

(5) This division prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing radioactive material for sale or distribution to persons granted a general license by this division or to persons authorized by the US Nuclear Regulatory Commission to distribute to persons exempted from licensing requirements, and it prescribes certain rules governing holders of these licenses. In addition, this division prescribes requirements for the issuance of specific licenses to persons who introduce radioactive material into a product or material owned by or in the possession of the licensee or another and rules governing holders of such licenses. Further, this division describes procedures and prescribes requirements for the issuance of certificates of registration (governing radiation safety information about a product) to manufacturers or initial transferors of sealed source or devices containing sealed sources, which are to be used by persons specifically licensed under this division or equivalent regulations of an Agreement State or the US Nuclear Regulatory Commission.

(6) The Agency may engage the services of qualified persons in order to assist the Agency in meeting the requirements of this chapter, including, but not limited to, evaluating information that may be required under OAR 333-102-0200(6).

(7) Information provided to the Agency by an applicant for a license or by a licensee or information required by statute or by the Agency's rules, orders, or license conditions to be maintained by the applicant or the licensee must be complete and accurate in all material respects.

(8) Each applicant or licensee must notify the Agency of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety. An applicant or licensee violates this rule only if the applicant or licensee fails to notify the Agency of information that the applicant or licensee has identified as having a significant implication for public health and safety. Notification must be provided to the Agency within two working days of identifying the information. This requirement is not applicable to information that already is required to be provided to the Agency by other reporting or updating requirements.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0005
Source Material

(1) Any person is exempt from this division to the extent that such person receives, possesses, uses, owns or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution or alloy.

(2) Any person is exempt from this division to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person must not refine or process such ore.

(3) Any person is exempt from this division to the extent that such person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

(A) Incandescent gas mantles;

(B) Vacuum tubes;

(C) Welding rods;

(D) Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;

(E) Germicidal lamps, sun lamps and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(F) Rare earth metals and compounds, mixtures and products containing not more than 0.25 percent by weight thorium, uranium or any combination of these; or

(G) Personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium.

(b) Source material contained in the following products:

(A) Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material;

(B) Piezoelectric ceramic containing not more than two percent by weight source material;

(C) Glassware containing not more than 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or

(D) Glass enamel or glass enamel frit containing not more than 10 percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four (4) percent by weight and that this exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles or stored or handled in connection with installation or removal of such counterweights, provided that:

(A) The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, authorizing distribution by the licensee pursuant to 10 CFR Part 40;

(B) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";

NOTE: The requirements specified in OAR 333-102-0005(3)(e)(B) and 333-102-0005(3)(e)(C) need not be met by counterweights manufactured prior to December 31, 1969 provided, that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and are impressed with the legend required by 10 CFR 40.13(c)(5)(ii) in effect on June 30, 1969, which read CAUTION — RADIOACTIVE MATERIAL -- URANIUM.

(C) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and

(D) This exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.

(f) Natural or depleted uranium metal used as shielding constituting part of any shipping container, provided that:

(A) The shipping container is conspicuously and legibly impressed with the legend "CAUTION — RADIOACTIVE SHIELDING — URANIUM"; and

(B) The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of 1/8 inch (3.2 mm).

(g) Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium, and that this exemption must not be deemed to authorize either:

(A) The shaping, grinding or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or

(B) The receipt, possession, use or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

(h) Uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 185 Bq (0.005 microCi) of uranium; or

(i) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(B) The thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(4) The exemptions in OAR 333-102-0005(3) do not authorize the manufacture of any of the products described.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0015

Certain Items Containing Radioactive Material

(1) Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these rules to the extent that he or she receives, possesses, uses, transfers, owns or acquires the following products:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(A) 25 millicuries (925 MBq) of tritium per timepiece;

(B) Five millicuries (185 MBq) of tritium per hand;

(C) 15 millicuries (555 MBq) of tritium per dial (when used, bezels must be considered as part of the dial);

(D) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(E) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(F) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial (when used, bezels must be considered as part of the dial);

(G) 0.15 microcurie (5.55 kBq) of radium per timepiece;

(H) 0.03 microcurie (1.11 kBq) of radium per hand;

(I) 0.09 microcurie (3.33 kBq) of radium per dial (when used, bezels must be considered as part of the dial);

(J) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(i) For wrist watches, 0.1 millirad (one Gy) per hour at 10 centimeters from any surface;

(ii) For pocket watches, 0.1 millirad (one Gy) per hour at one centimeter from any surface; and

(iii) For any other timepiece, 0.2 millirad (two Gy) per hour at 10 centimeters from any surface.

(K) One microcurie (37 kBq) of radium-226 per timepiece in timepieces acquired prior to June 1, 1977.

(b) Lock illuminators containing not more than 15 millicuries (555 MBq) of tritium or not more than two millicuries (74 MBq) of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than one millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries (925 MBq) of tritium;

(e) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries (925 MBq) of tritium per thermostat;

(g) Electron tubes: Provided, that each tube does not contain more than one of the following specified quantities of radioactive material:

(A) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or 10 millicuries (370 MBq) of tritium per any other electron tube;

(B) One microcurie (37 kBq) of cobalt-60;

(C) Five microcuries (185 kBq) of nickel-63;

(D) 30 microcuries (1.11 MBq) of krypton-85;

(E) Five microcuries (185 kBq) of cesium-137; or

(F) 30 microcuries (1.11 MBq) of promethium-147.

(G) And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through seven (7) milligrams per square centimeter of absorber.

NOTE: For purposes of, 333-102-0015(1)(g) "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(A) Each source contains no more than one exempt quantity set forth in 10 CFR Part 30.71 Schedule B; and

(B) Each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in 10 CFR Part 30.71 Schedule B provided that the sum of such fractions must not exceed unity.

(C) For americium-241, 0.05 microcuries (1.85 kBq) is considered an exempt quantity under 333-102-0015(8).

(i) Spark gap irradiators containing not more than one microcurie (37 kBq) of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons per hour (11.4 liters per hour).

(2) The exemptions contained in this rule must not authorize any of the following:

(a) The manufacture of any product listed;

(b) The application or removal of radioactive luminous material to or from meters and timepieces or hands and dials therefore;

(c) The installation into automobile locks of illuminators containing tritium or promethium-147 or the application of tritium to balances of precision or parts thereof;

(d) Human use, or the use in any device or article, except timepieces, which is intended to be placed on or in the human body;

(e) As applied to radioactive material exempted under OAR 333-102-0015(2)(e), the production, packaging, repackaging or transfer of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0020

Resins Containing Scandium-46, Designed for Sand Consolidation in Oil Wells

Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins must have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or must have been manufactured in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer of such resins pursuant to licensing requirements equivalent to those in sections 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission. This exemption does not authorize the manufacture of any resins containing scandium-46.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0025

Gas and Aerosol Detectors Containing Radioactive Material

(1) Except for persons who manufacture, process, produce or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license and from the rules in this division and in divisions 105, 113, 115, 116, 117, 120, and 121 of this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and

airborne hazards provided that detectors containing radioactive material shall have been manufactured, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.26 of 10 CFR Part 32; or a Licensing State pursuant to OAR 333-102-0260, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State must be considered exempt under OAR 333-102-0025(1), provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of OAR 333-102-0260.

(3) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State must be considered exempt under OAR 333-102-0025(1), provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of OAR 333-102-0260.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0030

Self-Luminous Products Containing Radioactive Material

(1) Except for persons who manufacture, process, produce or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license and from the rules in this division and in divisions 105, 113, 115, 116, 117, 120, and 121 of this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided that detectors containing radioactive material must have been manufactured, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.26 of 10 CFR Part 32; or a Licensing State pursuant to OAR 333-102-0260, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State must be considered exempt under OAR 333-102-0025(1), provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of OAR 333-102-0260.

(3) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State must be considered exempt under OAR 333-102-0025(1), provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of OAR 333-102-0260.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0040

In Vivo Testing in Humans for H. Pylori Using Carbon-14 Labeled Urea

(1) Except as provided in 333-102-0040(3) and 333-102-0040(4), any person is exempt from the requirements for a specific license pursuant to this division and divisions 116 of this chapter provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1 microcurie) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in vivo" diagnostic use for humans.

NOTE: "Nominal variation" as used in this context means + 10% of the reported per capsule dose.

(2) Any person who desires to use the capsules for research involving human subjects must apply for and receive a specific license pursuant to division 102 of this chapter.

(3) Any person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution such capsules must apply for and receive a specific license pursuant to 10 CFR 32.21.

(4) Nothing in this rule relieves persons from complying with applicable FDA, other Federal, and State requirements governing receipt, administration, and use of drugs.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0075

Types of Licenses

Licenses for radioactive materials are of two types: General and specific.

(1) General licenses provided in this division are granted as being effective without the filing of applications with the Agency or the issuance of licensing documents to particular persons, except Depleted Uranium subject to OAR 333-102-0103, Measuring, Gauging, and Controlling devices subject to 333-102-0115, and In Vitro Clinical or Laboratory Testing subject to 333-102-0130.

(2) Specific licenses require the submission of an application to the Agency and the issuance of a specific licensing document by the Agency. The licensee is subject to all applicable portions of these rules as well as any limitations specified in the licensing document. Specific licenses are issued to named persons upon applications filed pursuant to OAR 333-102-0200 and divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(3) General licenses granted by 333-102-0103, 333-102-0115, 333-102-0117, and 333-102-0130 require the submission of an application to the Agency for registration pursuant to 333-101-0007, payment of a fee in accordance with 333-103-0015, and the issuance of a registration (licensing document or general license acknowledgment) by the Agency.

(4) General licenses are subject to 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) (Terms and Conditions of Licenses), 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 103, 111, 118, and 120 of this chapter unless indicated otherwise in the language of the general license.

NOTE: Attention is directed particularly to the provisions of the regulations in division 120 of this chapter that relate to the labeling of containers and notification of incidents.

(5) Any record required by this division must be legible throughout the retention period specified by each Agency rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as letters, stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0101

General Licenses — Source Material

A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 15 pounds (6.82 kg) of source material at any one time for research, development, educational, commercial or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive or possess more than a total of 150 pounds (68.2 kg) of source material in any one calendar year.

(1) Persons who receive, possess, use, or transfer source material pursuant to the general license granted by OAR 333-102-0101(1) are prohibited from administering source material, or the radiation therefrom, either externally or internally to human beings except as may be authorized by the Agency in a specific license.

(2) Persons who receive, possess, use or transfer source material pursuant to the general license granted by OAR 333-102-0101(1) are exempt from the provisions of divisions 111 and 120 of this chapter to the extent that such receipt, possession, use or transfer is within the terms of such general license; provided, however, that this exemption must not be deemed to apply to any such person who also is in possession of source material under a specific license issued pursuant to this division.

(3) A general license is hereby granted authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use or transfer source material.

(4) Persons who receive, acquire, possess or use source material pursuant to the general license granted by OAR 333-102-0101(1) must develop and maintain procedures to establish physical control over the source material and prevent transfer of such source material to persons not authorized to receive the source material.

(5) A person who receives, acquires, possesses or uses source material pursuant to the general license granted by OAR 333-102-0101(1):

(a) Must not introduce such source material, in any form, into a chemical, physical, or metallurgical treatment or process;

(b) Must not abandon such source material; and

(c) Must transfer or dispose of such source material only by transfer in accordance with the provisions of OAR 333-102-0330 or 333-120-0500.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0103
General Licenses — Depleted Uranium in Industrial Products and Devices

(1) A general license is hereby granted to receive, acquire, possess, use or transfer, in accordance with the provisions of OAR 333-102-0103(2), 333-102-0103(3), 333-102-0103(4) and 333-102-0103(5), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(2) The general license in OAR 333-102-0103(1) applies only to industrial products or devices that have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to OAR 333-102-0235 or in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission or an Agreement State that authorizes manufacture of the products or devices for distribution to persons granted a general license by the U.S. Nuclear Regulatory Commission or an Agreement State.

(3) Persons who receive, acquire, possess or use depleted uranium pursuant to the general license established by 333-102-0103(1) must apply for registration of the general license pursuant to OAR 333-101-0007, and submit the required fee pursuant to 333-103-0015. Applicants will receive a validation certificate from the Agency application for registration must be submitted within 30 days after the first receipt or acquisition of such depleted uranium.

(a) The general licensee must provide the following information in accordance with the registration application required by OAR 333-101-0007 and such other information as may be required by that form:

(A) Name and address of the general licensee;

(B) A statement that the general licensee has developed and will maintain procedures designed to establish physical control over the depleted uranium described in OAR 333-102-0103(1) and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee in supervising the procedures identified in 333-102-0103(3)(b).

(b) The general licensee possessing or using depleted uranium under the general license established by OAR 333-102-0103(1) must report any changes in information in writing to the Agency within 30 days after the effective date of such change.

(4) A person who receives, acquires, possesses or uses depleted uranium pursuant to the general license established by OAR 333-102-0103(1):

(a) Must not introduce such depleted uranium, in any form, into a chemical, physical or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(b) Must not abandon such depleted uranium;

(c) Must transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of OAR 333-102-0330. In the case where the transferee receives the depleted uranium pursuant to the general license granted by OAR 333-102-0103(1), the transferor must furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007. In the case where the transferee receives the depleted uranium pursuant to a general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to 333-102-0103(1), the transferor must furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007 accompanied by a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in this rule;

(d) Within 30 days of any transfer, must report in writing to the Agency the name and address of the person receiving the depleted uranium pursuant to such transfer; and

(e) Must not export such depleted uranium except in accordance with a license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 110.

(5) Any person receiving, acquiring, possessing, using or transferring depleted uranium pursuant to the general license established by OAR 333-102-0103(1) is exempt from the requirements of divisions 111 and 120 of this chapter with respect to the depleted uranium covered by that general license.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0110
Luminous Safety Devices for Aircraft

(1) A general license is hereby granted to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(a) Each device contains not more than 10 curies (370 GBq) of tritium or 300 millicuries (11.1 GBq) of promethium-147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in 10 CFR Part 32.53.

(2) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in OAR 333-102-0110(1) are exempt from the requirements of divisions 111 and 120 of this chapter except that they must comply with the provisions of 333-120-0700 and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly or repair of luminous safety devices containing tritium or promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(7) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of Material), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and division 118 of this chapter.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0115
Certain Measuring, Gauging and Controlling Devices

(1) A general license is hereby issued to commercial and industrial firms and to research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, receive, acquire, possess, use or transfer in accordance with the provisions of OAR 333-103-0015 and sections (2), (3) and (4) of this rule, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in 333-102-0115(1) of this rule applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the specifications

contained in a specific license issued by the Agency pursuant to OAR 333-102-0200 or in accordance with the specifications contained in a specific license issued by the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, that authorizes distribution of devices to persons generally licensed by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

(3) The devices must have been received from one of the specific licensees described in 333-102-0115(2) of this rule or through a transfer made in accordance with 333-102-0115(4)(h) of this rule.

NOTE: Regulations under the Federal Food, Drug and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(4) Any person who owns, receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license in 333-102-0115(1) of this rule:

(a) Must assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon and must comply with all instructions and precautions provided by such labels;

(b) Must assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material; and

(B) Devices containing only tritium or not more than 100 microcuries (3.7 MBq) of other beta and/or gamma emitting material or 10 microcuries (0.37 MBq) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose.

(c) Must assure that tests required in 333-102-0115(4)(b) of this rule and other testing, installation servicing and removing from installation involving the radioactive materials, its shielding or containment, are performed:

(A) In accordance with the instructions provided by the labels; or

(B) By a person holding an applicable specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform such activities.

(d) Must maintain records showing compliance with the requirements of 333-102-0115(4)(b) and (c) of this rule. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installation servicing and removal from installation concerning the radioactive material, its shielding or containment. The licensee must retain these records as follows:

(A) Records of tests for leakage of radioactive material required by 333-102-0115(4)(b) of this rule must be maintained as required in 333-100-0057.

(B) Records of tests of the on-off mechanism and indicator required by 333-102-0115(4)(b) of this rule must be maintained as required in 333-100-0057.

(C) Records which are required by 333-102-0115(4)(c) of this rule must be maintained as required in 333-100-0057;

(e) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 Bq) or more of removable radioactive material, the licensee must immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to repair such devices. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Agency. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be submitted to the Agency within 30 days. Under these circumstances, the criteria set out in 333-120-0190, as determined by the Agency, on a case-by-case basis;

(f) Must not abandon the device containing radioactive material;

(g) Except as provided in subsection (4)(h) of this rule, must transfer or dispose of the device containing radioactive material only by transfer to a specific licensee of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State whose specific license authorizes the individual to receive the device; and

(A) Within 30 days after transfer of a device to a specific licensee must furnish to the Agency a report containing identification of the device by manufacturer's name, model number, serial number, the date of transfer, and the name, address and license number of the person receiving the device;

(B) The general licensee must obtain written Agency approval before transferring the device to any other specific licensee not specifically identified in 333-102-0115(4)(g) of this rule.

(h) Must transfer the device to another general licensee only:

(A) Where the device remains in use at a particular location. In such case the transferor must give the transferee a copy of this rule and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Agency the manufacturer's (or initial transferor's) name, model number, serial number of the device transferred, the date of transfer, the name and address of the transferee and the name, title and phone number of the individual who is a point of contact between the Agency and the transferee. This individual must have the knowledge and authority to take actions to ensure compliance with the appropriate rules and requirements concerning the possession and use of these devices; or

(B) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee.

(i) Must comply with the provisions of OAR 333-120-0700 and 333-120-0710 for reporting radiation incidents, theft or loss of licensed material but shall be exempt from the other requirements of divisions 111 and 120 of these rules;

(j) Must submit the required Agency form and receive from the Agency a validated registration certificate acknowledging the general license and verifying that all provisions of these rules have been met. The form must be submitted within 30 days after the first receipt or acquisition of such device. The general licensee must develop and maintain procedures designed to establish physical control over the device as described in OAR 333-102-0115 and designed to prevent transfer of such devices in any form, including metal scrap, to persons not authorized to receive the devices.

(k) Shall not export a device containing radioactive material except in accordance with 10 CFR Part 110.

(5) The general license in section (1) of this rule does not authorize the manufacture of devices containing radioactive material.

(6) The general license provided in section (1) of this rule is subject to the provisions of OAR 333-100-0040 through 333-100-0055, 333-102-0335, 333-103-0015 and 333-118-0050.

(7) The general licensee possessing or using devices licensed under the general license established by section (1) of this rule must report in writing to the Agency any changes in information furnished by the licensee on the required Agency form. The report must be submitted within 30 days after the effective date of such change.

(8) The licensee must appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, must ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard.

(9)(a) A device distributed or otherwise received as a generally licensed device must be registered with the Agency. Devices containing more than 370 MBq (1 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, any quantity of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), are required to have a specific license. Each address for a location of use, as described under 333-102-0115(9)(b) of this rule, represents a separate general licensee and requires a separate registration and fee.

(b) In registering devices, the general licensee must furnish the following information and any other information specifically requested by the Agency:

(A) Name and mailing address of the general licensee;

(B) Information about each device. The manufacturer (or initial transferor), model number, serial number, the radioisotope and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under section 333-102-0115(8) of this rule.

(D) Address or location at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage.

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information.

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license.

(10) General licensees must report changes to their mailing address or the location of use (including a change in name of general licensee) to the Agency within 30 days of the effective date of the change.

(11) Generally licensed devices that are not in use for longer than two years must be transferred to an authorized recipient or disposed of as radioactive waste. Shutters must be locked in the closed position on devices that are not being used or are in storage. The testing required by section (4)(b) of this rule need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use.

(12) Persons generally licensed by an Agreement State with respect to devices meeting the criteria in section (9)(a) of this rule are not subject to registration requirements if the devices are used in areas subject to NRC jurisdiction for a period less than 180 days in any calendar year. The Nuclear Regulatory Commission does not require registration information from such licensees.

(13) The general license in section (1) of this rule does not authorize the manufacture or import of devices containing radioactive material.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0125
Calibration and Reference Sources

(1) A general license is hereby granted to those persons listed in OAR 333-102-0125(1)(a) and (1)(b) of this rule to own, receive, acquire, possess, use, and transfer, in accordance with the provisions of 333-102-0125(4) and (5) of this rule, americium-241, plutonium, and/or radium-226, in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material; and

(b) Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission that authorizes receipt, possession, use, and transfer of special nuclear material.

(2) A general license is hereby granted to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of 333-102-0125(4) and (5) of this rule to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material.

(3) A general license is hereby granted to own, receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of 333-102-0125(4) and 333-102-0125(5) of this rule to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer radioactive material.

(4) The general licenses in OAR 333-102-0125(1), (2), and (3) of this rule apply only to calibration or reference sources that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to section 32.57 of 10 CFR Part 32 or section 70.39 of 10 CFR Part 70 or that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Agency, any Agreement State or Licensing State pursuant to licensing requirements equivalent to those contained in section 32.57 of 10 CFR Part 32, or section 70.39 of 10 CFR Part 70.

(5) The general licenses provided in OAR 333-102-0125(1), (2) and (3) of this rule are subject to the provisions of 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) (Terms and Conditions of Licenses), 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 111, and 120 of this chapter. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(a) Must not possess at any one time, at any one location of storage or use, more than five microcuries (185 kBq) each of americium-241, of plutonium-238, plutonium-239, or of radium-226 in such sources; and

(b) Must not receive, possess, use or transfer such source unless the source or the storage container, bears a label which includes one of the following statements, as appropriate, or a substantially similar statement that contains the information called for in one of the following statements, as appropriate:

(A) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL -THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM) DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE. _____ Name of manufacturer or importer

NOTE: Show only the name of the appropriate material.

(B) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of any Licensing State. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL -THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE._____ Name of manufacturer or importer

(c) Must not transfer, abandon or dispose of such source except by transfer to a person authorized by a specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to receive the source;

(d) Must store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 that might otherwise escape during storage; and

(e) Must not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium, or radium-226.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1085, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0130
General License for Use of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing

(1) A general license is hereby granted to any physician, veterinarian, clinical laboratory, or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with OAR 333-102-0130(2), (3), (4), (5) and (6) of this rule, the following radioactive materials in prepackaged units for use in in Vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(a) Iodine-125 in units not exceeding 10 microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(b) Iodine-131, in units not exceeding 10 microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(c) Carbon-14, in units not exceeding 10 microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(d) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(e) Iron-59 in units not exceeding 20 microcuries (740 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(f) Selenium-75, in units not exceeding 10 microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(g) Mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcuries (1.85 kBq) of iodine-129 and 0.005 microcuries (185 Bq) of americium-241 each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(2) A person may not receive, acquire, possess, use or transfer radioactive material under the general license granted by section OAR 333-102-0130(1) of this rule unless that person:

(a) Has filed the required Agency application for registration pursuant to OAR 333-101-0007 and submitted the registration fee pursuant to 333-103-0015 and received from the Agency a validated license with certification number assigned; or

(b) Has a license that authorizes the medical use of radioactive material that was issued under OAR 333-116.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by section 333-102-0130(1) of this rule must comply with the following:

(a) The general licensee must not possess at any one time, at any one location of storage or use a total amount of iodine-125, iodine-131, selenium-75, cobalt-57 and/or iron-59 in excess of 200 microcuries (7.4 MBq);

(b) The general licensee must store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection;

(c) The general licensee must use the radioactive material only for the uses authorized by OAR 333-102-0130(1) of this rule;

(d) The general licensee must dispose of the mock iodine-125 reference or calibration sources described in 333-102-0130(1)(g) of this rule as required by OAR 333-120-0500 and 333-102-0130(6);

(e) The general licensee must not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(4) The general licensee must not receive, acquire, possess or use radioactive material pursuant to OAR 333-102-0130(1) of this rule:

(a) Except as prepackaged units that are labeled in accordance with the provisions of an applicable specific license issued by the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, cobalt-57, iron-59 or mock iodine-125 for distribution to persons generally licensed under section (1) of this rule or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(A) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____
Name of Manufacturer

(B) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

_____
Name of Manufacturer

(5) The registrant possessing or using radioactive material granted by the general license of section OAR 333-102-0130(1) of this rule must report in writing to the Agency any changes in the information furnished on the required Agency form. The report must be furnished within 30 days after the date of such change.

(6) Any person using radioactive material pursuant to the general license granted by OAR 333-102-0130(1) of this rule is exempt from the requirements of divisions 111 and 120 of this chapter with respect to radioactive material covered by that general license, except that such persons using mock iodine-125 described in OAR 333-102-0130(1)(g) of this rule must comply with provisions of OAR 333-120-0500, 333-120-0700 and 333-120-0710.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0135
Ice Detection Devices

(1) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries (1.85 MBq) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Agency or an Agreement State to the manufacturer of such device pursuant to licensing requirements equivalent to those in section 32.61 of 10 CFR Part 32.

(2) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license granted by OAR 333-102-0135(1) of this rule:

(a) Must, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Agency, the U.S. Nuclear Regulatory Commission or any other Agreement State to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of OAR 333-120-0500;

(b) Must assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(c) Are exempt from the requirements of divisions 111 and 120 of this chapter except that such persons must comply with the provisions of OAR 333-120-0500, 333-102-0700, and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly, disassembly or repair of strontium-90 in ice detection devices.

(4) This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) (Terms and Conditions of Licenses), 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses) and division 118 of this chapter.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. &ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0190
Application for Specific Licenses.

(1) Applications for specific licenses must be filed on a form prescribed by the Agency. Information contained in previous applications, statements or reports filed with the Agency, the US Nuclear Regulatory Commission, or an Agreement State or a Licensing State or the Atomic Energy Commission may be incorporated by reference, provided that the reference is clear and specific.

(2) The Agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application must be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

(4) An application for a license filed pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act, provided that the application specifies the additional activities for which licenses are requested and complies with rules of the Agency and the US Nuclear Regulatory Commission as to applications for such licenses.

(5) Each new application for a radioactive material license must be accompanied by the fee prescribed by OAR 333-103-0010. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in 333-103-0010.

(6) An application for a license to receive and possess radioactive material for the conduct of any activity that the Agency has determined, pursuant to Subpart A of Part 51 of 10 CFR (Environmental Protection Regulations applicable to materials licensing), will significantly affect the quality of the environment, must be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and must be accompanied by any Environmental Report required pursuant to Subpart A of 10 CFR Part 51.

(7) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source must either:

(a) Identify the source or device by manufacturer and model number as registered with the US Nuclear Regulatory Commission under 10 CFR Part 32.210 or with an Agreement State; or

(b) Contain the information identified in 10 CFR Part 32.210(c).

(8) As provided by OAR 333-102-0200, certain applications for specific licenses filed under this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning as follows:

NOTE: If a renewal application was submitted on or before July 27, 1990, the decommissioning information may follow the renewal application but must be submitted prior to the license being issued.

(9)(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, Schedule C -- Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release,'' must contain either:

(A) An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

(B) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under OAR 333-102-0190(9)(a)(A) of this rule:

(A) The radioactive material is physically separated so that only a portion could be involved in an accident;

(B) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) The release fraction in the respirable size range would be lower than the release fraction shown in 10 CFR Part 30.72 (Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) due to the chemical or physical form of the material;

(D) The solubility of the radioactive material would reduce the dose received;

(E) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in 10 CFR Part 30.72;

(F) Operating restrictions or procedures would prevent a release fraction as large as that shown in 10 CFR Part 30.72; or

(G) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under paragraph (9)(a)(B) of this rule must include the following information:

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radio-active materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the Agency; also responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee also must commit to notify the Agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not supercede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the Agency.

(J) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training must familiarize personnel with site-specific emergency procedures. Also, the training must thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee must invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios must not be known to most exercise participants. The licensee must critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(d) The licensee must allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to Agency. The licensee must provide any comments received within the 60 days to the Agency with the emergency plan.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0200
General Requirements for the Issuance of Specific Licenses

An application for a specific license, will be approved if:

(1) The application is for a purpose authorized by the Act;

(2) The applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property;

(3) The applicant's proposed equipment and facilities are adequate to protect health and minimize danger to life or property;

(4) The applicant satisfies any applicable special requirements contained divisions 102, 105, 113, 115, 116, 117, or 121 of this chapter; and

(5) In the case of an application for a license to receive and possess radioactive material for the conduct of any activity which the Agency determines will significantly affect the quality of the environment, the Agency Manager or designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Subpart A of Part 51 of 10 CFR, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion must be grounds for denial of a license to receive and possess byproduct material in such plant or facility. As used in this rule, the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values. Upon a determination that an application meets the requirements of the Act, and the rules of the Agency, the Agency will issue a specific license authorizing the possession and use of radioactive material (Radioactive Materials License'').

(6) Financial assurance and recordkeeping for decommissioning must meet the following requirements:

(a) 10 CFR 30.35 and 30.36 for radioactive material that is not source or special nuclear material; or

(b) 10 CFR 40.36 for source material; or

(c) 10 CFR 70.25 for special nuclear material.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0203
Definitions

The following definitions apply for Radioactive Material Licenses issued pursuant to this division and divisions 105, 113, 115, 117, and 121 of this chapter:

NOTE: Unless otherwise specified in this rule, the licenses described in this rule are limited by conditions of the radioactive materials license issued pursuant to OAR 333-102-0200, and other applicable rules in this chapter.

(1) "Analytical Leak Test" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(a), authorizing possession of environmental samples, sealed source leak-test, contamination wipe, etc. samples for radioanalytical measurements. This license does not authorize collection of samples, or decommissioning or decontamination activities.

(2) "Assets" means anything of material value or usefulness. In the context of a materials license, assets include all existing capital, effects, possessions, and belongings and all probable future economic benefits obtained or controlled by a particular entity.

(3) "Basic License" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing the receipt, possession, use, transfer, and disposal of sources of radiation or radioactive materials incident to gauge service, teletherapy service, medical afterloader service, and other licensed service activities; pre-packaged waste pickup (not packaging), storage of materials prior to license termination, instrument quality control servicing or calibration (excluding activities authorized by OAR 333-103-0010(2)(m)), or other minor activities not otherwise specified in these rules, such as authorization for "systems," as defined in these rules, pursuant to that definition.

(4) "Beneficiating" means subjecting a product to any process that will increase or concentrate any component (including the radioactive materials) to benefit the product;.

(5) "Brachytherapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(c) authorizing the use of brachytherapy sources for in vivo application of radiation in accordance with 333-116-0420. Brachytherapy includes radioactive material sealed sources in seeds, needles, plaques, or other localized medical devices, but excludes remote afterloaders.

(6) "Broad Scope A" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(d), authorizing activities in 333-102-0900(1)(a), under the authority of a Radiation Safety Committee.

(7) "Broad Scope B" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(e) authorizing activities described in 333-102-0900(1)(b), under the authority of a Radiation Safety Officer.

(8) "Broad Scope C" means a facility-specific license issued pursuant to 333-103-0010(2)(f) authorizing activities described in 333-102-0900(1)(c), under the authority of an authorized user.

(9) "Commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that would adversely affect the natural environment of a site.

(10) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(11) "Decontamination and Decommissioning" means:

(a) A facility specific license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that result in returning a site to its original pre-license condition prior to termination of licensed activities; and

(b) Activities performed pursuant to OAR 333-102-0335 on any portion of a site prior to license termination.

(12) "Diagnosis" means examination, determination, identification, study, or analysis of a medical condition.

(13) "Distribution" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(g), authorizing transfer or distribution (sale) of general or specific license radioactive material to persons granted a general license or issued a specific license, or, in the case of NARM, to persons exempt from the rules in this chapter.

(14) "Exempt Source" means radioactive material, exempt from the rules in this chapter.

(15) "Facility" means location of licensed activities under the direct control of licensee management. If a "Facility,", as used in this division, includes multiple separate addresses, the Agency may determine how the scope of licensed activities, pursuant to OAR 333-102-0190, 333-102-0300, 333-102-0305, 333-102-0315, 333-102-0320, or 333-102-0325, is authorized.

(16) "Fixed Gauge" means a source-specific license for measuring, gauging, or controlling devices pursuant to OAR 333-103-0010(2)(h). The fixed gauge license also includes X-Ray & Hybrid Gauges pursuant to division 115 of this chapter, that contain either an X-Ray source or a radioactive sealed source.

(17) "General License" means a granted license, as opposed to an issued license, effective under these rules, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(18) "General License Depleted Uranium" means the general license granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for depleted uranium used for shielding or counter weights and issued pursuant to 333-102-0103.

(19) "General License Device" means the general license granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for measuring, gauging, or controlling devices granted the general license by 333-102-0015.

(20) "General License In Vitro Laboratory" means the general license granted by OAR 333-102-0130, subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for in vitro materials granted a general license by 333-102-0130.

(21) "General License Source Material" means the general license granted for use and possession of source material pursuant to OAR 333-102-0101.

(22) "General License for Certain Devices and Equipment" means the general license granted for use and possession of devices consisting for not more than 500 microcuries of polonium-210 or not more than 50 millicuries of tritium (H-3) per device, pursuant to 10 CFR 31.3.

(23) "General License for Luminous Devices for Aircraft" means the general license granted for use and possession of devices containing not more than 10 curies of tritium or not more than 300 millicuries of promethium-147.

(24) "General License for Ownership of Radioactive Material and Limits of Possession" means the general license granted to own material that is not necessarily possessed; conversely, material that is possessed is, by grant of general license, not necessarily owned, pursuant to the general license in OAR 333-102-0120.

(25) "General License for Calibration and Reference Sources" means the general license granted to possess not more than five (5) microcuries (185 kBq) of americium-241, plutonium-238, plutonium-239, or radium-226, pursuant to the general license in OAR 333-102-0125.

(26) "General License for Ice Detection Devices" means the general license granted to possess not more than fifty (50) microcuries (1.85 MBq) of strontium-90, pursuant to the general license in OAR 333-102-0135.

(27) "Generators and Kits" means "Imaging and Localization."

(28) "Healing Arts Specific License" means a specific license authorizing activities in division 116 of this chapter.

(29) "High Doserate Remote Afterloader" means a source-specific license issued pursuant to OAR 333-103-0010(2)(i) authorizing the use of sources in accordance with 333-116-0475, which may be either mobile or stationary, and which deliver a doserate in excess of 2 Gray (200 rad) per hour at the point or surface where the dose is prescribed. A device may be designated as being high, medium, or pulsed dose remote afterloader or mobile high, medium, or pulsed doserate remote afterloader.

(30) "Hybrid Gauge" means a fixed gauging device that contains both a sealed source and an x-ray source, pursuant to division 115 of this chapter.

(31) "In Vitro Laboratory" means a Healing Arts facility-specific license, under management of a physician or Healing Arts specialist, issued pursuant to OAR 333-103-0010(2)(k) authorizing the use of prepackaged radioactive materials in quantities greater than those authorized by the General License granted by OAR 333-102-0130(2).

(32) Imaging and Localization means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(j) authorizing the use of generators and kits for nuclear medicine imaging and localization in accordance with 333-116-0320 or positron emission tomography studies in accordance with 333-116-0800 through 333-116-0880.

(33) "Industrial Radiography" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(l) authorizing activities in division 105 of this chapter.

(34) "Instrument Calibration" means a source-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(m) for sources of radiation used to calibrate instruments.

(35) "Investigational New Drug" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(n) authorizing the use of any investigational product or device approved by the US Food and Drug Administration (FDA) for human use research, diagnosis, or therapy, in accordance with the rules in this chapter.

(36) "Irradiator-Other" means an irradiator with greater than 10,000 curies (370 TBq) licensed pursuant to OAR 333-103-0010(2)(w) and 333-103-0010(7), designed to produce extremely high dose rates as authorized by division 121 of this chapter.

(37) "Irradiator Self-shielded or Other — Less than 10,000 Curies" means a source-specific license issued pursuant to OAR 333-103-

0010(2)(o) authorizing self-shielded irradiators, including blood irradiators, panoramic irradiators, and converted teletherapy units, with less than 10,000 Ci (370 TBq) activity.

(38) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(39) "Lot Tolerance Percent Defective" means, expressed in percent defective, the poorest quality in an individual inspection lot that should be accepted.

(40) "Low Doserate Remote Afterloader Device" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing devices 333-116-0475, which remotely deliver a doserate of less than 2 Gray (200 rad) per hour at the point or surface where the dose is prescribed.

(41) "Manufacturing or Compounding" means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(p) authorizing manufacture, fabrication, assembly, construction, combining, processing, concentrating, beneficiating, or processing items or products using or containing radioactive materials into a finished product containing radioactive material in accordance with applicable requirements in divison 102 of this chapter.

(42) "Manufacturing or Compounding and Distribution" (Manufacturing and Distribution) means "Manufacturing or Compounding" pursuant to OAR 333-102-0203(41) and "Distribution," pursuant to OAR 333-102-0203(13). Manufacturing activities and distribution activities require separate specific licenses.

(43) "Mobile Nuclear Medicine Service" means a facility-specific Healing Arts license issued pursuant to OAR 333-116-0120 authorizing the medical use of radioactive material at specified temporary locations.

(44) "Naturally occurring radioactive material (NORM)" means radioactive material in the uranium or thorium decay series existing in nature in concentrations less than 0.05% source material.

(45) "Net working capital" means current assets minus current liabilities.

(46) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(47) "Neutron Howitzer" means a device that contains a sealed source containing Special Nuclear Material (see definition in OAR 333-100-0005, that generates neutrons that are used for analytical, teaching, or research purposes.

(48) "Neutron Production" denotes a process in which neutrons are produced, either by natural or artificial means.

(49) "NORM (no processing)" means a facility-specific license pursuant to OAR 333-103-0010(2)(n) authorizing possession, use, and transfer of NORM in accordance with division 117 of this chapter.

NOTE: NORM licenses authorize licensable quantities of radioactive material in the uranium or thorium decay series. Licensable quantities of NORM are derived from disposal limits in division 50 of chapter 345 of the Oregon Administrative Rules (OAR). Except for division 50 exemptions, any material that contains NORM requires a specific license. Zircon sand is used as the NORM model for licensing purposes. Quantities of zircon sand in excess of 20,000 pounds in a year constitute a licensable quantity of NORM. NORM materials that are not zircon are based on the zircon model.

(50) "Nuclear Laundry" means a laundry facility designed specifically to clean or launder clothing contaminated with licensed radioactive materials. Nuclear Laundry facilities must have process and waste management control procedures to prevent reconcentrating of licensed materials in sewers, drains, premises, and the environment. Nuclear Laundry activities are authorized pursuant to OAR 333-103-0010(2)(w), "Radioactive Material Not Otherwise Specified Facility," see 333-102-0203(61).

(51) "Nuclear Pharmacy" means a facility-specific license issued pursuant to OAR 333-103- 0010(2)(s) for activities authorized by 333-102-0285 and the Oregon Board of Pharmacy rules, to compound Radiopharmaceutical and distribute (sell or transfer) to persons specifically licensed to receive such compounds or products.

NOTE: Nuclear Pharmacies, pursuant to policy provisions of OAR 345 division 50 may collect syringes containing residual licensed material from spent patient doses, since the syringe is considered to be a transport device under the administrative control of the pharmacy rather than the licensed material transferred as the dose. Residual licensed material may be considered either to be exempt pursuant to Table 1 of division 50 or under the authority of a division license if the receding licensee stores syringes for decay. In either case, the division license should specify which disposal method is being used by the pharmacy and licensee to avoid compatibility conflicts with division 50 requirements.

(52) "Other Measuring Device" means a source-specific license issued pursuant to OAR 333-103-0010(2)(t), authorizing analytical instruments, gas chromatograph electron capture detectors, and other nonportable analytical instruments, including those devices that contain multiple sources but are configured and used as a "system," in accordance with the definition in this rule.

NOTE: General license gas chromatograph detectors that formerly were granted a general license by OAR 333-102-0115, but which required a registration fee pursuant 333-103-0015(2)(b), now are subject to the specific license in 333-103-0010(2)(t).

(53) "Pool-type Irradiator" means an irradiator with greater than 10,000 curies (370 TBq) in which water provides the radiation shielding, authorized in accordance with division 121 of this chapter.

(54) "Portable Gauge" means a source-specific license issued pursuant to OAR 333-103-0010(2)(u) for sources used in devices that can be transported and used at temporary job sites.

NOTE: Any device that meets the definition of "portable gauge" and is transported or used at temporary job sites within the state of Oregon, requires an application for and issuance of an Oregon specific license subject to OAR 333-103-0010(2)(u).

(55) "Positron Emission Tomography" (PET) means a licensed healing arts activity authorized by 333-116-0800 and included in the facility specific license issued pursuant to OAR 333-103-0010(2)(j). PET nuclides, which are NARM, are subject to all Oregon rules.

(56) "Possession or Storage of Industrial Wastes Containing Radioactive Material" means activities subject to division 110 of this chapter for the production or storage of wastes that are exempt from division 50 of OAR chapter 345 facility siting requirements, and were generated under a current NRC, Agreement State, or Licensing State specific radioactive materials license.

(57) "Possession or Storage of Uranium Tailings" means activities incident to uranium processing or milling operations resulting in the production of tailings.

(58) "Principal Activities" means activities authorized by the license that are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(59) "Processing" means chemically or physically changing a licensed material from one physical form to another form or specie (e.g., breaking an ore down into its components resulting in "tailings"; milling a raw licensed material and combining to form another product or material. See "Beneficiating"; "Manufacturing or Compounding".

(60) "Radiation Source" means source of radiation (see definition of "Source of radiation" in OAR 333-100-0005).

(61) "Radioactive Material Not Otherwise Specified Facility" means a license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that includes, but are not limited to, complex licensable activities such as facility decontamination and decommissioning, nuclear laundry activities, uranium mill tailings storage, storage of industrial wastes containing radioactive materials, large irradiator management, and other complex activities not otherwise specified in these rules.

(62) "Radioactive Materials License" means the document, pursuant to OAR 333-102-0300, issued after an application, pursuant to OAR 333-102-0190, has been accepted as adequate, that specifies radioactive materials, use authorizations, safety procedures, and use locations.

(63) "Radiopharmaceutical Therapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(v) authorizing the use of Radiopharmaceutical for therapy in accordance with OAR 333-116-0360.

(64) "Remote Afterloader" means a medical device that moves a sealed source to an interstitial (in vivo) location without exposing the practitioner to the radiation dose. Remote afterloader sources may be manipulated using computer software and engineering techniques.

(65) "Research & Development" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(x) authorizing research and development activities, as defined in OAR 333-100-0005(112), but does not authorize additional specific sources of radiation, which must be licensed separately pursuant to OAR 333-103-0010 and 333-103-0015.

(66) "Responsible Representative" means the person designated as having responsibility for general license device or general license material; the person management has selected to certify general license inventory; and the individual responsible to the Agency and to management to ensure that all regulatory elements are adequate.

(67) "Sealed source/device evaluation" means the review of a licensee's prototype source or device prior to registration by the Nuclear Regulatory Commission in the Sealed Source and Device Catalog.

NOTE: The Agency no longer has authority to review sources or devices. All source or device reviews must be forwarded to the NRC for review. Authority to conduct device or source evaluations was rescinded by the NRC in 1998.

(68) "Site Area Emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(69) "Sealed Sources for Diagnosis" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(y) authorizing the use of sealed sources for diagnosis in accordance with OAR 333-116-0400.

(70) "Special Nuclear Material (sealed)" means a source-specific license issued pursuant to OAR 333-103-0010(2)(aa), authorizing the use, possession, or transfer of sealed sources (special form) containing special nuclear material, as defined in OAR 333-100-0005(134) (See "Neutron Howitzer"; "Neutron Production".)

(71) "Special Nuclear Material (unsealed)" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(bb), authorizing the use, possession, or transfer of unsealed (normal form) special nuclear material, as defined in OAR 333-100-0005.

(72) "Specific License Radioactive Material" means radioactive material that requires authorization in a specific license document pursuant to OAR 333-102-0075(2) where materials must be annoted on the specific license, and validated with a specific license fee pursuant to 333-103-010(2)(a) through 333-103-0010(2)(hh) (see "Radioactive Materials License").

(73) "System," as used in this chapter, means multiple separate (individual) sources of radiation (sealed radioactive sources), which together, rather than independently, achieve a desired functionality. Such "system" is subject to one specific license fee or general license registration fee, as the case may be.

(74) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(75) "Teletherapy" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(cc) authorizing teletherapy procedures in accordance with OAR 333-116-0480. This license also includes other high dose rate external beam therapy devices such as the "gamma knife."

(76) "Temporary Job Site" means any location, where specific license material is used that is either:

(a) Not the specific location of the licensee if an in-state licensee; or

(b) Any location in the State if an out-of-state specific licensee pursuant to a specific radioactive materials license.

NOTE: Persons authorized for temporary jobsites in Oregon must have a specific license for such activities.

(77) "Therapy" means a process that is meant to be restorative, promotes healing, or is beneficial to a patient in a healing arts context.

(78) "Unique" means a specific license issued pursuant to OAR 333-103-0010(2)(dd) to Agencies in the Oregon Health Services.

(79) "Uptake and Dilution" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ee) authorizing activities in 333-116-0300 for uptake, dilution, and excretion studies.

(80) "Use and Possession of Source Material " means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(z) to possess, use, process, or transfer source material, as defined in OAR 333-100-0005(123), in quantities greater than general license quantities or in concentrations greater than 0.05 percent source material.

NOTE: This definition was amended to avoid confusion between the definition of "source material" in division 100 of this chapter and the specific license (billable object) in division 103 of this chapter.

(81) "Use of Xenon Gas" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ff) authorizing the use of Xe-133 for diagnosis pursuant to OAR 333-116-0280;

(82) "Waste Packaging" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(gg), authorizing packaging, collection, storage, and transfer of radioactive waste. This specific license does not authorize storage of radioactive wastes, but does authorize temporary job sites.

(83) "Well Logging" means a license issued pursuant to OAR 333-103-0010(2)(hh) authorizing the possession, use, transfer, or disposal of sources of radiation used for well logging activities authorized by division 113 of this chapter.

NOTE: Unless specifically authorized in this rule or in a radioactive materials license that authorizes temporary job sites, specific licenses shall be used only at one authorized site.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0235

Requirements for License to Manufacture, or Initially Transfer Radioactive Material Contained in Devices Granted a General License Under OAR 333-102-0115

(1) An application for a specific license to manufacture, or initially transfer devices containing radioactive material, excluding special nuclear material, to persons granted a general license by OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(a) The applicant satisfies the general requirements of OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(A) The device can be safely operated by persons not having training in radiological protection;

(B) Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device; and it is unlikely that any person will receive in one (1) year a dose in excess of 10 percent of the annual limits specified in OAR 333-120-0100; and

(C) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the dose to the appropriate organ as specified in Column IV of the table in 10 CFR Part 32.24:

(i) Whole body, head and trunk, active blood-forming organs, gonads, or lens of eye 150 mSv (15 rem);

(ii) Hands and forearms, feet and ankles, localized areas of skin averaged over areas no larger than one (1) square centimeter 2 Sv (200 rem);

(iii) Other organs 500 mSv (50 rem).

(c) Each device bears a durable, legible, clearly visible label or labels approved by the Agency, which contain in a clearly identified and separate statement:

(A) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(B) The requirements, or lack of requirement, for leak testing, or for testing of any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(C) The information called for in the following statement in the same or substantially similar form:

The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or of a State with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION — RADIOACTIVE MATERIAL

_____

(Name of manufacturer or initial transferor)

NOTE: Devices licensed under 10 CFR Part 32.51 prior to January 19, 1975 may bear labels authorized by the regulations in effect on January 1,1975. The model, serial number, and name of manufacturer, or initial transferor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(D) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in 333-120-0400, and the name of the manufacturer or initial distributor.

(E) Each device meeting the criteria of 333-102-0115(9)(a), bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in 333-120-0400.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or both, the applicant must include in this application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

(a) Primary containment (source capsule);

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under OAR 333-102-0115, or under equivalent rules of the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, be authorized to install the device, collect the sample to be analysed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant must include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and the bases for these estimates. The submitted information must demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the annual limits specified in OAR 333-120-0100.

(4) Prior to transfer of a device to a person granted a general license by OAR 333-102-0115(1), the licensee must:

(a) Furnish a copy of the general license contained in OAR 333-102-0115 to each person to whom the licensee directly, or through an intermediate person, transfers radioactive material in a device for use pursuant to the general license contained in OAR 333-102-0115;

(b) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State's rules equivalent to OAR 333-102-0115. Alternatively, a copy of the general license contained in OAR 333-102-0115 must be furnished to each person to whom directly, or through an intermediate person, is transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission, the Agreement State or the Licensing State. If a copy of the general license in OAR 333-102-0115 is furnished to such person, it must be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State under requirements substantially the same as those in OAR 333-102-0115;

(c) Report to the Agency all transfers of such devices to persons for use under the general license in OAR 333-102-0115. Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. If no transfers have been made to persons granted a general license by OAR 333-102-0115 during the reporting period, the report must so indicate. The report must cover each calendar quarter and must be filed within 30 days after the end of each quarter;

(d) Furnish reports to other agencies

(A) Report to the U.S. Nuclear Regulatory Commission all transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 31.5 of 10 CFR Part 31. Reports must be submitted on the NRC form "Transfers of Industrial Devices Report" or on a clear and legible report containing all of the data required by the form. The required information includes:

(i) The identity of each general licensee by name and address;

(ii) The name and phone number of the person designated by the general licensee to be responsible for ensuring compliance with the appropriate regulations and requirements;

(iii) The date of transfer; the type, model number, and serial number of the device transferred; and

(iv) The quantity and type of byproduct material contained in the device.

(v) If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include the same information for each intermediate person, and clearly designate that person as an intermediate person.

(vi) If the device transferred replaced another returned by the general licensee, report also the type, model number, and serial number of the one returned.

(vii) If no transfers have been made to persons generally licensed under 10 CFR 31.5 or OAR 333-102-0115 during the reporting period, the report must so indicate.

(viii) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(ix) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(B) Report to the responsible Agreement or Licensing State agency all transfers of such devices to persons for use under a general license in an Agreement State's regulations equivalent to OAR 333-102-0115. Such reports must identify all of the information in 333-102-0235(4)(d) of this rule, including each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. The report must be submitted within 30 days after the end of each calendar quarter in which such device is transferred to the person granted a general license;

(e) If no transfers have been made to U.S. Nuclear Regulatory Commission's licensees during the reporting period, this information must be reported to the U.S. Nuclear Regulatory Commission;

(f) If no transfers have been made to persons granted a general license within a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State agency upon request of the agency;

(g) Keep records showing the name, address and the point of contact for each general licensee to whom directly, or through an intermediate person is transferred radioactive material in devices for use pursuant to the general license provided in OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The records should show the date of each transfer, the isotope and the quantity of radioactive material in each device transferred, the identity of any intermediate person and compliance with the reporting requirements of 333-102-0235(4)(h) of this rule. Records required by this rule must be maintained for a period of three years following the estimated useful life of the device or the date of final disposition, if known;

(h) Furnish a list of the services that only can be performed by a specific licensee, and information on acceptable disposal options, including estimated costs of disposal, to each person to whom he directly, or through an intermediate person, transfers radioactive material in a device for use under the general license granted in 333-102-0115;

(i) Furnish the name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained. If a copy of the general license in OAR 333-102-0115 is furnished to such person, it must be accompanied by a note explaining that use of the device is regulated by the Agreement State.

(j) Label each device transferred if more than one year after the effective date of this rule in accordance with the labeling requirements in 10 CFR Part 32.51(a)(3) through (5).

(k) If a notification of bankruptcy has been made under 10 CFR Part 30.34(h) or the license is to be terminated, provide, upon request, to the NRC and to any appropriate Agreement State, records of final disposition required under 10 CFR Part 32.52(c).

(5) License Conditions.

(a) If a device containing radioactive material is to be transferred for use under the general license contained in 333-102-0115, each person that is licensed under this rule must provide the information specified in this paragraph to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of the general license contained in 333-102-0115; if 333-102-0115(4)(b) through (d) or 333-102-0115(8) do not apply to the particular device, those paragraphs may be omitted;

(B) A copy of 333-102-0115, 333-100-0055, 333-100-0057, 333-120-0700 and 333-120-0710;

(C) A list of the services that can only be performed by a specific licensee;

(D) Information on acceptable disposal options including estimated costs of disposal; and

(b) If radioactive material is to be transferred in a device for use under an equivalent general license of an Agreement State, each person that is licensed under this rule must provide the information specified in this paragraph to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of the Agreement State's regulations equivalent to 333-102-0115, 333-100-0055, 333-100-0057, 333-120-0700 and 333-120-0710 or a copy of 10 CFR Secs. 31.5, 31.2, 30.51, 20.2201, and 20.2202. If a

copy of the Nuclear Regulatory Commission regulations is provided to a prospective general licensee in lieu of the Agreement State's regulations, it must be accompanied by a note explaining that use of the device is regulated by the Agreement State. If certain paragraphs of the regulations do not apply to the particular device, those paragraphs may be omitted;

(B) A list of the services that can only be performed by a specific licensee;

(C) Information on acceptable disposal options including estimated costs of disposal; and

(D) The name or title, address, and phone number of the contact at the Agreement State regulatory agency or the Nuclear Regulatory Commission from which additional information may be obtained.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0245

Introduction of Radioactive Material in Exempt Concentrations into Products or Materials, and Transfer of Ownership or Possession: Requirements for License

An application for a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another and the transfer of ownership or possession of the product or material containing the radioactive material: will be approved if the applicant:

(1) Satisfies the general requirements specified in OAR 333-102-0200;

(2) Provides a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioiosotopes in the product or material at the time of transfer;

(3) Provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in 10 CFR Part 30.70 Schedule A, that reconcentrating of the radioactive material in concentrations exceeding those in 10 CFR Part 30.70 Schedule A is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(4) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under 10 CFR Part 30.14 or equivalent regulations of an Agreement State, except in accordance with a license issued pursuant to 10 CFR Part 32.11 or the general license provided in 10 CFR Part 150.20 (reciprocity).

(5) Each person licensed under this rule must maintain records of transfer of material and file reports with the Agency as required in 333-102-0247.

NOTE: 10 CFR Part 30.70 Schedule A referred to or incorporated by reference in this rule is attached to this division or available from Radiation Protection Services.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0247

Records and Material Transfer Reports

Each person licensed under 333-102-0235 to initially transfer devices to generally licensed persons must comply with the requirements of this rule.

(1) The licensee must report on a quarterly basis all transfers of devices to persons for use under the general license in 333-102-0115 and all receipts of devices from persons licensed under 333-102-0115 to the Agency.

(a) The required information for transfers to general licensees includes:

(A) The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee must be submitted along with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type, model number, and serial number of the device transferred; and

(E) The quantity and type of byproduct material contained in the device.

(b) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(c) For devices received from a 333-102-0115 general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(d) If the licensee makes changes to a device possessed by a 333-102-0115 general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(e) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(f) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(g) If no transfers have been made to or from persons generally licensed under 333-102-0115 of this chapter during the reporting period, the report must so indicate.

(2) The licensee must report all transfers of devices to persons for use under a general license in an Agreement State's regulations that are equivalent to 333-102-0115 of this chapter and all receipts of devices from general licensees in the Agreement State's jurisdiction to the responsible Agreement State agency.

(a) The required information for transfers to general licensees includes:

(A) The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee must be submitted along with information on the actual location of use.

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type, model number, and serial number of the device transferred; and

(E) The quantity and type of byproduct material contained in the device.

(b) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(c) For devices received from a general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(d) If the licensee makes changes to a device possessed by a general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(e) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(f) The report must clearly identify the specific licensee submitting the report and must include the license number of the specific licensee.

(g) If no transfers have been made to or from a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State agency upon request of the agency.

(3) The licensee must maintain all information concerning transfers and receipts of devices that supports the reports required by this section. Records required by this paragraph must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0255
Licensing the Distribution of Radioactive Material in Exempt Quantities

(1) An application for a specific license to distribute NARM to persons exempted from these rules pursuant to OAR 333-102-0035 will be approved if:

(a) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(b) The radioactive material is in the form of processed chemical elements, compounds or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product or device intended for commercial distribution; and

(c) The applicant submits copies of prototype labels and brochures and the Agency approves such labels and brochures.

(2) The license issued under this rule is subject to the following conditions:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) No more than 10 exempt quantities may be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions must not exceed unity;

(b) Each exempt quantity must be separately and individually packaged. No more than 10 such packaged exempt quantities must be contained in any outer package for transfer to persons exempt pursuant to OAR 333-102-0035. The outer package must be such that the dose rate at the external surface of the package does not exceed 0.5 millirem (5 microSv) per hour;

(c) The immediate container of each quantity or separately packaged fractional quantity of radioactive material must bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and

(B) Bears the words Radioactive Material.

(d) In addition to the labeling information required by OAR 333-102-0255(2)(c) of this rule, the label affixed to the immediate container, or an accompanying brochure, must:

(A) State that the contents are exempt from Licensing State requirements;

(B) Bear the words, Radioactive Material — Not for Human Use — Introduction into Foods, Beverages, Cosmetics, Drugs or Medicinals or into Products Manufactured for Commercial Distribution is Prohibited — Exempt Quantities Should Not Be Combined; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(3) Each person licensed under this rule must maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under OAR 333-102-0035 or the equivalent rules of any Agreement State or Licensing State and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license must be filed with the Agency. Each report must cover the year ending June 30, and must be filed within 30 days thereafter. If no transfers of radioactive material have been made pursuant to this rule during the reporting period, the report must so indicate.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0260
Licensing the Incorporation of Naturally Occurring and Accelerator-Produced Radioactive Material into Gas and Aerosol Detectors

An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under OAR 333-102-0025 will be approved if the application satisfies requirements equivalent to those contained in section 32.26 of 10 CFR Part 32. The maximum quantity of radium-226 in each device must not exceed 0.1 microcurie (3.7 kBq).

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0285
Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Radioactive Material for Medical Use Under Division 116

(1) An application for a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs containing radioactive material for use by persons authorized pursuant to division 116 of this chapter will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits evidence that the applicant is at least one of the following:

(A) Registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer;

(B) Registered or licensed with a state agency as a drug manufacturer;

(C) Licensed as a pharmacy by a State Board of Pharmacy; or

(D) Operating as a nuclear pharmacy within a Federal medical institution.

(c) The applicant submits information on the radionuclide, chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

(d) The applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee described by paragraph OAR 333-102-0285(1)(b)(C) or (D) of this rule:

(a) May prepare radioactive drugs for medical use, as defined in OAR 333-116-0020, provided that the radioactive drug is prepared either by an authorized nuclear pharmacist, as specified in paragraph (2)(b) and (2)(c), or an individual under the supervision of an authorized nuclear pharmacist as specified in 333-116-0100.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) This individual qualifies as an authorized nuclear pharmacist as defined in OAR 333-116-0020;

(B) This individual meets the requirements specified in OAR 333-116-0910 and 333-116-0915 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) This individual is designated as an authorized nuclear pharmacist in accordance with paragraph 333-116-0285(2)(c).

(c) The actions authorized in paragraphs 333-116-0285(2)(a) and (b) of this rule are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist (as defined in OAR 333-116-0020 as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an authorized user on a nuclear pharmacy license issued by the Agency pursuant to this division.

(e) Must provide to the Agency a copy of each individual's certification by the Board of Pharmaceutical Specialties, the Commission or Agreement State license, or the permit issued by a licensee of broad scope, and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to paragraphs OAR

333-102-0285(2)(b)(A) and (C) of this rule, the individual to work as an authorized nuclear pharmacist.

(3) A licensee must possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee must have procedures for use of the instrumentation. The licensee must measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee must:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this section relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

NOTE: Although the Agency does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Agency for use by persons licensed for medical use pursuant to OAR 333-116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0290

Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use

(1) An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to division 116 of this chapter for use as a calibration or reference source or for the uses listed in OAR 333-116-0400 and 333-116-0420 will be approved if:

(a) The applicant satisfies the general requirements in OAR 333-102-0200.

(b) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(A) The radioactive material contained, its chemical and physical form and amount;

(B) Details of design and construction of the source or device;

(C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(D) For devices containing radioactive material, the radiation profile of a prototype device;

(E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(F) Procedures and standards for calibrating sources and devices;

(G) Legend and methods for labeling sources and devices as to their radioactive content; and

(H) Instructions for handling and storing the source or device from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device. Provided, that instructions that are too lengthy for such a label may be summarized on the label and printed in detail on a brochure that is referenced on the label.

(c) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, date of assay and a statement that the U.S. Nuclear Regulatory Commission has approved distribution of the (name of source or device) to persons licensed to use radioactive material identified in OAR 333-116-0190, 333-116-0400, or 333-116-0420, as appropriate, and to persons who hold an equivalent license issued by an Agreement State or the US Nuclear Regulatory Commission. However, labels worded in accordance with requirements that were in place on March 30, 1987 may be used until March 30, 1989.

(2) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months,

(a) The applicant must include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(b) In determining the acceptable interval for test of leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

(A) Primary containment or source capsule;

(B) Protection of primary containment;

(C) Method of sealing containment;

(D) Containment construction materials;

(E) Form of contained radioactive material;

(F) Maximum temperature withstood during prototype tests;

(G) Maximum pressure withstood during prototype tests;

(H) Maximum quantity of contained radioactive material;

(I) Radiotoxicity of contained radioactive material; and

(J) Operating experience with identical sources or devices similarly designed and constructed sources or devices.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0293

Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications

(1) An application for a specific license to manufacture industrial products or devices containing depleted uranium for use pursuant to OAR 333-102-0103 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in OAR 333-120-0100 of these rules; and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the Agency will approve an application for a specific license under this rule only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The Agency may deny any application for a specific license under this rule if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to 333-102-0293(1) of this rule must:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device; and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

(A) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the quantity of depleted uranium in each product or device; and

(B) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State.

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: Depleted Uranium.

(A) Furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license contained in OAR 333-102-0103; or

(B) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to OAR 333-102-0103 and a copy of the U.S. Nuclear Regulatory

Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in OAR 333-102-0103.

(d) Report to the Agency all transfers of industrial products or devices to persons for use under the general license in OAR 333-102-0103. Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons granted a general license by OAR 333-102-0103 during the reporting period, the report must so indicate.

(e) Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 40.25 of 10 CFR Part 40.

(A) Report to the responsible state agency all transfers of devices manufactured and distributed pursuant to OAR 333-102-0115 for use under a general license in that state's regulations equivalent to OAR 333-102-0103.

(B) Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person.

(C) If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information must be reported to the U.S. Nuclear Regulatory Commission; and

(f) If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State agency upon the request of that agency.

(g) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in OAR 333-102-0101(4) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records must be maintained until inspection by the Agency and must show the date of each transfer, the quantity of depleted uranium in each product or device transferred and compliance with the report requirements of 333-102-0293(9) of this rule.

(h) Licensees required to submit emergency plans by OAR 333-102-0190(9) must follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Agency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0297
Sealed Source or Device Evaluation

No sealed source or device containing radioactive material must be authorized on a specific license or general license until radiation safety information for that sealed source or device has been evaluated by the Agency, the U.S. Nuclear Regulatory Commission, another Agreement State, or a Licensing State.

(1) Any manufacturer or initial distributor of a sealed source or device containing a sealed source licensed by the Agency must submit a request to the Agency for evaluation of radiation safety information about the sealed source or device containing a sealed source.

(2) The request for review must contain sufficient information about the sealed source or device to include the radioactive material contained, its chemical and physical form, and amount; details of design and construction; procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents; details of quality control and quality assurance procedures to ensure that production sources and devices meet the standards of the design and prototype tests; labeling; proposed uses; and procedures for leak testing.

(3) For a device containing radioactive material, the request also must contain sufficient information about the device to include the radiation profile of a prototype device; method of installation; service and maintenance requirements; and operating and safety instructions.

(4) After review of the request the Agency may issue an evaluation documenting the information in OAR 333-102-0297(2) of this rulefor sealed sources and OAR 333-102-0297(3) of this rule for devices containing radioactive material.

(5) The manufacturer/distributor submitting the request for evaluation of the safety information about the product must manufacture and distribute the product in accordance with the statements and representations contained in the request, documentation required to support the request, and the provisions of the evaluation.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0305
Specific Terms and Conditions of License

(1) Each license issued pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter are subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations and orders of the Agency.

(2) No license issued or granted pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter nor any right may be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Agency, after securing full information, shall find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

(3) Each person licensed by the Agency pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter must confine the use and possession of the radioactive material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall carry with it the right to receive, acquire, own, and possess radioactive material. Preparation for shipment and transport of radioactive material must be in accordance with the provisions of division 118 of this chapter.

(4) Each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be deemed to contain the provisions set forth in section 183b.-d., inclusive, of the Atomic Energy Act of 1954, As Amended, whether or not these provisions are expressly set forth in the license.

(5) The Agency may incorporate, in any license issued pursuant to pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material as it deems appropriate or necessary in order to:

(a) Promote the common defense and security;

(b) Protect health or to minimize danger to life or property;

(c) Protect restricted data;

(d) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(6) Licensees required to submit emergency plans by OAR 333-102-0200(10) must follow the emergency plan approved by the Agency. The licensee may change the approved plan without Agency approval only if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Agency and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Agency.

(7) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators must test the generator eluates for molybdenum-99 breakthrough in accordance with OAR 333-116-0330. The licensee must record the results of each test and retain each record for three years after the record is made.

(8)(a) Each general licensee subject to the registration requirement in OAR 333-101-0007 and each specific licensee must notify the Agency in writing immediately following the filing of a voluntary or involuntary

petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101 (14)) controlling the licensee or listing the license or licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101 (2)) of the licensee.

(b) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) The date of the filing of the petition.

(9) Sealed sources or detector cells containing licensed material must not be opened or sources removed from source holders or detector cells by the licensee.

(10) No licensee may acquire licensed radioactive material in a sealed source or in a device that contains a sealed source unless the source or device has been registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.

(11) Any sealed source fabricated by a licensee must be registered, inspected, and tested for construction defects, leakage, and contamination prior to any use or transfer as a sealed source in accordance with requirements in 10 CFR 32.210.

(12) Each licensee must conduct a physical inventory at intervals not to exceed six months to account for all radioactive material received and possessed by licensee. Inventories must include the types and quantities of radioactive material, location of materials, date of receipt, and the date of the inventory; and for sealed sources, the inventory must include the types and quantities of sealed sources, sealed source manufacturer, model number, serial number, date of receipt, condition of sealed sources, and the date of the inventory. Records of the inventories required by OAR 333-102-0305(12) must be kept until inspection by the agency.

(13) Each licensee must transport radioactive material or deliver radioactive material to a carrier for transport in accordance with the provisions of Parts 170 through 189 of Title 49, Code of Federal Regulations and in accordance with division 118 of this chapter, "Transportation of Radioactive Material."

(14) Each licensee possessing a device licensed pursuant to OAR 333-103-0010(2)(h) must perform an inspection of all devices at intervals not to exceed six months. Inspections must include condition of labeling and posting of each radiation device, and corrective actions taken if any; condition of shutter operation, if applicable, of each device, and corrective actions taken if any; and location of each device. Records of the inspections required by OAR 333-102-0305(14) of this rule must be kept until inspection by the agency.

(15) No licensee may open or remove radioactive material from sealed sources or detector cells containing licensed radiation sources.

(16) No person may repair, modify, dismantle, or effect any change in licensed devices or radiation sources, nor modify nor alter labels affixed to licensed devices by the manufacturer

(17) Installation, initial radiation survey, relocation, removal from service, maintenance, and repair of fixed gauging devices containing radioactive sealed sources, and installation, replacement, and disposal of sealed sources must be performed only by persons specifically authorized by the Agency, the U.S. Nuclear Regulatory Commission, or another Agreement state to perform such services. Records of all surveys must be maintained for inspection by the Radiation Protection Agency.

(18) If the licensee has previously determined that monitoring for internal exposure pursuant to OAR 333-120-0130, 333-120-0210, or 333-120-0320 is required, the data and results of this evaluation must be placed in the worker's exposure records and included the worker's Oregon Form Z report.

(19) Testing for Leakage or Contamination of Sealed Sources must be in accordance with requirements in OAR 333-120-0460. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, a sealed source or detector cell received from another person must not be put into use until tested.

(20) Detector cells must be used only in conjunction with a properly operating temperature control mechanism that prevents foil temperatures from exceeding manufacturer's specifications. Exhaust from detector cells must be vented to keep exposures to personnel and the public as low as reasonably achievable pursuant to OAR 333-120-0180.

(21) Licensees who possess sealed sources used for testing at field sites must possess at such locations transport documents, a current copy of the specific radioactive materials license, specific license validation certificates, the current leak test certificate, and the licensee's operating and emergency procedures. Licensed materials stored in an unrestricted area must be secured from unauthorized removal from the place of storage in accordance with provisions of OAR 333-120-0250 and 333-120-0260.

(22) Any specific licensee is authorized to receive, possess, use, transfer, and import up to 999 kilograms of uranium contained as shielding for specific licensed radioactive material authorized by license.

(23) A licensee may store, pursuant to OAR 333-120-0500, radioactive waste with a physical half-life of less than 65 days, for decay-in-storage, before disposal in ordinary trash, provided that:

(a) Waste to be disposed of by storage-for-decay must be held for decay a minimum of 10 half-lives; and

(b) Prior to disposal in ordinary trash, decayed waste must be surveyed with an instrument that will properly record background radiation dose, to confirm that the radioactivity cannot be distinguished from background. All radiation labels must be removed or obliterated; and

(c) Notwithstanding OAR 333-102-0305(22)(a) iodine-125 waste in microcurie amounts may be held for a minimum of five half-lives. Such waste must be surveyed with an appropriate instrument prior to disposal to confirm that waste is indistinguishable from background.

(24) Licensed materials in an unrestricted area and not in storage must be tended under the constant surveillance and immediate control of the licensee.

(25) Except as otherwise specified in a radioactive materials license, the licensee must have available and follow the instructions contained in the manufacturer's instruction manual for the chromatography device.

(26) In lieu of using the conventional radiation caution colors (magenta or purple on yellow background) as provided in OAR 333-120-0400(2) of the Oregon Rules for the control of Radiation, the licensee is hereby authorized to label detector cells and cell baths, containing licensed radioactive material and used in gas chromatography devices, with conspicuously etched or stamped radiation caution symbols without a color requirement.

(27) If a radiography licensee plans to use, during normal industrial radiographic operations subject to division 105 of this chapter, two or more exposure devices at one jobsite, the licensee must require at least one Radiographer or Radiographer Instructor authorized user for each exposure device, and the total number of authorized personnel (radiographers and assistant radiographers) at the temporary jobsite must not be less than n+1 where n=the number of cameras.

(28) Security requirements for portable devices containing licensed radioactive materials. Each portable device containing licensed radioactive materials must be secured using a minimum of two independent physical controls that form tangible barriers to prevent unauthorized removal or use, whenever the portable device is not under the direct control and constant surveillance of the licensee.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0310

Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

(1)(a) Except as provided in OAR 333-102-0310(1)(b) of this rule, each specific license must expire at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under 333-102-0315 before the expiration date stated in the existing license (or, for those licenses subject to paragraph 333-102-0310(1)(b) of this rule, before the deemed expiration date in that paragraph). If an application for renewal has been filed before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this rule, before the deemed expiration date in that paragraph), the existing license expires at the end of the day on which the Agency makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in paragraph OAR 333-102-0310(1)(c) of this rule, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(c) The following specific licenses are not subject to, or otherwise affected by, the provisions of paragraph OAR 333-102-0310(1)(b) of this rule:

(A) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with OAR 333-102-0190(9);

(B) Specific licenses whose holders are subject to the financial assurance requirements specified in OAR 333-102-0200(6), and on February 15, 1996, the holders either:

(i) Have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or

(ii) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(C) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(D) Specific licenses who need an environmental assessment or environmental impact statement pursuant to Subpart A of Part 51 and OAR 333-102-0200(5);

(E) Specific licenses whose holders have not had at least one Agency inspection of licensed activities before February 15, 1996;

(F) Specific licenses whose holders, as the result of the most recent Agency inspection of licensed activities conducted before February 15, 1996, have been:

(i) Cited for a serious health and safety noncompliance;

(ii) Subject to an Order issued by the Agency; or

(iii) Subject to a Confirmatory Action Letter issued by the Agency.

(G) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under OAR 333-102-0315.

(2) Each specific license revoked by the Agency expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Agency Order.

(3) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material until the Agency notifies the licensee in writing that the license is terminated. During this time, the licensee must:

(a) Limit actions involving radioactive material to those related to decommissioning; and

(b) Continue to control entry to restricted areas until they are suitable for release in accordance with Agency requirements.

(4) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in OAR 333-100-0045, each licensee must provide notification to the Agency in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with Agency requirements, or submit within 12 months of notification a decommissioning plan, if required by paragraph (7)(a) of this rule, and begin decommissioning upon approval of that plan if:

(a) The license has expired pursuant to paragraph OAR 333-102-0310(1) or (2) of this rule; or

(b) The licensee has decided to permanently cease principal activities, as defined in OAR 333-102-0203, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements; or

(c) No principal activities under the license have been conducted for a period of 24 months; or

(d) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements.

(5) Coincident with the notification required by OAR 333-102-0310(4) of this rule, the licensee must maintain in effect all decommissioning financial assurances established by the licensee pursuant to OAR 333-102-0306 in conjunction with a license issuance or renewal or as required by this rule. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to OAR 333-102-0310(7)(d)(E) of this rule.

(a) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan must do so when this rule becomes effective November 24, 1995.

(b) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Agency.

(6) The Agency may grant a request to extend the time periods established in OAR 333-102-0310(4) of this rule if the Agency determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to 333-102-0310(4) of this rule. The schedule for decommissioning set forth in 333-102-0310(4) of this rule may not commence until the Agency has made a determination on the request.

(7)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Agency and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(D) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(b) The Agency may approve an alternate schedule for submittal of a decommissioning plan required pursuant to OAR 333-102-0310(4) of this rule if the Agency determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in 333-102-0310(7)(a) of this rule with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(A) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(B) A description of planned decommissioning activities;

(C) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(D) A description of the planned final radiation survey; and

(E) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning.

(F) For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan must include a justification for the delay based on the criteria in OAR 333-102-0310(9) of this rule.

(e) The proposed decommissioning plan will be approved by the Agency if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(8)(a) Except as provided in OAR 333-102-0310(9) of this rule, licensees must complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(b) Except as provided in OAR 333-102-0310(9) of this rule, when decommissioning involves the entire site, the licensee must request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

(9) The Agency may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Agency determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the Agency may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(10) As the final step in decommissioning, the licensee must:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are

suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E. The licensee must, as appropriate:

(A) Report levels of gamma radiation in units of millisieverts (microroentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters — removable and fixed — for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(11) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Agency determines that:

(a) Radioactive material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(A) A radiation survey has been performed that demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E; or

(B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E.

(d) The licensee has kept records of receipt, transfer, and disposal of radioactive material, pursuant to OAR 333-100-0055 that meet the following criteria:

(A) The licensee must retain each record of receipt of radioactive material as long as the material is possessed and for three years following transfer or disposal of the material.

(B) The licensee who transferred the material must retain each record of transfer for three years after each transfer unless a specific requirement in another part of the rules in this chapter dictates otherwise.

(C) The licensee who disposed of the material must retain each record of disposal of byproduct material until the Agency terminates each license that authorizes disposal of the material.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0320
Amendment of Licenses at Request of Licensee

Application for amendment of a license must be filed in accordance with OAR 333-102-0190 and must specify the respects in which the licensee desires the license to be amended and the grounds for such amendment.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0327
Specifically Licensed Items — Registration of Product Information

(1) Any manufacturer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to the U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards for evaluation of radiation safety information about its product and for its registration.

(2) The request for review must be made in duplicate and sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTE: The U.S. Nuclear Regulatory Commission charges a fee for processing a sealed source or device evaluation request. Contact the U.S. Nuclear Regulatory Commission directly for current fee structure.

(3) The request for review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and, for a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

(4) The U.S. Nuclear Regulatory Commission normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. The U.S. Nuclear Regulatory Commission uses criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property.

(5) After completion of the evaluation, the U.S. Nuclear Regulatory Commission, issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product.

(6) The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with:

(a) The statements and representations, including quality control program, contained in the request; and

(b) The provisions of the registration certificate.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0330
Transfer of Material

(1) No licensee may transfer radioactive material except as authorized pursuant to this rule.

(2) Except as otherwise provided in the license and subject to the provisions of 333-102-0330(3) and 333-102-0330(4) of this rule, any licensee may transfer radioactive material:

(a) To the Agency;

NOTE: A licensee may transfer radioactive material to the Agency only after receiving prior approval in writing from the Agency.

(b) To the U.S. Department of Energy;

(c) To any person exempt from the rules in this division to the extent permitted under such exemption;

(d) To any person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State, or to any person otherwise authorized to receive such material by the Federal Government or any agency thereof, the Agency, an Agreement State or a Licensing State; or

(e) As otherwise authorized by the Agency in writing.

(3) Before transferring radioactive material to a specific licensee of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, or to a general licensee who is required to register with the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State prior to receipt of the radioactive material, the licensee transferring the material must verify that the transferee's license authorizes the receipt of the type, form and quantity of radioactive material to be transferred.

(4) Any of the following methods for the verification required by 333-102-0330(3) of this rule are acceptable:

(a) The transferor may possess and read a current copy of the transferee's specific license or registration certificate;

(b) The transferor may possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(c) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date; provided, that the oral certification is confirmed in writing within 10 days;

(d) The transferor may obtain other information compiled by a reporting service from official records of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State regarding the identity of licensees and the scope and expiration dates of licenses and registration;

(e) When none of the methods of verification described in OAR 333-102-0330(4)(a) through 333-102-0330(4)(d) of this rule are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Agency, the U.S. Nuclear Regulatory Commission, the licensing agency of an Agreement State or a Licensing State that the transferee is licensed to receive the radioactive material.

(5) Shipment and transport of radioactive material must be in accordance with the provisions of division 118 of this chapter.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0345
Special Procedures in Regulatory Review

(1) The provisions of OAR 333-012-0001 to 333-012-0003 governing contested cases are applicable in any case where the Agency proposes to refuse to issue, renew, modify, amend, revise, revoke or suspend a general or specific license or to find noncompliance with or to refuse to grant exemption from a regulation of the Agency.

(2) In any case where the Agency proposes to grant, issue, renew, modify, amend or revise a general or specific license, or to find compliance or to grant exemption from a regulation of the Agency and the Public Health Division Administrator determines that such action would first merit public notice and opportunity for hearing, the following procedures shall be applicable:

(a) Notice of the proposed action shall be published in the Secretary of State's bulletin or a newspaper of general circulation in the state, which notice shall provide that within 15 days of the day of publication of the notice, any person whose interest may be affected by the outcome of the proceeding, or who represents a public interest in the results of the proceeding, may file a petition to be made a party and given an opportunity for hearing in the matter. The notice of proposed action shall set forth:

(A) The nature of the action proposed;

(B) The manner in which and the location at which inspection may be made of the Agency records pertaining to the proposed action; and

(C) A reference of the Agency's rules governing institution and conduct of hearings in radiation control proceedings.

(b) If no request for hearing is filed within the time prescribed in the notice, the proposed action shall be taken;

(c) If a hearing is requested, the person requesting to participate as a party must file a petition requesting party status and opportunity for hearing, setting forth the same information required of a person requesting party status in a contested case when the agency has given notice that it intends to hold a contested case hearing pursuant to OAR 137-003-0005(6). The same procedures for determining party status under OAR 137-003-0005 shall be followed upon receipt of the petition;

(d) If the agency allows party status, it shall in the same order set the time for a contested case hearing and provide notice of the order to the petitioner and all parties;

(e) A contested case shall proceed in accordance with the provisions of ORS 183 governing contested cases.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0350
Reporting Requirements

(1) Immediate report. Each licensee must notify the Agency as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(2) Twenty-four hour report. Each licensee must notify the Agency within 24 hours after the discovery of any of the following events involving licensed material:

(a) An unplanned contamination event that:

(A) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(B) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001-20.2401 of 10 CFR part 20 for the material; and

(C) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(b) An event in which equipment is disabled or fails to function as designed when:

(A) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(B) The equipment is required to be available and operable when it is disabled or fails to function; and

(C) No redundant equipment is available and operable to perform the required safety function.

(c) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(d) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(A) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001-20.2401 of 10 CFR part 20 for the material; and

(B) The damage affects the integrity of the licensed material or its container.

(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of this rule must be made as follows:

(a) Licensees must make reports required by paragraphs OAR 333-102-0350(1) and 333-102-0350(2) of this rule by telephone to the Agency. To the extent that the information is available at the time of notification, the information provided in these reports must include:

NOTE: The 24-hour telephone number for the Agency is 971-673-0515.

(A) The caller's name and call back telephone number;

(B) A description of the event, including date and time;

(C) The exact location of the event;

(D) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(E) Any personnel radiation exposure data available.

(b) Written report. Each licensee who makes a report required by paragraph OAR 333-102-0350(1) or (2) of this rule must submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be Faxed or sent to the Agency with Attention to Manager, Radiation Protection Services, Office of Environmental Public Health, 800 NE Oregon Street, Suite 640, Portland, OR 97232. The reports must include the following:

(A) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(B) The exact location of the event;

(C) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(D) Date and time of the event;

(E) Corrective actions taken or planned and the results of any evaluations or assessments; and

(F) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(4) The provisions of this rule apply to licensees subject to the notification requirements in OAR 333-102-0200(5).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0355
Records

(1) Each person who receives radioactive material pursuant to a license issued in accordance with the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter must keep records showing the receipt, transfer, and disposal of the radioactive material as follows:

(a) The licensee must retain each record of receipt of radioactive material as long as the material is possessed and for three years following transfer or disposal of the material.

(b) The licensee who transferred the material must retain each record of transfer for three years after each transfer unless a specific requirement in another division of the rules in this chapter dictates otherwise.

(c) The licensee who disposed of the material must retain each record of disposal of radioactive material until the Agency terminates each license that authorizes disposal of the material.

(2) The licensee must retain each record that is required by the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter or by license condition for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified by rule or license condition, the record must be retained until the Agency terminates each license that authorizes the activity that is subject to the record-keeping requirement.

(3)(a) Records that must be maintained pursuant to this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Agency rules. The record also may be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, or specifications, must include all pertinent information such as

stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

(b) If there is a conflict between the Agency's rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter, license condition, or other written Agency approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter for such records must apply unless the Agency, pursuant to OAR 333-102-0003, has granted a specific exemption from the record retention requirements specified in the rules in this division or divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(4) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, must forward the following records to the Agency Office:

(a) Records of disposals of licensed material made prior to January 28, 1981; and

(b) Records required by OAR 333-120-0620(2)(d).

NOTE: Prior to Oregon Department of Energy's Energy Facility Siting Council rules for burial of small quantities of licensed materials in soil was permitted without specific Agency authorization.

(5) If licensed activities are transferred or assigned in accordance with OAR 333-102-0305(2), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, must transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal of licensed material made under OAR 333-120-0510 (including burials authorized before January 28, 1981), 333-120-0520, 333-120-0530, 333-120-0540; and

(b) Records required by 333-120-0620(2)(d).

(6) Prior to license termination, each licensee must forward the records required by OAR 333-102-0200(6) to the Agency Office.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0365
Third Party Method

If the applicant consents, the Agency may enter into third party agreements for the applicant to engage and pay for the services of a third party contractor to prepare an environmental impact analysis required by OAR 333-102-0190 and/or to furnish an opinion of independent experts, satisfactory to the Agency, in respect to the completeness and adequacy of any information or data furnished by the applicant and on any aspect of the applicant's project or effects thereof.

(1) When the license applicant pays for a third party agreement, the monies paid for the consultant must not be considered as specific license fees, pursuant to OAR 333-103-0010 of this chapter.

(2) In proceeding under the third party agreement, the Agency shall carry out the following practices:

(a) Such contractor shall be chosen solely by the Agency.

(b) The Agency shall manage the contract.

(c) The consultant must be selected based on the consultant's ability and relevant and applicable work experience and an absence of conflict of interest. Third party contractors shall be required to execute a disclosure statement showing that they have no financial or other conflicting interest in the outcome of the project.

(d) The Agency shall specify the information to be developed and supervise the gathering, analysis and presentation of the information. The Agency shall have sole authority for approval and modification of the statement, analysis, and conclusions included in third party's report.

(e) The Agency has the single right of refusal of the final application. and the Agency is not obligated to approve the application or issue a license.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0900
Special Requirements for Specific Licenses of Broad Scope

This rule prescribes requirements for the issuance of specific licenses of broad scope for radioactive material and certain rules governing holders of such licenses.

(1) The different types of broad scope licenses are set forth below:

(a) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the multicurie range;

(b) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in 10 CFR, Part 30.100, Schedule A, for any authorized purpose. The possession limit for a Type B license of broad scope, if only one radionuclide is possess thereunder, is the quantity specified for that radionuclide in 10 CFR, Part 30.100, Schedule A, Column I. If two or more radionuclides are possessed thereunder, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in 10 CFR, Part 30.100, Schedule A Column I, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license must not exceed unity;

(c) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in 10 CFR, Part 30.100, Schedule A, for any authorized purpose. The possession limit for a Type C license of broad scope, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in 10 CFR, Part 30.100, Schedule A, Column II. If two or more radionuclides are possessed thereunder, the possession limit is determined for each as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in 10 CFR, Part 30.100, Schedule A, Column II, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license must not exceed unity.

(2) An application for a Type A specific license of broad scope will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(c) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting and management review that are necessary to assure safe operations, including:

(A) The establishment of a radiation safety committee composed of such persons as a radiation safety officer, a representative of management and persons trained and experienced in the safe use of radioactive material;

(B) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(C) The establishment of appropriate administrative procedures to assure:

(i) Control of procurement and use of radioactive material;

(ii) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user and the operating or handling procedures; and

(iii) Review, approval and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with subparagraph ii of this paragraph prior to use of the radioactive material.

(3) An application for a Type B specific license of broad scope will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200; and

(b) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(A) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(B) The establishment of appropriate administrative procedures to assure:

(i) Control of procurement and use of radioactive material;

(ii) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user and the operating or handling procedures; and

(iii) Review, approval and recording by the radiation safety officer of safety evaluations of proposed uses prepared in accordance with 333-102-0900(3)(b)(B)(ii) of this rule prior to use of the radioactive material.

(4) An applicant for a Type C specific license of broad scope will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:

(A) A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

(B) At least 40 hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used.

(c) The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, record keeping, material control and accounting, and management review necessary to assure safe operations.

(5) Specific licenses of broad scope are subject to the following conditions:

(a) Unless specifically authorized, persons licensed pursuant to this rule must not:

(A) Conduct tracer studies in the environment involving direct release of radioactive material;

(B) Receive, acquire, own, possess, use or transfer devices containing 100,000 curies (3.7 PBq) or more of radioactive material in sealed sources used for irradiation of materials;

(C) Conduct activities for which a specific license issued by the Agency under OAR 333-102-0225, 333-102-0235, 333-102-0240, 333-102-0245, 333-102-0250, 333-102-0255, 333-102-0260, 333-102-0265, 333-102-0270, 333-102-0275, 333-102-0285, 333-102-0290, 333-102-0293, 333-105, 333-110, 333-113, 333-115, 333-116, or 333-117 is required; or

(D) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion or inhalation by, or application to, a human being.

(b) Each Type A specific license of broad scope issued under this division shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee;

(c) Each Type B specific license of broad scope issued under this division shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer;

(d) Each Type C specific license of broad scope issued under this division shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of section (4) of this rule.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-102-0910

Specific Terms and Conditions for Broad Licenses

(1) No licensee may use radioactive material in or on human beings or in field applications where radioactive material is released except as specifically authorized by license.

(2) Experimental animals administered radioactive materials or their products must not be used for human consumption.

(3) Licensees must conduct a physical inventory every six months to account for all radioactive material received and possessed under the license. The records of the inventories must be maintained until inspection by the Radiation Protection Agency, and must include the quantities and kinds of radioactive material, location of sealed sources and the date of the inventory.

Stat. Auth.: ORS 453.605 - 453.807

Stat. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0003

Scope

The provisions and requirements of this division are in addition to, and not in substitution for, other requirements of these rules. In particular, the general requirements of divisions 100, 102, 111, 118, and 120 of this chapter apply to applicants and licensees, subject to this division. Divisions 102 and 118 of these rules apply to licensing and transportation of radioactive material, respectively. This rule does not apply to medical uses addressed in division 116.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0005

Definitions

As used in this division, the following definitions apply:

(1) "Annual refresher safety training" means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review must include, as a minimum, a review of radiation safety aspects of industrial radiography, any results of internal audits, Agency inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed. The review must also provide opportunities for employees to ask safety questions.

(2) "ANSI" means the American National Standards Institute.

(3) "Associated equipment" means equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures that drives, guides, or comes in contact with the source, (e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube and collimator when it is used as an exposure head.

(4) "Camera" see "Radiographic exposure device".

(5) "Certifying entity" means an independent certifying organization meeting the requirements in Appendix A of division 105 or an Agreement State regulatory program meeting the requirements in Appendix A, Sections II and III.

(6) "Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size, shape, and direction of the radiation beam.

(7) "Control drive cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

(8) "Control drive mechanism" means a device that enables the source assembly to be moved into and out of the exposure device.

(9) "Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

(10) "Drive cable" see "Control cable".

(11) "Exposure head" means a device that locates the gamma radiography sealed source in the selected working position. An exposure head also is known as a source stop or end cap.

(12) "Field station" means a facility from which sources of radiation may be stored or used and from which equipment is dispatched.

(13) "Guide tube" (projection sheath) means a flexible or rigid tube, or "J" tube, for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

(14) "Hands-on experience" means experience in all of those areas considered to be directly involved in the radiography process, and includes taking radiographs, calibration of survey instruments, operational and performance testing of survey instruments and devices, film development, posting of radiation areas, preparing radiographic sources for transport, set-up of radiography equipment, posting of records and radiation area surveillance, etc., as applicable. In addition the Radiation Safety Officer experience must include source exchange and source retrieval. Excessive time spent in only one or two of these areas, such as film development or radiation area surveillance, should not be counted toward the 2000 hours of hands-on experience required for a radiation safety officer in 333-105-0520 or the hands-on experience for a radiographer as required by 333-105-0530.

(15) "Independent certifying organization" means an independent organization that meets all of the criteria of Appendix A of this part.

(16) "Industrial radiography" means a nondestructive examination of the structure of materials using ionizing radiation to make radiographic images.

(17) "Lay-barge radiography" means industrial radiography performed on any water vessel used for laying pipe.

(18) "Lixiscope" means a portable light-intensified imaging device using a sealed source.

(19) "Offshore platform radiography" means industrial radiography conducted from a platform over a body of water.

(20) "Permanent radiographic installation" means an enclosed shielded room, cell, or vault, not located at a temporary jobsite, in which radiography is performed.

(21) "Personal supervision" means supervision in which the radiographer is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the radiographer's assistant and in such proximity that immediate assistance can be given if required.

(22) "Pigtail" see "Source assembly".

(23) "Pill" see "Sealed source".

(24) "Practical examination" means a demonstration through application of the safety rules and principles in industrial radiography including use of all procedures and equipment to be used by radiographic personnel.

(25) "Projection sheath" see "Guide tube".

(26) "Projector" see "Radiographic exposure device".

(27) "Radiation safety officer for industrial radiography" means an individual with the responsibility for the overall radiation safety program on behalf of the licensee and who meets the requirements of 333-105-0520.

(28) "Radiographer" means any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee for assuring compliance with the requirements of these rules and the conditions of the license or registration.

(29) "Radiographer certification" means written approval received from a certifying entity stating that an individual has satisfactorily met the radiation safety, testing, and experience criteria in 333-105-0530.

(30) "Radiographer's assistant" means any individual who, under the direct supervision of a radiographer, uses radiographic exposure devices, sources of radiation, related handling tools or radiation survey instruments in industrial radiography.

(31) "Radiographer instructor" means any radiographer who has been authorized by the Agency to provide on-the-job training to radiographer trainees in accordance with OAR 333-105-0530(3).

(32) "Radiographer trainee" means any individual who, under the direct supervision of a radiographer instructor, uses sources of radiation, related handling tools or radiation survey instruments during the course of his instruction.

(33) "Radiographic exposure device" (also called a camera or a projector) means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure.

(34) "Radiographic operations" means all activities performed with a radiographic exposure device. Activities include using, transporting (except when being transported by common or contract carriers), storing at a temporary job site, performing surveys to confirm the adequacy of boundaries, setting up equipment, and any activity inside restricted area boundaries. Transporting a radiation machine is not considered a radiographic operation.

(35) "Radiographic personnel" means any radiographer, radiographer's assistant, radiographer instructor or radiographer trainee.

(36) "Radiography" see "Industrial radiography".

(37) "Residential location" means any area where structures in which people lodge or live are located and the grounds on which such structures are located including, but not limited to, houses, apartments, condominiums and garages.

(38) "S-tube" means a tube through which the radioactive source travels when inside a radiographic exposure device.

(39) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(40) "Shielded position" means the location within the radiographic exposure device, source changer, or storage container that, by manufacturer's design, is the proper location for storage of the sealed source.

(41) "Source assembly" means an assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

(42) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices. They also may be used for transporting and storing sealed sources.

(43) "Storage area" means any location, facility or vehicle that is used to store and secure a radiographic exposure device, a radiation machine, or a storage container when it is not used for radiographic operations. Storage areas are locked or have a physical barrier to prevent accidental exposure, tampering with or unauthorized removal of the device, container, source, or machine.

(44) "Storage container" means a device in which sealed sources are secured or stored.

(45) "Temporary jobsite" means any location where radiographic operations are performed and where sources of radiation may be stored other than those location(s) of use authorized on the license or registration.

(46) "Transport container" means a package that is designed to provide radiation safety and security when sealed sources are transported and which meets all applicable requirements of the U.S. Department of Transportation.

(47) "Underwater radiography" means radiographic operations performed when the radiographic exposure device or radiation machine and/or related equipment are beneath the surface of the water.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0050
Exemptions

Industrial uses of lixiscopes are exempt from the requirements of this division if the dose rate 18 inches from the source of radiation to any individual does not exceed 2 millirem per hour. Devices that exceed this limit must meet the applicable requirements of this division and the licensing or registration requirements of division 101 or division 102 of these rules, as applicable.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0075
Licensing and Registration Requirements for Industrial Radiography Operations

The Agency will approve an application for a specific license for the use of licensed material if the applicant meets the following requirements:

(1) The applicant satisfies the general requirements specified in 333-102-0200 for radioactive material and any special requirements contained in this division;

(2) The applicant submits an adequate program for training radiographers and radiographer's assistants that meets the requirements of 333-105-0530:

(a) After July 1, 2003, the applicant need not describe the initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(b) From December 1, 2002 to July 1, 2003, the applicant may affirm that all individuals acting as industrial radiographers will be certified in radiation safety by a certifying entity before commencing duty as radiographers. This affirmation substitutes for a description of its initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(3) The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals acting as radiographers remains valid;

(4) The applicant submits written operating and emergency procedures as described in 333-105-0540;

(5) The applicant submits a description of a program for inspections of the job performance of each radiographer and radiographer's assistant at intervals not to exceed 6 months as described in 333-105-0530(5);

(6) The applicant submits a description of the applicant's overall organizational structure as it applies to the radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility;

(7) The applicant submits the qualifications of the individual(s) designated as the radiation safety officer as described in 333-105-0520(1);

(8) If an applicant intends to perform leak testing of sealed sources or exposure devices containing depleted uranium (DU) shielding, the applicant must describe the procedures for performing the test. The description must include the:

(a) Methods of collecting the samples;

(b) Qualifications of the individual who analyzes the samples;

(c) Instruments to be used; and

(d) Methods of analyzing the samples.

(9) If the applicant intends to perform calibrations of survey instruments and alarming ratemeters, the applicant must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in 333-105-0450 and 333-105-0560(7)(d);

(10) The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations;

(11) The applicant identifies the location(s) where all records required by this and other divisions of these rules will be maintained;

(12) If a license application includes underwater radiography, a description of:

(a) Radiation safety procedures and radiographer responsibilities unique to the performance of underwater radiography;

(b) Radiographic equipment and radiation safety equipment unique to underwater radiography; and

(c) Methods for gas-tight encapsulation of equipment; and

(13) If an application includes offshore platform and/or lay-barge radiography, a description of:

(a) Transport procedures for radioactive material to be used in industrial radiographic operations;

(b) Storage facilities for radioactive material; and

(c) Methods for restricting access to radiation areas.

(14) A license will be issued if 333-105-0075(1) through (13), as applicable, are met.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0420
Performance Requirements for Industrial Radiography Equipment

Equipment used in industrial radiographic operations must meet the following minimum criteria:

(1) Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standard Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981);

(2) In addition to the requirements specified in 333-105-0420(1) of this rule, the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources;

(a) The licensee must ensure that each radiographic exposure device has attached to it a durable, legible, clearly visible label bearing the:

(A) Chemical symbol and mass number of the radionuclide in the device;

(B) Activity and the date on which this activity was last measured;

(C) Model or product code and serial number of the sealed source;

(D) Name of the manufacturer of the sealed source; and

(E) Licensee's name, address, and telephone number.

(b) Radiographic exposure devices intended for use as Type B packages must meet the applicable transportation requirements of division 118 of these rules.

(c) Modification of radiographic exposure devices, source changers, and source assemblies and associated equipment is prohibited, unless approved by the Agency or other approval body.

(3) In addition to the requirements specified in 333-105-0420(1) and (2) of this rule, the following requirements apply to radiographic exposure devices, source assemblies, and associated equipment that allow the source to be moved out of the device for radiographic operations or to source changers;

(a) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it cannot be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. This securing system may only be released by means of a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand or other foreign matter.

(d) Each sealed source or source assembly must have attached to it or engraved on it, a durable, legible, visible label with the words:

"DANGER --RADIOACTIVE."

The label may not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube must be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use.

(f) Guide tubes must be used when moving the source out of the device.

(g) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube must be attached to the outermost end of the guide tube during industrial radiography operations.

(h) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432-1980.

(i) Source changers must provide a system for ensuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(4) All radiographic exposure devices and associated equipment in use after January 10, 1996, must comply with the requirements of this section; and

(5) As an exception to 333-105-0420(1) of this rule, equipment used in industrial radiographic operations need not comply with 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can reasonably exert on the lever or crankshaft of the drive mechanism.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0440
Locking of Sources of Radiation, Storage Containers and Source Changers

(1) Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked (If a keyed lock, the key must be removed at all times) when not under the direct surveillance of a radiographer or a radiographer's assistant except at permanent radiographic installations as stated in 333-105-0580. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

(2) Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked (If a keyed lock, the key must be removed at all times) when containing sealed sources except when under the direct surveillance of a radiographer or a radiographer's assistant.

(3) The control panel of each radiation machine must be equipped with a lock that will prevent the unauthorized use of an x-ray system or the accidental production of radiation. The radiation machine must be kept locked and the key removed at all times except when under the direct visual surveillance of a radiographer or a radiographer's assistant.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0450
Radiation Survey Instruments

(1) The licensee must keep sufficient calibrated and operable radiation survey instruments at each location where sources of radiation are present to make the radiation surveys required by this division and by division 120 of these rules. Instrumentation required by this section must be capable of measuring a range from 0.02 millisieverts (2 mrem) per hour through 0.01 sievert (1 rem) per hour.

(2) The licensee must have each radiation survey instrument required under 333-105-0450(1) of this rule calibrated:

(a) At energies appropriate for use and at intervals not to exceed 6 months or after instrument servicing, except for battery changes;

(b) For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 mrem) per hour; and

(c) So that an accuracy within plus or minus 20 percent of the true radiation dose rate can be demonstrated at each point checked.

(3) The licensee must maintain records of the results of the instrument calibrations in accordance with 333-105-0620.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0460
Leak Testing and Replacement of Sealed Sources

(1) The replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source must be performed by persons authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(2) The opening, repair, or modification of any sealed source must be performed by persons specifically authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(3) Testing and recordkeeping requirements.

(a) Each licensee who uses a sealed source must have the source tested for leakage at intervals not to exceed 6 months. The leak testing of the source must be performed using a method approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State. The wipe sample should be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive

material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis.

(b) The licensee must maintain records of the leak tests in accordance with 333-105-0630.

(c) Unless a sealed source is accompanied by a certificate from the transferor that shows that it has been leak tested within 6 months before the transfer, it may not be used by the licensee until tested for leakage. Sealed sources that are in storage and not in use do not require leak testing, but must be tested before use or transfer to another person if the interval of storage exceeds 6 months. Leak test results must be received prior to use or transfer.

(4) Any test conducted pursuant to 333-105-0460(2) and 333-105-0460(3) of this rule that reveals the presence of 185 Becquerel (0.005 microCurie) or more of removable radioactive material must be considered evidence that the sealed source is leaking. The licensee must immediately withdraw the equipment involved from use and must have it decontaminated and repaired or disposed of in accordance with Agency rules. A report must be filed with the Agency within 5 days of any test with results that exceed the threshold in this paragraph, describing the equipment involved, the test results, and the corrective action taken.

(5) Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis. Should such testing reveal the presence of DU contamination, the exposure device must be removed from use until an evaluation of the wear of the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while not in use and in storage. Before using or transferring such a device, however, the device must be tested for DU contamination, if the interval of storage exceeds 12 months. A record of the DU leak-test must be made in accordance with 333-105-0630.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0470
Quarterly Inventory

(1) Each licensee must conduct a quarterly physical inventory to account for all sources of radiation, and for devices containing depleted uranium received and possessed under the license.

(2) The licensee must maintain records of the quarterly inventory in accordance with 333-105-0640.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0480
Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) The licensee must perform visual and operability checks on survey meters, radiation machines, radiographic exposure devices, transport and storage containers, associated equipment and source changers before each day's use, or work shift, to ensure that:

(a) The equipment is in good working condition;

(b) The sources are adequately shielded; and

(c) Required labeling is present.

(2) Survey instrument operability must be performed using check sources or other appropriate means.

(3) If equipment problems are found, the equipment must be removed from service until repaired.

(4) Each licensee must have written procedures for and perform inspection and routine maintenance of radiation machines, radiographic exposure devices, source changers, associated equipment, transport and storage containers, and survey instruments at intervals not to exceed 3 months or before the first use thereafter to ensure the proper functioning of components important to safety. If equipment problems are found, the equipment must be removed from service until repaired.

(5) The licensee's inspection and maintenance program must include procedures to assure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

(6) Records of equipment problems and of any maintenance performed under 333-105-0480 must be made in accordance with 333-105-0660.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0490
Permanent Radiographic Installations

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation must have either:

(a) An entrance control of the type described in OAR 333-120-0220 that causes the radiation level upon entry into the area to be reduced; or

(b) Both conspicuous visible and audible warning signals to warn of the presence of radiation. The visible signal must be actuated by radiation whenever the source is exposed. The audible signal must be actuated when an attempt is made to enter the installation while the source is exposed or the machine is energized.

(2) The alarm system must be tested for proper operation with a radiation source each day before the installation is used for radiographic operations. The test must include a check of both the visible and audible signals. Entrance control devices that reduce the radiation level upon entry as designated in 333-105-0490(1)(a) of this rule must be tested monthly. If an entrance control device or an alarm is operating improperly, it must be immediately labeled as defective and repaired within 7 calendar days. The facility may continue to be used during this 7-day period, provided the licensee implements the continuous surveillance requirements of 333-105-0580 and uses an alarming rate-meter. Test records for entrance controls and audible and visual alarms must be maintained in accordance with 333-105-0670.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0500
Labeling, Storage, and Transportation

(1) The licensee may not use a source changer or a container to store radioactive material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol conventional colors, i.e., magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording:

CAUTION RADIOACTIVE MATERIAL
NOTIFY CIVIL AUTHORITIES
or "DANGER"

(2) The licensee may not transport radioactive material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with rules set out in division 118.

(3) Radiographic exposure devices, source changers, storage containers, and radiation machines, must be physically secured to prevent tampering or removal by unauthorized personnel. The licensee must store radioactive material in a manner that will minimize danger from explosion or fire.

(4) The licensee must lock and physically secure the transport package containing radioactive material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal.

(5) The licensee's name and city or town where the main business office is located must be prominently displayed with a durable, clearly visible label(s) on both sides of all vehicles used to transport radioactive material or radiation machines for temporary job site use.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0510
Conducting Industrial Radiographic Operations

(1) Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has at a minimum met the requirements of 333-105-0530(3). The additional qualified individual must observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

(2) All radiographic operations must be conducted in a permanent radiographic installation unless otherwise specifically authorized by the Agency.

(3) Except when physically impossible, collimators must be used in industrial radiographic operations that use radiographic exposure devices that allow the source to be moved out of the device.

(4) A licensee may conduct lay-barge, offshore platform, or underwater radiography only if procedures have been approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0520
Radiation Safety Officer

The radiation safety officer must ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's program.

(1) The minimum qualifications, training, and experience for radiation safety officers for industrial radiography are as follows:

(a) Completion of the training and testing requirements of 333-105-0530(1);

(b) 2000 hours of hands-on experience as a qualified radiographer in industrial radiographic operations; and

(c) Formal training in the establishment and maintenance of a radiation protection program.

(2) The Agency will consider alternatives when the radiation safety officer has appropriate training and experience in the field of ionizing radiation, and in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program.

(3) The specific duties and authorities of the radiation safety officer include:

(a) Establishing and overseeing all operating, emergency, and ALARA procedures as required by division 120 of these rules and reviewing them regularly to ensure that they conform to Agency rules and to the license or registration conditions;

(b) Overseeing and approving the training program for radiographic personnel to ensure that appropriate and effective radiation protection practices are taught;

(c) Ensuring that required radiation surveys and leak tests are performed and documented in accordance with the rules, including any corrective measures when levels of radiation exceed established limits;

(d) Ensuring that personnel monitoring devices are calibrated, if applicable, and used properly; that records are kept of the monitoring results; and that timely notifications are made as required by division 120 of these rules; and

(e) Ensuring that operations are conducted safely and for implementing corrective actions including terminating operations.

(4) Licensees will have 2 years from the effective date of this rule to meet the requirements of 333-105-0520(1) and 333-105-0520(2) of this rule.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0530
Training

(1) The licensee may not permit any individual to act as a radiographer until the individual:

(a) Has received at least 40 hours of training in the subjects outlined in 333-105-0530(7) of this rule, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer and is certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in Oregon Regulatory Guide – ORG-2 Industrial Radiography. The on the job training must include a minimum of 2 months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or 1 month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours); or

(b) The licensee may, until July 1, 2003, allow an individual who has not met the requirements of 333-105-0530(1)(a) of this rule, to act as a radiographer after the individual has received at least 40 hours of training in the subjects outlined in 333-105-0530(7) of this rule and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the Agency, the Nuclear Regulatory Commission, or another Agreement State, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer. The on the job training must include a minimum of 2 months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or 1 month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours).

(2) In addition, the licensee may not permit any individual to act as a radiographer until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this division, and applicable sections of divisions 120, 111, and 118 of these rules, in the license or registration under which the radiographer will perform industrial radiography, and the licensee's operating and emergency procedures;

(b) Has demonstrated an understanding of items in 333-105-0530(2)(a) of this rule by successful completion of a written or oral examination;

(c) Has received training in the use of the licensee's radiographic exposure devices, sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in 333-105-0530(2)(c) of this rule by successful completion of a practical examination.

(3) The licensee may not permit any individual to act as a radiographer's assistant until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this, and applicable sections of divisions 120, 111, and 118 of these regulation, in the license or registration under which the radiographer's assistant will perform industrial radiography, and the licensee's operating and emergency procedures;

(b) Has demonstrated an understanding of items in 333-105-0530(3)(a) of this rule by successful completion of a written or oral examination;

(c) Under the personal supervision of a radiographer, has received training in the use of the licensee's radiographic exposure devices and sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in 333-105-0530(3)(c) of this rule by successful completion of a practical examination.

(4) The licensee must provide annual refresher safety training, as defined in 333-105-0005, for each radiographer and radiographer's assistant at intervals not to exceed 12 months.

(5) Except as provided in 333-105-0530(5)(d) of this rule, the radiation safety officer or designee must conduct an inspection program of the job performance of each radiographer and radiographer's assistant to ensure that the Agency's rules, license requirements, and operating and emergency procedures are followed. The inspection program must:

(a) Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals not to exceed 6 months; and

(b) Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than 6 months since the last inspection, the radiographer must demonstrate knowledge of the training requirements of 333-105-0530(2)(c) of this rule and the radiographer's assistant must demonstrate knowledge of the training requirements of 333-105-0530(3)(c) of this rule by a practical examination before these individuals can next participate in a radiographic operation.

(c) The Agency may consider alternatives in those situations where the individual serves as both radiographer and radiation safety officer.

(d) In those operations where a single individual serves as both radiographer and radiation safety officer, and performs all radiography operations, an inspection program is not required.

(6) The licensee must maintain records of the above training to include certification documents, written, oral and practical examinations, refresher safety training and inspections of job performance in accordance with 333-105-0680.

(7) The licensee must include the following subjects required in 333-105-0530(1) of this rule:

(a) Fundamentals of radiation safety including:

(A) Characteristics of gamma and x-radiation;

(B) Units of radiation dose and quantity of radioactivity;

(C) Hazards of exposure to radiation;

(D) Levels of radiation from sources of radiation; and

(E) Methods of controlling radiation dose (time, distance, and shielding);

(b) Radiation detection instruments including:

(A) Use, operation, calibration, and limitations of radiation survey instruments;

(B) Survey techniques; and

(C) Use of personnel monitoring equipment;

(c) Equipment to be used including:

(A) Operation and control of radiographic exposure equipment, remote handling equipment, and storage containers, including pictures or models of source assemblies (pigtails);

(B) Operation and control of radiation machines;

(C) Storage, control, and disposal of sources of radiation; and

(D) Inspection and maintenance of equipment.

(d) The requirements of pertinent state and federal rules; and

(e) Case histories of accidents in radiography.

(8) Licensees will have one year from the effective date of this rule to comply with the additional training requirements specified in 333-105-0530(2)(a) and 333-105-0530(3)(a) of this rule.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0540

Operating and Emergency Procedures

(1) Operating and emergency procedures must include, as a minimum, instructions in the following:

(a) Appropriate handling and use of sources of radiation so that no person is likely to be exposed to radiation doses in excess of the limits established in division 120 of these rules;

(b) Methods and occasions for conducting radiation surveys;

(c) Methods for posting and controlling access to radiographic areas;

(d) Methods and occasions for locking and securing sources of radiation;

(e) Personnel monitoring and the use of personnel monitoring equipment;

(f) Transporting equipment to field locations, including packing of radiographic exposure devices and storage containers in the vehicles, placarding of vehicles when required, and control of the equipment during transportation as described in division 118 of these rules;

(g) The inspection, maintenance, and operability checks of radiographic exposure devices, radiation machines, survey instruments, alarming ratemeters, transport containers, and storage containers;

(h) Steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale or an alarming ratemeter alarms unexpectedly;

(i) The procedure(s) for identifying and reporting defects and noncompliance, as required by 333-105-0740;

(j) The procedure for notifying proper persons in the event of an accident or incident;

(k) Minimizing exposure of persons in the event of an accident or incident, including a source disconnect, a transport accident, or loss of a source of radiation;

(l) Source recovery procedure if licensee will perform source recoveries; and

(m) Maintenance of records.

(2) The licensee must maintain copies of current operating and emergency procedures in accordance with 333-105-0690 and 333-105-0730.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0550

Supervision of Radiographer's Assistants

The radiographer's assistant must be under the direct visual supervision of a radiographer when using radiographic exposure devices, associated equipment or sources of radiation, or when conducting radiation surveys required by 333-105-0570(2) to determine that the sealed source has returned to the shielded position or the radiation machine is off after an exposure. The personal supervision must include:

(1) The radiographer's physical presence at the site where the sources of radiation are being used;

(2) The availability of the radiographer to give immediate assistance if required; and

(3) The radiographer's direct observation of the assistant's performance of the operations referred to in this section.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0560

Personnel Monitoring

(1) The licensee may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a combination of direct reading dosimeter, an alarming ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiographic installations where other appropriate alarming or warning devices are in routine use, or during radiographic operations using radiation machines, the use of an alarming ratemeter is not required.

(a) Pocket dosimeters must have a range from zero to 2 millisieverts (200 mrem) and must be recharged at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(b) Each personnel dosimeter must be assigned to and worn by only one individual.

(c) Film badges must be exchanged and processed at periods not to exceed one month and other personnel dosimeters processed and evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.

(d) After replacement, each personnel dosimeter must be returned to the supplier for processing within 14 calendar days of the end of the monitoring period, or as soon as practicable. In circumstances that make it impossible to return each personnel dosimeter in 14 calendar days, such circumstances must be documented and available for review by the Agency.

(2) Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters, must be read and the exposures recorded at the beginning and end of each shift, and records must be maintained in accordance with 333-105-0700.

(3) Pocket dosimeters, or electronic personal dosimeters, must be checked at periods not to exceed 12 months for correct response to radiation, and records must be maintained in accordance with 333-105-0700(1). Acceptable dosimeters must read within plus or minus 20 percent of the true radiation exposure.

(4) If an individual's pocket dosimeter is found to be off-scale, or the electronic personal dosimeter reads greater than 2 millisieverts (200 mrem), the individual's personnel dosimeter must be sent for processing within 24 hours. In addition, the individual may not resume work associated with the use of sources of radiation until a determination of the individual's radiation exposure has been made. This determination must be made by the radiation safety officer or the radiation safety officer's designee. The results of this determination must be included in the records maintained in accordance with 333-105-0700.

(5) If a personnel dosimeter is lost or damaged, the worker must cease work immediately until a replacement personnel dosimeter is provided and the exposure is calculated for the time period from issuance to loss or damage of the personnel dosimeter. The results of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged must be included in the records maintained in accordance with 333-105-0700.

(6) Dosimetry reports received from the accredited NVLAP personnel dosimeter processor must be retained in accordance with 333-105-0700.

(7) Each alarming ratemeter must:

(a) Be checked to ensure that the alarm functions properly before using at the start of each shift;

(b) Be set to give an alarm signal at a preset dose rate of 5 millisieverts (500 mrem per hour; with an accuracy of plus or minus 20 percent of the true radiation dose rate;

(c) Require special means to change the preset alarm function; and

(d) Be calibrated at periods not to exceed 12 months for correct response to radiation. The licensee must maintain records of alarming ratemeter calibrations in accordance with 333-105-0700(2).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0570

Radiation Surveys

The licensee must:

(1) Conduct all surveys with a calibrated and operable radiation survey instrument that meets the requirements of 333-105-0450;

(2) Conduct a survey of the radiographic exposure device and the guide tube after each exposure when approaching the device or the guide tube. The survey must determine that the sealed source has returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment. Radiation machines must be surveyed after each exposure to determine that the machine is off;

(3) Conduct a survey of the radiographic exposure device whenever the source is exchanged and whenever a radiographic exposure device is placed in a storage area as defined in 333-105-0005, to ensure that the sealed source is in its shielded position; and

(4) Maintain records in accordance with 333-105-0710.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0580
Surveillance

During each radiographic operation, the radiographer must ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area or a high radiation area, as defined in division 100 of these rules, except at permanent radiographic installations where all entryways are locked and the requirements of 333-105-0490 are met.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0600
Records for Industrial Radiography

Each licensee must maintain a copy of its license, documents incorporated by reference, and amendments to each of these items until superseded by new documents approved by the Agency, or until the Agency terminates the license.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0610
Records of Receipt and Transfer of Sources of Radiation

(1) Each licensee must maintain records showing the receipts and transfers of sealed sources, devices using Depleted Uranium (DU) for shielding, and radiation machines, and retain each record for 3 years after it is made.

(2) These records must include the date, the name of the individual making the record, radionuclide, number of Becquerel (Curies) or mass (for DU), and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0620
Records of Radiation Survey Instruments

Each licensee must maintain records of the calibrations of its radiation survey instruments that are required under 333-105-0450 and retain each record for 3 years after it is made.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0630
Records of Leak Testing of Sealed Sources and Devices Containing DU

Each licensee must maintain records of leak test results for sealed sources and for devices containing DU. The results must be stated in units of Becquerels (microcuries). The licensee must retain each record for 3 years after it is made or until the source in storage is removed.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0640
Records of Quarterly Inventory

(1) Each licensee must maintain records of the quarterly inventory of sources of radiation, including devices containing DU as required by 333-105-0470, and retain each record for 3 years.

(2) The record must include the date of the inventory, name of the individual conducting the inventory, radionuclide, number of Becquerel (curies) or mass (for DU) in each device, location of sources of radiation and/or devices, and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0650
Utilization Logs

(1) Each licensee must maintain utilization logs showing for each source of radiation the following information:

(a) A description, including the make, model, and serial number of the radiation machine or the radiographic exposure device, transport, or storage container in which the sealed source is located;

(b) The identity and signature of the radiographer to whom assigned;

(c) The location and dates of use, including the dates removed and returned to storage; and

(d) For permanent radiographic installations, the dates each radiation machine is energized.

(2) The licensee must retain the logs required by 333-105-0650(1) of this rule for 3 years.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0660
Records of Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) Each licensee must maintain records specified in 333-105-0480 of equipment problems found in daily checks and quarterly inspections of radiation machines, radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments; and retain each record for 3 years after it is made.

(2) The record must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was performed.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0670
Records of Alarm System and Entrance Control Checks at Permanent Radiographic Installations

Each licensee must maintain records of alarm system and entrance control device tests required by 333-105-0490 and retain each record for 3 years after it is made.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0680
Records Of Training and Certification

Each licensee must maintain the following records for 3 years after the individual terminates employment:

(1) Records of training of each radiographer and each radiographer's assistant. The record must include radiographer certification documents and verification of certification status, copies of written tests, dates of oral and practical examinations, the names of individuals conducting and receiving the oral and practical examinations, and a list of items tested and the results of the oral and practical examinations; and

(2) Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any non-compliance observed by the radiation safety officer or designee.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0690
Copies of Operating and Emergency Procedures

Each licensee must maintain a copy of current operating and emergency procedures until the Agency terminates the license or registration. Superseded material must be retained for 3 years after the change is made.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0700
Records of Personnel Monitoring

Each licensee must maintain the following exposure records specified in 333-105-0560:

(1) Direct reading dosimeter readings and yearly operability checks required by 333-105-0560(2) and 333-105-0560(3) for 3 years after the record is made;

(2) Records of alarming ratemeter calibrations for 3 years after the record is made;

(3) Reports received from the film badge or TLD processor until the Agency terminates the license or registration; and

(4) Records of estimates of exposures as a result of off-scale personal direct reading dosimeters, or lost or damaged film badges or TLD's, until the Agency terminates the license or registration.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0710
Records of Radiation Surveys

Each licensee must maintain a record of each exposure device survey conducted before the device is placed in storage as specified in 333-105-0570(3) Each record must be maintained for 3 years after it is made.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0720
Form of Records

Each record required by this division must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0730
Location Of Documents and Records

(1) Each licensee must maintain copies of records required by this division and other applicable divisions of these rules at the location specified in 333-105-0410(11).

(2) Each licensee must also maintain current copies of the following documents and records sufficient to demonstrate compliance at each applicable field station and each temporary job site:

(a) The license or registration authorizing the use of sources of radiation;

(b) A copy of divisions 100, 120, 105 & 111 of this chapter;

(c) Utilization logs for each source of radiation dispatched from that location as required by 333-105-0650.

(d) Records of equipment problems identified in daily checks of equipment as required by 333-105-0660(1);

(e) Records of alarm system and entrance control checks required by 333-105-0670, if applicable;

(f) Records of dosimeter readings as required by 333-105-0700;

(g) Operating and emergency procedures as required by 333-105-0690;

(h) Evidence of the latest calibration of the radiation survey instruments in use at the site, as required by 333-105-0620;

(i) Evidence of the latest calibrations of alarming ratemeters and operability checks of dosimeters as required by 333-105-0700;

(j) Survey records as required by 333-105-0710 and 333-120-0620 as applicable, for the period of operation at the site;

(k) The shipping papers for the transportation of radioactive materials required by division 118 of these rules; and

(l) When operating under reciprocity pursuant to OAR 333-102-0340, a copy of the applicable State license or registration, or Nuclear Regulatory Commission license authorizing the use of sources of radiation.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0740
Notifications

(1) In addition to the reporting requirements specified in 10 CFR 30.50 and in division 120 of these rules, each licensee must provide a written report to the Agency within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

(a) Unintentional disconnection of the source assembly from the control cable;

(b) Inability to retract the source assembly to its fully shielded position and secure it in this position;

(c) Failure of any component, which is critical to safe operation of the device, to properly perform its intended function; or

(d) An indicator on a radiation machine fails to show that radiation is being produced.

(2) The licensee must include the following information in each report submitted under 333-105-0740(1) of this rule, and in each report of overexposure submitted under OAR 333-120-0720 which involves failure of safety components of radiography equipment:

(a) Description of the equipment problem;

(b) Cause of each incident, if known;

(c) Name of the manufacturer and model number of equipment involved in the incident;

(d) Place, date, and time of the incident;

(e) Actions taken to establish normal operations;

(f) Corrective actions taken or planned to prevent recurrence; and

(g) Names and qualifications of personnel involved in the incident.

(3) Any licensee conducting radiographic operations or storing sources of radiation at any location not listed on the license or registration for a period in excess of 180 days in a calendar year, must notify the Agency prior to exceeding the 180 days.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0750
Reciprocity

(1) All reciprocal recognition of licenses and registrations by the Agency will be granted in accordance with OAR 333-102-0340.

(2) Reciprocal recognition by the Agency of an individual radiographer certification will be granted provided that:

(a) The individual holds a valid certification in the appropriate category issued by a certifying entity, as defined in 333-105-0005;

(b) The requirements and procedures of the certifying entity issuing the certification affords the same or comparable certification standards as those afforded by 333-105-0530(1);

(c) The applicant presents the certification to the Agency prior to entry into the state; and

(d) No escalated enforcement action is pending with the Nuclear Regulatory Commission or in any other state.

(3) Certified individuals who are granted reciprocity by the Agency must maintain the certification upon which the reciprocal recognition was granted, or prior to the expiration of such certification, must meet the requirements of 333-105-0530(1).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-105-0760
Specific Requirements for Radiographic Personnel Performing Industrial Radiography

(1) At a job site, the following must be supplied by the licensee:

(a) At least one operable, calibrated survey instrument for each exposure device or radiation machine in use;

(b) A current whole body personnel monitor (TLD or film badge) for each person performing radiographic operations;

(c) An operable, calibrated pocket dosimeter with a range of zero to 200 milliroentgens for each person performing radiographic operations;

(d) An operable, calibrated, alarming ratemeter for each person performing radiographic operations using a radiographic exposure device; and

(e) The appropriate barrier ropes and signs.

(2) Each radiographer at a job site must have on their person a valid certification ID card issued by a certifying entity.

(3) Industrial radiographic operations must not be performed if any of the items in 333-105-0760(1) and 333-105-0760(2) of this rule are not available at the job site or are inoperable.

(4) During an inspection, the Agency may terminate an operation if any of the items in 333-105-0760(1) and 333-105-0760(2) of this rule are not available or operable, or if the required number of radiographic

personnel are not present. Operations must not be resumed until all required conditions are met.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0005
Definitions

As used in this division, the following definitions apply:

(1) "Accessible Surface" means the external surface of the enclosure or housing provided by the manufacturer.

(2) "Added Filtration" means any filtration that is in addition to the inherent filtration.

(3) "Aluminum Equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question.

NOTE: The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

(4) "Agency approved Instructor," means an individual who has been evaluated and approved by the Agency to teach Radiation Safety.

(5) "Agency approved training course" means a course of training that has been evaluated and approved by the Agency.

(6) "A.R.R.T." means the American Registry of Radiologic Technologists.

(7) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem. The term includes the owner of an x-ray system or his or her employee or agent who assembles components into an x-ray system that is subsequently used to provide professional or commercial services.

(8) "Attenuation Block" means a block or stack, having dimensions 20 centimeters (cm) by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(9) "Automatic Exposure Control (AEC)" means a device that automatically controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation. (See also "Photo timer".)

(10) "Barrier" (see "Protective Barrier").

(11) "Beam Axis" means a line from the source through the centers of the x-ray fields.

(12) "Beam-Limiting Device" means a device that provides a means to restrict the dimensions of the x-ray field.

(13) "Beam Monitoring System" means a system designed to detect and measure the radiation present in the useful beam.

(14) "C-arm x-ray system" means an x-ray system in which the image receptor and x-ray tube housing are connected by a common mechanical support system in order to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

(15) "Cephalometric Device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(16) "Certified Components" means components of x-ray systems that are subject to the x-ray Equipment Performance Standards promulgated under Public Law 90-602, the Radiation Control Agency for Health and Safety Act of 1968.

(17) "Certified System" means any x-ray system that has one or more certified component(s).

(18) "Changeable Filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

(19) "Coefficient of Variation (C)" means the ratio of the standard deviation to the mean value of a set of observations.

(20) "Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

(21) "Contact Therapy System" means an x-ray system used for therapy with the tube port placed in contact with or within five centimeters of the surface being treated.

(22) "Control Panel" means that part of the x-ray control upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for manually setting the technique factors.

(23) "Cooling Curve" means the graphical relationship between heat units stored and cooling time.

(24) "Dead-Man Switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(25) "Detector" (see "Radiation detector").

(26) "Diagnostic x-ray imaging system" means an assemblage of components for the generation, emission, and reception of x-rays and the transformation, storage, and visual display of the resultant x-ray image.

(27) "Diagnostic Source Assembly" means the tube housing assembly with a beam-limiting device attached.

(28) "Diagnostic-Type Protective Tube Housing" means a tube housing so constructed that the leakage radiation measured at a distance of one meter from the source does not exceed 100 milliroentgens (mR) in one hour when the tube is operated at its leakage technique factors.

(29) "Diagnostic X-Ray System" means an x-ray system designed for irradiation of any part of the human body or animal body for the purpose of diagnosis or visualization.

(30) "Direct Scattered Radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam (see "Scattered radiation").

(31) "Direct supervision" means that the person who directs the x-ray or fluoroscopic equipment operator(s) shall be present in the room while the individual operates the equipment.

(32) "Entrance Exposure Rate" means the exposure free in air per unit of time.

(33) "Field Emission Equipment" means equipment which uses a tube in which electron emission from the cathode is due solely to the action of an electric field.

(34) "Filter" means material placed in the useful beam to absorb preferentially selected radiations.

(35) "Fluoroscopic Benchmark" means a standard based upon the average cumulative fluoroscopic on-time normally found to be used for a specific fluoroscopic procedure at the site.

(36) "Fluoroscopic Imaging Assembly" means a subsystem in which x-ray photons produce a visible image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

(37) "Fluoroscopic x-ray equipment operator" means any individual who, adjusts technique factors, activates the exposure switch or button of a fluoroscopic x-ray machine or physically positions patients or animals. Human holders, used solely for immobilization purposes (i.e. veterinarian human holders) are excluded from this rule.

(38) "Focal Spot" means the area projected on the anode of the tube by the electrons accelerated from the cathode and from which the useful beam originates.

(39) "General Purpose Radiographic X-Ray System" means any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(40) "General supervision" means that the person who directs the x-ray or fluoroscopic equipment operator(s), must be immediately available by telephone, pager, or other mode of communication, to provide direction if needed or requested.

(41) "Gonad Shield" means a protective barrier for the testes or ovaries.

(42) "Half-Value Layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(43) "Healing arts screening" means the testing of human beings using x-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by an Oregon licensed practitioner of the healing arts legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment.

(44) "Heat Unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes and seconds, i.e., kVp x mA x second.

(45) "HVL" (see "Half-value layer").

(46) "Image Intensifier" means a device, installed in its housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher energy density.

(47) "Image Receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident photons either into a visible image or into another form which can be made into a visible image by further transformations.

(48) "Indirect supervision" means that the person who directs the x-ray or fluoroscopic equipment operator(s) be readily available on facility premises when the x-ray or fluoroscopic equipment is operated.

(49) "Inherent Filtration" means the filtration of the useful beam provided by the permanently installed components of the tube housing assembly.

(50) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(51) "Irradiation" means the exposure of matter to ionizing radiation.

(52) "Kilovolt-Peak" (see "Peak tube potential").

(53) "kV" means kilovolts.

(54) "kVp" (see "Peak tube potential").

(55) "kWs" means kilowatt second.

(56) "Lead Equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(57) "Leakage Radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for:

(a) The useful beam; and

(b) Radiation produced when the exposure switch or timer is not activated.

(58) "Leakage Technique Factors" means the technique factors associated with the diagnostic or therapeutic source assembly which are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e., 10 milliampere seconds (mAs), or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For all other diagnostic or therapeutic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

(59) "Light Field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

(60) "Line-Voltage Regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential.

(61) "mA" means milliampere.

(62) "mAs" means milliampere second.

(63) "Maximum Line Current" means the root-mean-square current in the supply line of an x-ray machine operating at its maximum rating.

(64) "Mobile Equipment" (see "Equipment").

(65) "Non-radiologist practitioner" means an individual who practices medicine as a medical doctor (M.D.), doctor of osteopathic medicine (D.O), doctor of chiropractic medicine (D.C.), doctor of podiatric medicine (D.P.M.) or doctor of veterinary medicine (D.V.M.); and

(a) Are not specifically certified in diagnostic and/or therapeutic use of x-rays; and

(b) Are currently licensed by their respective Oregon licensing board.

(66) "Operator" means an individual who, under the supervision of a practitioner of the healing arts, uses ionizing radiation upon a human being for diagnostic or therapeutic purposes including the physical positioning of the patient, the determination of exposure parameters, and the handling of ionizing radiation equipment.

(67) "Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

(68) "Peak Tube Potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

(69) "Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation. This requires that both the atomic number (Z) and the density of the material be similar to that of tissue.

(70) "Photo timer" means a method for controlling radiation exposures to image receptors by measuring the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is a part of an electronic circuit which controls the duration of time the tube is activated (see also "Automatic exposure control").

(71) "PID" (see "Position indicating device").

(72) "Portable Equipment" (see "X-Ray Equipment").

(73) "Position Indicating Device" means a device on dental x-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(74) "Primary Dose Monitoring System" means a system which will monitor useful beam during irradiation and which will terminate irradiation when a pre-selected number of dose monitor units have been acquired.

(75) "Primary Protective Barrier" (see "Protective barrier").

(76) "Protective Apron" means an apron made of radiation absorbing materials used to reduce radiation exposure.

(77) "Protected Area" means an area shielded with primary or secondary protective barriers or an area removed from the radiation source such that the exposure rate within the area due to normal operating procedures and workload does not exceed any of the following limits:

(a) 2 milliroentgens (mR) in any one hour; or

(b) 100 mR in any one year.

(c) See OAR 333-120-0180 for additional information.

(78) "Protective Barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure;

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(79) "Protective Glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

(80) "Qualified Expert" means an individual, approved by the Agency, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual shall:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed one year of documented, full time training in the appropriate field and also one year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual shall have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Agency for specific activities.

(81) "Quality Control Program" means a program directed at film processing and radiographic image quality whereby periodic monitoring of film processing is performed. Test films are compared against control film, either visually or by use of a densitometer, to determine if density or contrast have changed. Steps can then be taken to investigate such change and correct the problem. The x-ray machine itself can also be involved in the quality control program, as can other components of the imaging chain.

(82) "Radiation Detector" means a device which in the presence of radiation provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

(83) "Radiation Therapy Simulation System" means a radiographic or fluoroscopic system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

(84) "Radiograph" means an image receptor on which the image is created directly or indirectly by a pattern and results in a permanent record.

(85) "Radiographic Imaging System" means any system whereby a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

(86) "Radiological Physicist" means an individual who:

(a) Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, or x- and gamma-ray physics; or

(b) Has a bachelor's degree in one of the physical sciences or engineering and three years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties must include duties involving the calibration and spot checks of a medical accelerator or a sealed source teletherapy unit; or

(c) Has a Master's or a Doctor's degree in physics, biophysics, radiological physics, health physics, or engineering; has had one year's full-time training in therapeutic radiological physics; and has had one year's full-time work experience in a radiotherapy facility where the individual's duties involve calibration and spot checks of a medical accelerator or a sealed source teletherapy unit.

(87) "Radiologist" or "Oral Radiologist" means a physician or dentist trained in the diagnostic and/or therapeutic use of x-rays and who is;

(a) Currently licensed by their respective Oregon licensing board; and

(b) Board certified by the American Board of Radiology (ABR) or American Osteopathic Board of Radiology (AOBR) or American Chiropractic Board of Radiology (DACBR) or Royal College of Physicians and Surgeons of Canada (RCPSC) or the American Board of Oral and

Maxillo-Facial Radiology (ABOMFR) and currently licensed to practice medicine or dentistry in Oregon.

(88) "Radiology Physician's Assistant" (R.P.A.)/ "Registered Radiology Assistant" (R.R.A.).

(a) An R.P.A. means an American Registry of Radiologic Technologists (A.R.R.T.) technologist who has successfully completed an advanced training program and is certified by the Certification Board for Radiology Practitioner Assistants (CBRPA).

(b) An R .R.A means an A.R.R.T. technologist who has successfully completed an advanced training program and is certified by A.R.R.T.

(89) "R.T." means a radiologic technologist certified in radiography and currently registered with the A.R.R.T and currently licensed by the Oregon Board of Radiologic Technology (OBRT).

(90) "Rating" means the operating limits as specified by the component manufacturer.

(91) "Recording" means producing a permanent form of an image resulting from x-ray photons.

(92) "Registrant," as used in this division, means any person who owns or possesses and administratively controls an x-ray system which is used to deliberately expose humans, animals or materials to the useful beam of the system and is required by the provisions contained in divisions 100 and 101 of this chapter to register with the Agency.

(93) "Response Time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero, sufficient to provide a steady state midscale reading.

(94) "Scattered Radiation" means radiation that, during passage through matter, has been deviated in direction (see "Direct Scattered Radiation").

(95) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(96) "Secondary Dose Monitoring System" means a system which will terminate irradiation in the event of failure of the primary system.

(97) "Secondary Protective Barrier" (see "Protective barrier").

(98) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(99) "SID" (see "Source-image receptor distance").

(100) "Source" means the focal spot of the x-ray tube.

(101) "Source-Image Receptor Distance" means the distance from the source to the center of the input surface of the image receptor.

(102) "Spot Check" means a procedure which is performed to assure that a previous calibration continues to be valid.

(103) "Spot Film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(104) "Spot-Film Device" means a device intended to transport and/or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(105) "SSD" means the distance between the source and the skin of the patient.

(106) "Stationary Equipment" (see "X-Ray Equipment").

(107) "Stray Radiation" means the sum of leakage and scattered radiation.

(108) "Technique Factors" means the conditions of operation. They are specified as follows:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses;

(c) For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(109) "Termination of Irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

(110) "Traceable to a National Standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one or more intermediate steps and that all comparisons have been documented.

(111) "Tube" means an x-ray tube, unless otherwise specified.

(112) "Tube Housing Assembly" means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when such are contained within the tube housing.

(113) "Tube Rating Chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(114) "Unprotected Area" means any area in which the exposure rate, due to the use of the radiation machine under normal operating procedures and workload, exceeds any of the following limits:

(a) 2 mR in any one hour; or

(b) 100 mR in any 7 consecutive days; or

(c) 500 mR in any one year.

(115) "Useful Beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the exposure controls are in a mode to cause the system to produce radiation.

(116) "Variable-Aperture Beam-Limiting Device" means a beam-limiting device which has capacity for stepless adjustment of the x-ray field size at a given SID.

(117) "Visible Area" means that portion of the input surface of the image receptor over which the incident x-ray photons are producing a visible image.

(118) "Wedge Filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

(119) "X-Ray Control" means a device which controls input power to the x-ray high-voltage generator and/or the x-ray tube. It includes equipment such as exposure switches (control), timers, photo timers, automatic brightness stabilizers and similar devices, which control the technique factors of an x-ray exposure.

(120) "X-Ray Equipment" means an x-ray system, subsystem, or component thereof. Types of equipment are as follows:

(a) "Mobile equipment" means x-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled;

(b) "Portable equipment" means x-ray equipment designed to be hand-carried;

(c) "Stationary equipment" means x-ray equipment which is installed in a fixed location;

(d) "Transportable" means x-ray equipment installed in a vehicle or trailer.

(121) "X-ray equipment operator" means any individual who handles, adjusts technique factors, activates the exposure switch/ or button of an x-ray machine, or physically positions patients or animals for a radiograph.

(122) "X-Ray Field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(123) "X-Ray High-Voltage Generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube(s), high-voltage switches, electrical protective devices and other appropriate elements.

(124) "X-Ray System" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

(125) "X-Ray Subsystem" means any combination of two or more components of an x-ray system for which there are requirements specified in this division.

(126) "X-Ray Tube" means any electron tube which is designed to be used primarily for the production of x-rays.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0015
Technique Chart

A useable up-to-date chart shall be provided in the vicinity of the diagnostic x-ray system's control panel which specifies, for all examinations performed with that system, the following information:

(1) Patient's anatomical size in centimeters versus technique factors to be utilized.

(2) Film-screen combination to be used.

(3) Type and focal distance of the grid to be used, if any.

(4) Source to image receptor distance to be used.

(5) Indication of radiographic examinations requiring gonad shielding, except in the case of veterinary use.

(6) Units utilizing phototimers shall have a chart indicating cell choice, optimum kVp and density setting as well as other applicable requirements of this rule.

(7) Units utilizing automatic techniques that are incorporated in the X-ray machine are considered to meet the requirements of sections (1), (2), (3) and (4) of this rule.

(8) In cases where machine use is restricted to intraoral radiography, or one operator and less than three techniques, the registrant is exempt from the requirements of this rule.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0025
Protection of Patients and Personnel

Except for patients who cannot be moved out of the unprotected area, only the staff and ancillary personnel required for the medical procedure or training shall be in the unprotected area during the radiographic exposure. Other than the patient being examined:

(1) All individuals shall be positioned such that no part of the body will be struck by the useful beam unless protected by 0.5 millimeter (mm) lead equivalent.

(2) Staff and ancillary personnel shall be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.

(3) Patients who cannot be removed from the room shall be protected from the direct scatter radiation by whole body protective barriers of 0.25 mm lead equivalent or shall be so positioned that the nearest portion of the body is at least two meters from both the tube head and the nearest edge of the image receptor.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0030
Gonad Shielding

(1) Gonad shielding of not less than 0.5 mm lead equivalent shall be used for patients, who have not passed the reproductive age, during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedure. In addition:

(a) Collimation shall not be used as a substitute for proper shielding;

(b) Should the situation arise where by gonadal shielding would compromise the diagnosis, a sticker stating "Gonadal shielding would interfere with the diagnostic procedure" (or the equivalent) shall be placed on the film to identify the reason this procedure does not comply with section (1) of this rule.

(2) A written policy regarding gonad shielding shall be provided to each individual operating X-ray equipment. This policy shall include but not be limited to:

(a) Definition of age of patients requiring gonad shielding;

(b) A listing of radiographic procedures requiring gonad shielding for both males and females; and

(c) Other pertinent data that would help insure compliance, such as type and location of placement of gonad shielding.

(3) The registrant shall provide a means to assure that the requirements of section (1) of this rule are followed.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0035
Deliberate Exposures Restricted

Persons shall not be exposed to the useful beam except for healing art purposes until the patient has been evaluated, and a medical need for the x-ray/s is determined, and has been authorized by a physician licensed to practice the healing arts in Oregon. Any useful diagnostic information obtained from each exposure shall be reviewed by a practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(1) Exposure of an individual for training, demonstration or other purposes unless there are also healing arts requirements and proper prescription has been provided.

(2) Exposure of an individual for the purpose of healing arts screening:

(a) Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the Agency;

(b) When requesting such approval, that person shall submit the following information. If any information submitted to the Agency becomes invalid or outdated, the Agency shall be immediately notified:

(A) Name and address of the applicant and, where applicable, the names and addresses of agents within this state;

(B) Diseases or conditions for which the X-ray examinations are to be used in diagnoses;

(C) A detailed description of the X-ray examinations proposed in the screening program;

(D) Description of the population to be examined in the screening program, i.e., age, sex, physical conditions, and other appropriate information;

(E) An evaluation of any known alternate methods not involving ionizing radiation which could achieve the goals of the screening program and why these methods are not used instead of the X-ray examinations;

(F) An evaluation by a qualified expert of the X-ray system(s) to be used in the screening program. The evaluation by the qualified expert shall show that such system(s) do satisfy all requirements of these rules;

(G) A description of the diagnostic film quality control program;

(H) A copy of the technique chart for the X-ray examination procedures to be used;

(I) The qualifications of each individual who will be operating the X-ray system(s);

(J) The qualifications of the individual who will be supervising the operators of the X-ray system(s). The extent of supervision and the method of work performance evaluation shall be specified;

(K) The name and address of the individual who will interpret the radiograph(s);

(L) A description of the procedures to be used in advising the individuals screened and their private practitioners of the healing arts of the results of the screening procedure and any further medical needs indicated;

(M) A description of the procedures for the retention or disposition of the radiographs and other records pertaining to the X-ray examinations.

(3) Mammography screening shall be exempt from the requirements of section (2) of this rule if the following conditions are met:

(a) The requirements set forth in 333-106-0700 to 333-106-0750 of these rules are satisfied.

(b) All other applicable rules are met.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0040
Patient Holding and Restraint

When a patient or film must be provided with auxiliary support during a radiation exposure:

(1) Mechanical holding devices shall be provided and used when the technique permits. The safety rules, required by 333-106-0020 of these rules, shall list individual projections where holding devices cannot be used.

(2) Written safety procedures, as required by 333-106-0020 of these rules, shall indicate the requirements for selecting a holder and the procedure the holder shall follow.

(3) The human holder shall be protected, as required by 333-106-0025(1) and (2) of these rules.

(4) No individual shall be used routinely to hold film or patients.

(5) Occupationally exposed personnel are prohibited from holding human patients during radiographic examination.

(6) The Agency may require a separate record to be maintained which would include the name of the human holder, date of the examination, number of exposures and technique factor used for the exposure(s).

(7) In those cases where the patient must hold the film, except during intraoral examinations, any portion of the body other than the area of clinical interest exposed to the useful beam shall be protected by not less than 0.5 mm lead equivalent material.

(8) Holding of patients shall be permitted only when it is otherwise impossible to obtain the necessary radiograph.

(9) Individuals stressing joints shall be exempt from section (5) of this rule.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0045
Use of Best Procedures and Equipment

Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized. This is interpreted to include, but is not limited to:

(1) The speed of film or screen and film combinations shall be the fastest speed consistent with the diagnostic objective of the examinations.

(2) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality, see **Tables 1**, **2** and **3**. The referenced tables are available on the Agency's website: http://oregon.gov/DHS/ph/rps/index.shtml.

(3) Portable or mobile X-ray equipment shall be used only for examinations where it is impractical to transfer the patient(s) to a stationary X-ray installation.

(4) X-ray systems subject to OAR 333-106-0301(1) shall not be utilized in procedures where the source to patient distance is less than 30 centimeters (cm).

(5) Cardboard cassettes without screens shall not be used (dental intraoral excluded).

(6) The number of radiographs taken for any radiographic examination should be the minimum number needed to adequately diagnose the clinical condition.

(7) Use of techniques designed to compensate for anatomical thickness variations after the primary beam has exited the patient is specifically prohibited. This includes "split screen" imaging techniques whereby multiple speed intensifying screens are placed in the same cassette, or any techniques which rely on attenuation of secondary (remnant) radiation for compensatory purposes. Lead lined grids, which are designed to reduce scattered radiation are excluded from this provision.

(8) Filter slot covers shall be provided for the x-ray operator's protection.

(9) Facilities shall determine or cause to be measured the typical patient exposure for their most common radiographic examinations. The exposures shall be recorded as milliroentgens measured in free air at the point of skin entrance for an average patient. These exposure amounts must then be compared to existing guidelines and rules, and if they exceed such guidelines or rules, action must be taken to reduce the exposure while at the same time maintaining or improving diagnostic image quality. In addition, typical patient exposure values shall be posted in the radiographic examination rooms so that they are readily available to administrators, X-ray operators, patients and practitioners.

(10) Protective equipment including aprons, gloves and shields shall be checked annually for defects, such as holes, cracks and tears to assure reliability and integrity. A record of this test shall be made and maintained for inspection by the Agency. If such defect is found, equipment shall be replaced or removed from service until repaired. Fluoroscopy shall only be used for this purpose if a visual and manual check indicated a potential problem.

(11) Dental x-ray machines designed and manufactured to be used for dental purposes shall be restricted to dental use only.

(12) An x-ray quality control program shall be implemented when required by the Agency.

(13) All x-ray equipment must be capable of functioning at the manufacturer's intended specifications.

(14) All patients' radiographic images or copies shall be made available for review by any practitioner of the healing arts, currently licensed by the appropriate Oregon licensing board, upon request of the patient.

(15) Requirements for the operation of fluoroscopic x-ray equipment. The operation of fluoroscopic equipment shall be restricted to the following categories of properly trained operators:

(a) Radiologists;

(b) Non-Radiologist practitioners with proper training in the operation and use of fluoroscopic X-ray equipment;

(c) R.T.'s;

(d) R.P.A.'s and R.R.A.'s;

(e) Technologists, who have successfully completed an OBRT approved program in radiologic technology as defined in ORS 688.405, may temporarily operate fluoroscopic equipment while waiting to take the A.R.R.T. registry examination:

(A) The temporary period will expire when the individual has passed the registry examination and is considered an R.T.; or

(B) One year from the date when the technologist completed his/ her training, provided; and

(C) The technologist, while in the temporary status referred to in section (15)(e) of this rule, has a current temporary license issued by the OBRT.

(f) The operation of fluoroscopic equipment by R.T.'s, or R.P.A.'s or R.R.A.'s shall be performed under the supervision of a radiologist and is restricted to the healing arts exclusively for the purpose of localization and/or to assist physicians in obtaining images for diagnostic purposes.

(g) Where direct or indirect supervision by a radiologist is impractical, a non-radiologist practitioner who has had proper training in the use and operation of fluoroscopic x-ray equipment is permitted to supervise an R.T. operating fluoroscopic equipment provided that the registrant arranges to have a radiologist or Medical or Health physicist to assist in;

(A) Developing fluoroscopic and radiation safety policies and procedures;

(B) Conducting an on-site practical evaluation of the Non-Radiologist practitioner's knowledge of radiation safety practices and ability to operate the fluoroscopic equipment; and

(C) At least annually, review the registrant's fluoroscopy program. The review should include an evaluation of the fluoroscopic on-times Quality Assurance reports, condition of fluoroscopic equipment and compliance with current rules. The registrant shall correct any deficiencies noted by the review.

(h) The operation of fluoroscopic equipment by a R.T. is restricted to the healing arts exclusively for the purpose of localization and/or to assist physicians in obtaining images for diagnostic purposes.

(i) Students currently enrolled in an approved school of Radiologic Technology as defined in ORS 688.405, may only operate fluoroscopic equipment under the direct supervision of a Radiologist or a R.T. while in the clinical phase of training.

(j) Students currently enrolled in an Agency approved R.P.A. or R.A. training program, may only operate fluoroscopic equipment under the direct or in-direct supervision of a Radiologist during their clinical phase of training.

(k) Overhead fluoroscopy is not to be used as a positioning tool for radiographic examinations except for those fluoroscopic examinations specified in the registrant's written policies/procedures for fluoroscopy.

(l) Proper training in the operation of fluoroscopic X-ray equipment shall include but not be limited to the following:

(A) Principles and operation of the fluoroscopic x-ray machine;
(i) Generating x-rays;
(ii) kVp and mA;
(iii) Image intensification;
(iv) High level control versus standard operating mode;
(v) Magnification (multi-field);
(vi) Automatic Brightness Control (ABC);
(vii) Pulsed versus Continuous x-ray Dose Rates;
(viii) Image recording modes;
(ix) Imaging Systems (TV and Digital);
(x) Contrast, noise and resolution;
(B) Radiation units;
(i) Traditional units;
(ii) SI units;
(iii) Dose Area Product;
(C) Typical fluoroscopic outputs;
(i) Patient skin entrance dose;
(ii) Standard Roentgen per minute (R/min) dose rates;
(iii) High level/Boost enable Roentgen per minute (R/min) dose rates;
(D) Dose reduction techniques for fluoroscopy;
(i) The use of collimation;
(ii) X-ray tube and Image intensifier placement;
(iii) Patient size versus Technique selection;
(iv) Use of grid;
(v) Use of last image hold;
(vi) Additional beam filtration;
(vii) Alternate gantry angles;
(viii) Use of spacer cone;
(ix) Pulsed fluoroscopy;
(E) Factors affecting personnel dose;
(i) Patient dose;
(ii) Scatter radiation;
(iii) Tube and Image intensifier placement;
(iv) Time, distance and shielding;
(F) Protective devices;
(i) Lead aprons and gloves;
(ii) Thyroid collars;
(iii) Protective glasses;
(iv) Leaded drapes;
(v) Bucky slot cover;
(vi) Protective shields/barriers;
(G) Radiation exposure monitoring;
(i) Personnel monitors;
(ii) Placement of personnel monitors;
(iii) Occupational and non-occupational dose limits;

(H) Biological effects of x-ray radiation;
(i) X-rays and particulate matter;
(ii) Absorption variables (field size, dose rate, etc.);
(iii) Scatter radiation;
(iv) Cell sensitivity;
(v) Acute effects;
(vi) Latent effects;
(I) Applicable regulations;
(i) Federal; and
(ii) Oregon Rules for the Control of Radiation to include, but not limited to, divisions 101, 103, 106, 111 and 120.

(16) Radiologists, R.A.'s or R.P.A.'s and R.T.'s currently licensed in Oregon are considered to have met the training requirements in (15)(l) of this rule.

(17) Fluoroscopic equipment operators who qualified to operate fluoroscopic x-ray equipment prior to April 11, 2005, will be considered as having met the training requirements in (15)(l) of this rule.

(18) All images formed by the use of fluoroscopy shall be viewed, directly or indirectly, and interpreted by a radiologist, cardiologist, non-radiologist practitioner or other qualified specialist. R.A's and R.P.A's may issue a preliminary report, however, the final report must be issued by their supervising radiologist.

(19) Written procedures for fluoroscopic x-ray equipment operators shall be available at the worksite and include:

(a) A list of all individuals who are permitted to operate fluoroscopic x-ray equipment at the facility;

(b) A list of the fluoroscopic x-ray equipment that each operator is qualified to operate;

(c) Written procedures regarding the set up and operation of each fluoroscopic x-ray machine registered to the facility;

(d) Written radiation safety procedures pertaining to the use and operation of fluoroscopy; and

(e) The name and title of the individual who is responsible for the direction of R.T.'s who operate fluoroscopic equipment.

(20) Facilities shall determine, or cause to be determined, the typical patient entrance exposure rate for their most common fluoroscopic examinations. The determination shall be made using an attenuation block as described in 333-106-005(8) of these rules using measurement protocol in compliance with OAR 333-106-0210 of these rules and expressed in Roentgens per minute (R/min.) or milliRoentgens per minute (mR/min.). In addition, these entrance exposure rates shall be posted in the room where fluoroscopic examinations are conducted so that they are readily available to administrators, x-ray operators, patients and practitioners.

(21) Facilities that utilize fluoroscopy shall maintain a record of the cumulative fluoroscopic exposure time used for each examination. The record must indicate the patients name, the type of examination, the date of the examination, the fluoroscopists name, the fluoroscopic room in which the examination was done and the total cumulative fluoroscopic on time for each fluoroscopic examination and:

(a) No later than May 1, 2006, establish cumulative fluoroscopic on-time benchmarks for at least two (if applicable) of the most common types of fluoroscopic examinations performed at their site in each the following categories:

(A) Routine procedures performed on adults;
(B) Routine procedures performed on children;
(C) Orthopedic procedures performed in surgery;
(D) Urologic procedures performed in surgery;
(E) Angiographic procedures performed;
(F) Interventional cardiac studies.

(b) Develop and perform periodic (not to exceed 12 month intervals) quality assurance studies to determine the status of each individual fluoroscopist's cumulative on-time in relation to the fluoroscopic benchmarks established for individual fluoroscopic examinations;

(c) Take appropriate action, when the established benchmarks are consistently exceeded. The Radiation Safety Committee (RSC) must review the results of the cumulative fluoroscopic on-time Quality Assurance Study and take corrective action regarding those individuals who have exceeded the benchmark/s established by the facility for a particular procedure more than ten percent of the total times the individual performed the procedure during the study period. Documentation of the RSC review, as well as any corrective action/s taken, must be available for Agency review. Corrective action should, at a minimum, include;

(A) Notification of the individual; and

(B) Recommendation that the individual undergo additional coaching, training, etc. in the safe use of fluoroscopic equipment in order to assist them in reducing their cumulative fluoroscopic on-times.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0055
X-ray Operator Training

(1) The registrant shall assure that individuals who will be operating the x-ray equipment shall have adequate training in radiation safety. Adequate training in radiation safety means a minimum of 40 hours of didactic instruction for diagnostic medical x-ray equipment operators, 8 hours for Grenz ray x-ray equipment operators and 20 hours for veterinary x-ray equipment operators from an Agency approved training course covering the following subjects:

(a) Nature of x-rays;
(b) Interaction of x-rays with matter;
(c) Radiation units;
(d) Principles of the x-ray machine;
(e) Biological effects of x-ray;
(f) Principles of radiation protection;
(g) Low dose techniques;
(h) Applicable Federal and State radiation regulations including those portions of divisions 100, 101, 103, 106, 111 and 120 of chapter 333;
(i) Darkroom and film processing;
(j) Film critique.

NOTE: Subjects (1)(g), (1)(i) and (1)(j) are not required for Grenz ray x-ray equipment operator training.

(2) Dental x-ray operators who meet the following requirements are considered to have met the requirements in section (1) of this rule:

(a) Currently licensed by the Oregon Board of Dentistry as a Dentist or Dental Hygienist; or

(b) Is a Dental Assistant who is certified, by the Oregon Board of Dentistry, in radiologic proficiency; and

(c) Successfully completed didactic and clinical radiography training covering the subject areas outlined in section (1) of this rule; and

(d) Passed the Radiation Health and Safety (RHS) or the Certified Dental Assistant (CDA) examination administered by the Dental Assisting National Board, Inc.(DANB) and clinical radiography examination or other comparable requirements approved by the Oregon Board of Dentistry.

(3) Medical x-ray equipment operators not regulated by the Oregon Board of Radiologic Technology. In addition to the above, medical x-ray equipment operators using diagnostic radiographic equipment on human patients, and who are not regulated by the Oregon Board of Radiologic Technology must have 100 hours or more of instruction in radiologic technology including, but not limited to, anatomy physiology, patient positioning, exposure and technique. The instruction must be appropriate to the types of x-ray examinations that the individual will be performing; and

(a) Have 200 hours or more of x-ray laboratory instruction and practice in the actual use of an energized x-ray unit, setting techniques and practicing positioning of the appropriate diagnostic radiographic procedures that they intend to administer; and

(b) Must have completed the required radiation use and safety hours and a minimum of 50 hours in x-ray laboratory before x-raying a human patient.

(4) Radiation Use and Safety Instructor Qualifications. The training required in sections (1), (2) and (3) of this rule must be taught by an Agency approved Instructor. Approval will be based upon the following criteria:

(a) Medical use and safety instructor: An individual who is currently licensed as a Radiologic Technologist and approved as an education provider by the Oregon Board of Radiologic Technology.

(b) A dental radiation use and safety instructor is an individual who has:

(A) Passed the Radiation Health and Safety (RHS) or the Certified Dental Assistant (CDA) examination administered DANB; or

(B) Has been evaluated and approved as a qualified Dental radiation use and safety instructor by the Oregon Board of Dentistry; and

(C) Is currently licensed, by the Oregon Board of Dentistry as a dentist; or

(D) Is a dental hygienist; or

(E) Is a dental assistant certified in Radiologic proficiency and has a minimum of two years of experience in taking dental radiographs.

(c) A veterinarian radiation use and safety instructor is an individual who is:

(A) Currently credentialed with the Oregon Veterinary Medical Examining Board, or licensed as a Radiologic Technologist by the Oregon Board of Radiologic Technology; and

(B) Has completed training specific to veterinarian radiography; and

(C) Have a minimum of two years of experience in taking veterinary radiographs.

(d)(A) On a case by case basis, if an evaluation by the Agency reveals the individual has alternative qualifications that are substantially equivalent to the qualifications listed in sections (4)(a), (b) or (c) of this rule or is an individual who is qualified under 333-101-0230 as a Hospital Radiology Inspector; or

(B) The individual meets the requirements of a qualified expert as defined in 333-100-0005.

(5) In addition to the requirements in sections (2), (9), (10) and (13), of this rule dental x-ray equipment operator must also satisfy any requirements established by the Oregon Board of Dentistry.

(6) The operator shall be able to demonstrate competency in the safe use of the x-ray equipment and associated x-ray procedures.

(7) Any diagnostic medical x-ray operator is deemed to have adequate training to meet the requirements of section (1) of this rule if they meet any of the following:

(a) Holds a current license from the Oregon Board of Radiologic Technology; or

(b) Holds a current limited permit from the Oregon Board of Radiologic Technology; or

(c) Is a student in a two-year approved school of Radiologic Technology as defined in ORS 688.405 while practicing Radiologic Technology under the supervision of a radiologist who is currently licensed with the Oregon Medical Examiners Board or a radiologic technologist who is currently registered with the American Registry of Radiologic Technologists and licensed with the Oregon Board of Radiologic Technology; or

(d) Is a student in an Oregon Board of Radiologic Technology approved limited permit program under a Radiologic Technologist who is currently registered with the American Registry of Radiologic Technologists and licensed by the Oregon Board of Radiologic Technology.

(8) Dental radiology students in an approved Oregon Board of Dentistry dental radiology course are permitted to take dental radiographs on human patients during their clinical training, under the indirect supervision of a Dentist or Dental Hygienist currently licensed or a dental assistant who has been certified in radiologic proficiency, by the Oregon Board of Dentistry provided that:

(a) They are enrolled in an Oregon Board of Dentistry approved radiology course; or

(b) A student studying under an Oregon Board of Dentistry approved radiology instructor; and

(c) The student has written authorization, signed by their instructor, attesting that the student has successfully completed training in the subject areas in section (1) of this rule; and

(d) Demonstrated to the instructor that they are ready to take dental radiographs on human patients through;

(A) The use of mannequins under indirect supervision; or

(B) Taking dental radiographs of human patients while under the direct supervision of the instructor; and

(C) The written authorization is on the training program or Oregon Board of Dentistry approved instructor's letterhead, a copy of which is maintained at the site/s of their clinical training and available for review by, DHS Office of State Public Health, inspection staff at the time of inspection.

(9) The students identified in section (8) of this rule are prohibited from taking radiographs on human patients without proper authorization from a practitioner of the healing arts who is currently licensed in Oregon, as required in OAR 333-106-0035 of these rules.

(10) The students identified in section (8) of this rule are considered to be in "student status" until they have successfully completed the clinical phase of their training. "Student status" shall not exceed a period of twelve (12) consecutive months.

(11) Radiation use and safety training programs approved prior to the May 1, 2005 will continue to be considered as meeting the requirements of section (1) of this rule provided they cover those portions of the Oregon Rules for the Control of Radiation indicated in section (1)(h) of this rule.

(12) X-ray operator training approved prior to May 1, 2005 will continue to be considered as having met the requirements of sections (1), (2) or (3) of this rule as applicable.

(13) Reciprocity. X-ray equipment operators who have received their radiation safety training outside of Oregon will be considered to have met the training requirements listed in sections (1) or (2) as applicable of this rule, if the Agency's or applicable Oregon Licensing Board's evaluation of their training or training and experience, reveals that they substantially meet the intent of sections (1) or (2) of this rule.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0101
Diagnostic X-ray Systems

Additional Requirements. In addition to other requirements of this division, all diagnostic x-ray systems shall meet the following requirements:

(1) Warning Label. The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(2) The state will attach an identification number to each x-ray control panel:

(a) Identification numbers shall not be removed without written permission of the Agency;

(b) Identification numbers shall not be defaced.

(3) Mobile and portable x-ray systems shall meet the requirements of a stationary system when used for greater than seven consecutive days in the same location.

(4) Battery Charge Indicator. On battery-powered x-ray generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(5) Leakage Radiation from the Diagnostic Source Assembly. The leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source shall not exceed 100 mR (25.8 C/kg) in one hour when the x-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square cm with no linear dimension greater than 20 cm.

(6) Radiation from Components Other Than the Diagnostic Source Assembly. The radiation emitted by a component other than the diagnostic source assembly shall not exceed 2 mR (0.516 C/kg) in one hour at 5 cm from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square cm with no linear dimension greater than 20 cm.

(7) Beam Quality:

(a) Half-Value Layer (HVL):

The HVL of the useful beam for a given x-ray tube potential shall not be less than the values shown in Table 4. If it is necessary to determine such HVL at an x-ray tube potential which is not listed in Table 4, linear interpolation or extrapolation may be made; The referenced table is available on the Agency's website: http://oregon.gov/DHS/ph/rps/index.shtml

(A) The HVL required in section (7)(a) of this rule will be considered to have been met if it can be demonstrated that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table 5. The referenced table is available on the Agency's website: http://oregon.gov/DHS/ph/rps/index.shtml

(B) In addition to the requirements of section (5) of this rule, all intraoral dental radiographic systems manufactured on and after December 1, 1980, shall have a minimum HVL not less than 1.5 mm aluminum (Al) equivalent filtration permanently installed in the useful beam;

(C) Beryllium window tubes shall have a minimum of 0.5 mm Al equivalent filtration permanently installed in the useful beam;

(D) For capacitor energy storage equipment, compliance with the requirements of section (5) of this rule shall be determined with the maximum quantity of charge per exposure;

(E) The required minimal aluminum equivalent filtration shall include the filtration contributed by all materials, which are always, present between the source and the patient.

(b) Filtration Controls. For x-ray systems which have variable kVp and variable filtration for the useful beam, a device shall link the kVp selector with the filter(s) and shall prevent an exposure unless the minimum amount of filtration required by subsection (5)(a) of this rule is in the useful beam for the given kVp, which has been selected.

(8) Multiple Tubes. Where 2 or more radiographic tubes are controlled by one exposure switch, the tube or tubes, which have been selected, shall be clearly indicated prior to initiation of the exposure. This indication shall be both on the x-ray control panel and at or near the tube housing assembly, which has been selected.

(9) Mechanical Support of Tube Head. The tube housing assembly supports shall be adjusted such that the tube housing assembly will remain stable during an exposure unless the tube housing movement is a designed function of the x-ray system.

(10) Technique Indicators:

(a) The technique factors to be used during an exposure shall be indicated before the exposure begins. If automatic exposure controls are used,

the technique factors, which are set prior to the exposure, shall be indicated;

(b) The requirement of subsection (10)(a) of this rule may be met by permanent marking on equipment having fixed technique factors.

(11) There shall be provided for each x-ray machine a means for determining the proper SID.

(12) X-ray film developing requirements. Compliance with this section is required of all healing arts registrants and is designed to ensure that patient and operator exposure is minimized and to produce optimum image quality and diagnostic information:

(a) Manual processing of films.

(A) The relationship between temperature of the developer and development time indicated in Table 6 or the manufacturer's recommendations must be used with standard developing chemistry. The referenced table is available on the Agency's website: http://oregon.gov/DHS/ph/rps/index.shtml

(B) Processing of film. All films shall be processed in such a fashion as to achieve adequate sensitometric performance. This criterion shall be adjudged to have been met if:

(i) Film manufacturer's published recommendations for time and temperature are followed; or

(ii) Each film is developed in accordance with the time-temperature chart (see section (12)(a) of this rule).

(C) Chemical-film processing control.

(i) Chemicals shall be mixed in accordance with the chemical manufacturer's recommendations;

(ii) Developer replenisher shall be periodically added to the developer tank based on the recommendations of the chemical or film manufacturer. Solution may be removed from the tank to permit the addition of an adequate volume of replenisher.

(D) All processing chemicals shall be completely replaced at least every two months or as indicated by the manufacturer.

(E) Devices shall be available which will:

(i) Give the actual temperature of the developer; and

(ii) Give an audible or visible signal indicating the termination of a preset development time (in minutes or seconds).

(b) Automatic film processing. Films shall be processed in such a manner that the degree of film development is the same as would be achieved by proper adherence to subsection (a) of this section (manual processing).

(c) Darkrooms. Darkrooms shall be constructed so that film being processed, handled, or stored will be exposed only to light which has passed through an appropriate safelight filter.

(d) Safelights shall be mounted in accordance with manufacturer's recommendations.

(e) Light bulbs used in safelights shall be the type and wattage recommended by the manufacturer.

(f) Safelight lenses shall be the type recommended for use by the film manufacturer.

(g) Rapid film processing. Special chemicals have been designed for use in Endodontics. These chemicals have special development requirements and do not permit as large of a margin of error in darkroom technique as do standard developing chemicals. Failure to precisely follow manufacturer's recommendations can easily lead to overexposure and underdevelopment. Darkroom procedures shall include:

(A) The manufacturer's time temperature development is crucial and shall be followed exactly;

(B) Caution: A timer capable of accurately measuring the short development times required shall be used;

(C) If rapid chemical processing is used for general radiography all applicable requirements of section (12) of this rule shall be followed.

(h) The department shall make such tests as may be necessary to determine compliance with this section.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0105

Information and Maintenance Record and Associated Information

(1) The registrant shall maintain the following information for each x-ray and automatic film processing system for inspection by the Agency:

(a) Model, serial numbers and manufacturer's user manuals for all x-ray systems and automatic film processors;

(b) Tube rating charts and cooling curves;

(c) Records of surveys, calibrations maintenance, and modification performed on the x-ray system(s) with names of persons who perform such services;

(d) A scale drawing of the room in which a stationary x-ray system is located with such drawing indicating the current use of areas adjacent to the room and an estimate of the extent of occupancy by individuals in such areas. In addition, the drawing shall include:

(A) The result of a survey for radiation levels present at the operator's position and at pertinent points outside the room at specified test conditions; or

(B) The type and thickness of materials, or lead equivalency, of each protective barrier.

(e) A copy of all correspondence with this Agency regarding that x-ray system;

(f) Provisions in section (1) of this rule shall pertain to X-ray systems placed in service after the effective date of these rules.

(2) X-ray Log. Each facility shall maintain an x-ray log containing the patient's name, the type of examinations, and the dates the examinations were performed and the name of the x-ray operator. The x-ray log must have a cover page containing the printed names of all x-ray operators and a sample of their signed initials. The following facilities are exempt from this requirements:

(a) Dental facilities that maintain patient records showing the type and date of the examination and the operator's name;

(b) Industrial facilities doing industrial X-ray only;

(c) Veterinary facilities;

(d) Hospitals or clinics who employ only fully licensed X-ray operators;

(e) Doctors' offices or clinics with only 1 X-ray operator, or 1 X-ray exam;

(f) Academic, when not X-raying humans.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0110

Plan Review

When required by the Agency, and:

(1) Prior to construction, the floor plans and equipment arrangement of all new installations, or modifications of existing installations, utilizing X-rays for diagnostic or therapeutic purposes must be submitted to the Agency for review and approval. The required information is as set out in division 20.

(2) The Agency may require the applicant to utilize the services of a qualified expert to determine the shielding requirements prior to the plan review and approval.

(3) The approval of such plans shall not preclude the requirement of additional modifications should a subsequent analysis of operating conditions indicate the possibility of an individual receiving a dose in excess of the limits prescribed in division 120.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0130

Design Requirements for an Operator's Booth

(1) Space Requirements when required by OAR 333-106-0110 of these rules:

(a) The operator shall be allotted not less than 7.5 square feet (0.697 m2) of unobstructed floor space in the booth;

(b) The operator's booth may be any geometric configuration with no dimension of less than 2 feet (0.61 m);

(c) The space shall be allotted excluding any encumbrance by the X-ray control panel, such as overhang, cables, or other similar encroachments;

(d) The booth shall be located or constructed such that unattenuated direct scatter radiation originating on the examination table or at the wall cassette not reach the operator's station in the booth.

(2) Structural Requirements:

(a) The booth walls shall be permanently fixed barriers of at least seven feet (2.13 m) high;

(b) When a door or movable panel is used as an integral part of the booth structure, it must have an interlock which will prevent an exposure when the door or panel is not closed;

(c) Shielding shall be provided to meet the requirements of division 120 of these rules.

(3) X-ray Exposure Control Placement: The X-ray exposure control for the system shall be fixed within the booth and:

(a) Shall be at least 40 inches (1.02 m) from any open edge of the booth wall which is nearest to the examining table;

(b) Shall allow the operator to use the majority of the available viewing windows.

(4) Viewing System Requirements:

(a) Each booth shall have at least one viewing device which will:

(A) Be so placed that the operator can view the patient during any exposure; and

(B) The device shall be so placed that the operator can have full view of any occupant of the room and should be so placed that the operator can view any entry into the room. If any door which allows access to the room cannot be seen from the booth, then that door must have an interlock controlling the exposure which will prevent the exposure if the door is not closed.

(b) When the viewing system is a window, the following requirements also apply:

(A) The viewing area shall be at least one square foot (0.0929 m2);

(B) The design of the booth shall be such that the operator's expected position when viewing the patient and operating the X-ray system is at least 18 inches (0.457 m) from the edge of the booth;

(C) The material constituting the window shall have the same lead equivalence as that required in the booth's wall in which it is mounted.

(c) When the viewing system is by mirrors, the mirror(s) shall be so located as to accomplish the general requirements of subsection (4)(a) of this rule;

(d) When the viewing system is by electronic means:

(A) The camera shall be so located as to accomplish the general requirements of subsection (4)(a) of this rule;

(B) There shall be an alternate viewing system as a backup for the primary system.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0201
Limitations of Useful Beam

Limitations of Useful Beam

(1) Primary Barrier:

(a) The fluoroscopic imaging assembly shall be provided with a primary protective barrier which intercepts the entire cross section of the useful beam at any SID;

(b) The X-ray tube used for fluoroscopy shall not produce X-rays unless the barrier is in position to intercept the entire useful beam.

(2) Nonimage intensified types of fluoroscopes shall not be used.

(3) Image-Intensified Fluoroscopy and Spot Filming:

(a) For image-intensified fluoroscopic equipment, neither the length nor the width of the X-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than three percent of the SID. The sum of the excess length and the excess width shall be no greater than four percent of the SID. In addition:

(A) Means shall be provided to permit further limitation of the field. Beam-limiting devices manufactured after May 22, 1979, and incorporated in equipment with a variable SID and/or a visible area of greater than 300 square cm shall be provided with means for stepless adjustment of the X-ray field;

(B) All equipment with a fixed SID and a visible area of 300 square cm or less shall be provided with either stepless adjustment of the X-ray field or with means to further limit the X-ray field size at the plane of the image receptor to 125 square cm or less. Stepless adjustment shall, at the greatest SID, provide continuous field sizes from the maximum obtainable to a field size of five centimeters by 5 cm or less;

(C) For equipment manufactured after February 25, 1978, when the angle between the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor; and

(D) Compliance shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor. For rectangular X-ray fields used with circular image reception, the error in alignment shall be determined along the length and width dimensions of the X-ray field which pass through the center of the visible area of the image receptor.

(b) Spot-film devices which are certified components shall meet the following additional requirements:

(A) Means shall be provided between the source and the patient for adjustment of the X-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot-film selector. Such adjustment shall be automatically accomplished except when the X-ray field size in the plane of the film is smaller than that of the selected portion of the film. For spot film devices manufactured after June 21, 1979, if the X-ray field size is less than the size of the selected portion of the film, the means for adjustment of the field size shall be only at the operator's option;

(B) It shall be possible to adjust the X-ray field size in the plane of the film to a size smaller than the selected portion of the film. The minimum field size at the greatest SID shall be equal to, or less than, 5 cm by 5 cm;

(C) The center of the X-ray field in the plane of the film shall be aligned with the center of the selected portion of the film to within two percent of the SID; and

(D) On spot-film devices manufactured after February 25, 1978, if the angle between the plane of the image receptor and beam axis is variable, means shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor, and compliance shall be determined with the beam axis indicated to be perpendicular to the plane of the image receptor.

(c) If a means exists to override any of the automatic X-ray field size adjustments required in section (2) of this rule, that means:

(A) Shall be designed for use only in the event of system failure;

(B) Shall incorporate a signal visible at the fluoroscopist's position which will indicate whenever the automatic field size adjustment is overridden; and

(C) Shall be clearly and durably labeled as follows:

"FOR X-RAY FIELD LIMITATION SYSTEM FAILURE"

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0210
Entrance Exposure Rates

(1) Fluoroscopic equipment manufactured before May 19, 1995 that is provided with Automatic Exposure Rate Control (AERC) shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 10 roentgens (R) (2.58 mC/kg) per minute, at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images; or;

(b) When optional high-level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 R (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, unless the high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(2) Fluoroscopic equipment that is not provided with AERC shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 R (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images; or

(A)(b) When optional high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(3) Equipment with both an AERC mode and a manual mode. Fluoroscopic equipment that is provided with both an AERC and a manual mode shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 10 R (2.58 mC/kg) per minute in either mode at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images, or;

(b) When the mode or modes have an optional high-level control, in which case that mode or modes shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 R (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, unless the high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(4) Exemptions. Fluoroscopic radiation therapy simulation systems are exempt from the requirements set forth in sections 1, 2, and 3 of this rule.

(5) For fluoroscopic equipment manufactured on and after May 19, 1995, the following requirements will apply:

(a) Fluoroscopic equipment operable at any combination of tube potential and current that will result in an exposure rate in excess of 5 R (1.29 mC/kg) per minute at a point where the center of the useful beam

enters the patient shall be equipped with AERC. Provision for manual selection of the technique factors may be provided.

(b) Fluoroscopic equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 10 R (2.58 mC/kg) per minute at a point where the center of the useful beam enters the patient except;

(A) During the recording of fluoroscopic images from an x-ray image-intensifier tube using photographic film or a video camera when the x-ray source is operated in a pulsed mode.

(B) When an optional high-level control is activated, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 20 R per minute at a point where the center of the useful beam enters the patient. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(6) Measuring compliance. Compliance with the requirements of this rule shall be determined as follows:

(a) If the source is below the table, exposure rate shall be measured 1 cm above the tabletop or cradle;

(b) If the source is above the table, the exposure rate shall be measured at 30 cm above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;

(c) For a C-arm type of fluoroscope, the exposure rate shall be measured 30 cm from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than 30 cm from the input surface of the fluoroscopic imaging assembly;

(d) For a lateral type fluoroscope, the exposure rate shall be measured at a point 15 cm from the centerline of the X-ray table and in the direction of the X-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop if moveable, it shall be positioned as closely as possible to the lateral X-ray source, with the end of the beam-limiting device or spacer no closer than 15 cm to the centerline of the X-ray table.

(7) Exemptions. Fluoroscopic radiation therapy simulation systems are exempt from the requirement set forth in section 5 of this rule.

(8) Periodic measurement of entrance exposure rate shall be performed as follows:

(a) Such measurement shall be made annually or after any maintenance of the system which might affect the exposure rate; and

(b) Results of these measurements shall be posted where any fluoroscopist may have ready access to such results while using the fluoroscope and in the record required in OAR 333-106-0105(1)(c) of these rules. The measurement results shall be stated in roentgens per minute and include the technique factors used in determining such results. The name of the person performing the measurements and the date the measurements were performed shall be included in the results; and

(c) Personnel monitoring devices may be used to perform the measurements required by subsection (a) of this rule, provided the measurements are made as described in subsection (8)(d) of this rule;

(d) Conditions of periodic measurement of entrance exposure rate are as follows:

(A) The measurement shall be made under the conditions that satisfy the requirements of section (6) of this rule; and

(B) The kVp shall be the kVp typical of clinical use of the X-ray system; and

(C) The X-ray system(s) that incorporates automatic exposure control shall have sufficient material placed in the useful beam to produce a milliamperage typical of the use of the X-ray system or the worst case; and

(D) X-ray system(s) that do not incorporate an automatic exposure control shall utilize a milliamperage typical of the clinical use of the X-ray system.

NOTE: Materials should be placed in the useful beam when conducting these periodic measurements to protect the imaging system.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0215
Barrier Transmitted Radiation Rate Limits

(1) The exposure rate due to transmission through the primary protective barrier with the attenuation block in the useful beam, combined with radiation from the image intensifier, if provided, shall not exceed 2 mR (0.516 μC/kg) per hour at 10 cm from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate.

(2) Measuring Compliance of Barrier Transmission:

(a) The exposure rate due to transmission through the primary protective barrier combine with radiation from the image intensifier shall be determined by measurements averaged over an area of 100 square cm with no linear dimension greater than 20 cm;

(b) If the source is below the tabletop, the measurement shall be made with the input surface of the fluoroscopic imaging assembly positioned 30 cm above the tabletop;

(c) If the source is above the tabletop and the SID is variable, the measurement shall be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 cm;

(d) Movable grids and compression devices shall be removed from the useful beam during the measurement;

(e) The attenuation block shall be positioned in the useful beam ten centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0225
Source-to-Skin Distance

The source-to-skin distance shall not be less than:

(1) Thirty-eight centimeters on stationary fluoroscopes manufactured on or after August 1, 1974;

(2) 35.5 cm on stationary fluoroscopes manufactured prior to August 1, 1974;

(3) 30 cm on all mobile fluoroscopes; and

(4) 20 cm for image intensified fluoroscopes used for specific surgical application. The written safety procedures must provide precautionary measures to be adhered to during the use of this device.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0235
Mobile Fluoroscopes

In addition to the other requirements of OAR 333-106-0201 through 333-106-0245 of these rules, mobile fluoroscopes shall provide intensified imaging.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0240
Control of Scattered Radiation

(1) Fluoroscopic table designs when combined with procedures utilized shall be such that no unprotected part of any staff or ancillary individual's body shall be exposed to unattenuated scattered radiation which originates from under the table. The attenuation required shall not be less than 0.25 mm lead equivalent.

(2) Equipment configuration when combined with procedures shall be such that no portion of any staff or ancillary individual's body, except the extremities, shall be exposed to the unattenuated scattered radiation emanating from above the tabletop unless that individual:

(a) Is at least 120 cm from the center of the useful beam; or

(b) The radiation has passed through not less than 0.25 mm lead equivalent material including, but not limited to, drapes, Bucky-slot cover, sliding or folding panel, or self-supporting curtains, in addition to any lead equivalency provided by the protective apron referred to in OAR 333-106-0025 of these rules;

(c) Upon application to the Agency, providing adequate justification, exceptions to this section may be made in some special procedures where a sterile field will not permit the use of the normal protective barriers or where the protective barriers would interfere with the procedures.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0245
Radiation Therapy Simulation Systems

Radiation therapy simulation systems shall be exempt from all the requirements of OAR 333-106-0201 through 333-106-0245 of these rules provided that:

(1) Such systems are designed and used in such a manner that no individual other than the patient is in the x-ray room during periods of time when the system is producing X-rays; and

(2) Systems which do not meet the requirements of OAR 333-106-0230 of these rules are provided with a means of indicating the cumulative time that an individual patient has been exposed to X-rays. Procedures shall require in such cases that the timer be reset between examinations.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0301
Radiographic Systems Other Than Fluoroscopic, Dental Intraoral, Veterinary Systems, or Computed Tomography(CT) X-ray Systems Beam Limitation

(1) The useful beam shall be limited to the area of clinical interest.

(2) General Purpose Stationary and Mobile X-ray Systems:

(a) There shall be provided a means for stepless adjustment of the size of the X-ray field, where the adjustment of each dimension of the field is independent of the other;

(b) A method shall be provided for visually defining the perimeter of the X-ray field. The total misalignment of the edges of the visually defined field with the respective edges of the X-ray field along either the length or width of the visually defined field shall not exceed two percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the X-ray beam;

(c) Evidence of compliance with subsections (2)(a) and (b) of this rule shall be shown on each radiograph taken, either by imaging part of the collimator on the radiograph or by imaging collimator nubs or pointers;

(d) Beam-defining lights used for visually defining perimeters of the X-ray field shall have an illumination great enough to be visualized by the operator under ambient light conditions;

(e) The Agency may grant an exemption on noncertified X-ray systems to subsection (2)(a) and (b) of this rule provided the registrant makes a written application for such exemption and in that application:

(A) Demonstrates it is impractical to comply with subsection (2)(a) and (b) of this rule; and

(B) The purpose of subsection (2)(a) and (b) of this rule will be met by other methods.

(3) Additional Requirements for Stationary General Purpose X-ray Systems. In addition to the requirements of section (2) of this rule, all stationary general purpose X-ray systems shall meet the following requirements:

(a) A method shall be provided to indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor, to align the center of the X-ray field with respect to the center of the image receptor to within 2 percent of the SID, and to indicate the SID to within two 2 percent;

(b) The beam-limiting device shall indicate numerically the field size in the plane of the image receptor to which it is adjusted; and

(c) Indication of field size dimensions and SID's shall be specified in inches and/or centimeters, and shall be such that aperture adjustments result in X-ray field dimensions in the plane of the image receptor which correspond to those indicated by the beam-limiting device to within 2 percent of the SID when the beam axis is indicated to be perpendicular to the plane of the image receptor.

(4) X-ray Systems Designed for One Image Receptor Size. Radiographic equipment designed for only one image receptor size at a fixed SID shall be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the X-ray field with the center of the image receptor to within 2 percent of the SID, or shall be provided with means to both size and align the X-ray field such that the X-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor.

(5) Special Purpose X-ray Systems:

(a) Means shall be provided to limit the X-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID when the axis of the X-ray beam is perpendicular to the plane of the image receptor;

(b) Means shall be provided to align the center of the X-ray field with the center of the image receptor to within 2 percent of the SID, or means shall be provided to both size and align the X-ray field such that the X-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor. Compliance shall be determined with the axis of the X-ray beam perpendicular to the plane of the image receptor;

(c) Subsection (5)(a) and (b) of this rule may be met with a system that meets the requirements for a general purpose X-ray system as specified in section (2) of this rule or, when alignment means are also provided, may be met with either:

(A) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed with each such device having clear and permanent markings to indicate the image receptor size and SID for which it is designed; or

(B) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0305
Radiation Exposure Control Devices

(1) Timers. Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses or a preset radiation exposure to the image receptor. In addition:

(a) Termination of exposure shall cause automatic resetting of the timer to its initial setting or to zero;

(b) It shall not be possible to make an exposure when the timer is set to a zero or "off" position if either position is provided.

(2) X-Ray Exposure Control:

(a) An X-ray exposure control shall be incorporated into each X-ray system such that an exposure can be terminated by the operator at any time except for:

(A) Exposure of 1/2 second or less; or

(B) During serial radiography when means shall be provided to permit completion of any single exposure of the series in process.

(b) Each X-ray exposure control shall be located in such a way as to meet the following requirements:

(A) Stationary X-ray systems shall be required to have the X-ray exposure control permanently mounted in a protected area so that the operator is required to remain in that protected area during the entire exposure; and

(B) The operator's protected area shall provide visual indication of the patient during the X-ray procedure; and

(C) Mobile and portable X-ray systems which are:

(i) Used for greater than one week in the same location, i.e., a room or suite, shall meet the requirements of paragraph (2)(b)(A) of this rule;

(ii) Used for greater than one hour and less than one week at the same location, i.e., a room or suite, shall meet the requirement of subparagraph (2)(b)(C)(i) of this rule or be provided with a 6.5 feet (1.98 m) high protective barrier which is placed at least 6 feet (1.83 m) from the tube housing assembly and at least 6 feet (1.83 m) from the patient; or

(iii) Used to make an exposure(s) of a patient at the use location shall meet the requirement of subparagraph (2)(b)(C)(i) or (ii) of this rule or be provided with a method of X-ray control which will permit the operator to be at least 12 feet (3.66 m) from the tube housing assembly during an exposure.

(c) The X-ray control shall provide visual indication observable at or from the operator's protected position whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(3) Automatic Exposure Controls. When an automatic exposure control is provided:

(a) Indication shall be made on the control panel when this mode of operation is selected;

(b) If the X-ray tube potential is equal to or greater than 50 kVp, the minimum exposure time for field emission equipment rated for pulsed operation shall be equal to or less than a time interval equivalent to two pulses;

(c) The minimum exposure time for all equipment other than that specified in subsection (3)(b) of this rule shall be equal to or less than 1/60 second or a time interval required to deliver 5 mAs, whichever is greater;

(d) Either the product of peak X-ray tube potential, current, and exposure time shall be limited to not more than 60 kWs per exposure, or the product of X-ray tube current and exposure time shall be limited to not more than 600 mAs per exposure except that, when the X-ray tube potential is less than 50 kVp, the product of X-ray tube current and exposure time shall be limited to not more than 2000 mAs per exposure; and

(e) A visible signal shall indicate when an exposure has been terminated at the limits required by subsection (3)(d) of this rule, and manual resetting shall be required before further automatically timed exposures can be made.

(4) Reproducibility. With a timer setting of 0.5 seconds or less, the average exposure period (T) shall be greater than or equal to five times the maximum exposure period (Tmax) minus the minimum exposure period (Tmin) when four timer tests are performed: (T)> 5 (Tmax - Tmin).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0310
Source-to-Skin Distance

(1) All mobile or portable radiographic systems shall be provided with means to limit the source-to-skin distance to equal to or greater than 30 cm. This is considered to have been met when the collimator or cone provides the required limits.

(2) Any device provided to limit the SSD must be durable and securely fastened to the system.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0315
Exposure Reproducibility

The coefficient of variation of exposure shall not exceed 0.10 when all technique factors are held constant. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to 5 times the maximum exposure (Emax) minus the minimum exposure (Emin). E > 5 (Emax - Emin).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0325
Intraoral Dental Radiographic Systems

In addition to the provisions of OAR 333-106-0010 through 333-106-0101 of these rules, the requirements of this rule apply to X-ray equipment and facilities where intraoral dental radiography is conducted. Requirements for extraoral dental radiographic systems are covered in OAR 333-106- 0301 through 333-106-0320 of these rules. Intraoral dental radiographic systems must meet the following requirements:

(1) Source-to-Skin Distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance, to not less than:

(a) 18 cm if operable above 50 kVp; or

(b) 10 cm if operable at 50 kVp only.

(2) Beam Limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that:

(a) The beam size at an 18 cm source to image distance (SSD) shall be containable in a circle having a diameter of no larger than 7 cm; or

(b) The beam size at an SSD of less than 18 cm must be containable in a circle having a diameter of no larger than 6 cm.

(3) Radiation Exposure Control (Timers). Means shall be provided to control the radiation exposure by through the adjustment of exposure time in seconds, milliseconds (ms) or, number of pulses, or current/milliamps (mA), or the product of current and exposure time (mAs) or adjustment of kVp. In addition:

(a) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure shall not initiated without such an action; and

(b) It shall not be possible to make an exposure when the timer is set to a "0" or "off " position if either position is provided;

(c) Exposure Indication. Means shall be provided for visual indication, observable at or from the operator's protected position, whenever x-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(d) Exposure termination.

(A) Means shall be provided to terminate the exposure at a preset, time interval, mAs, number of pulses, or radiation to the image receptor.

(B) An x-ray exposure control shall be incorporated into each system such that an exposure can be terminated by the operator at any time, except for exposures of 1/2 second or less.

(C) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "0".

(4) Radiation Exposure Control Location and Operator Protection. Each x-ray control must be located in such a way as to meet the following requirements behind a secondary protective barrier in a protected area as defined in OAR 333-106-0005 of these rules and the operator shall remain in that protected area during the entire exposure: and

(a) The exposure switch shall be able to be operated in a protected area, as defined in OAR 333-106-0005, and the operator shall remain in that protected area during the entire exposure; and

(b) The operator's protected area shall provide visual indication of the patient during the X-ray procedure.

(c) Mobile and portable X-ray systems which are:

(A) Used for greater than 1 week in the same location, i.e., a room or suite, shall meet the requirements of paragraph (4) (a) and (b) of this rule;

(B) Used for less than 1 week at the same location, i.e., a room or suite, shall be provided with:

(i) Either a protective barrier of at least 6.5 feet (2 meters) high for operator protection; or

(ii) A means to allow the operator to be at least nine (9) feet (2.7 meters) from the tube housing assembly while making exposures; or

(iii) A full length protective apron and thyroid collar, of not less than 0.25 millimeter lead equivalent for operator protection, when using a hand held dental intraoral x-ray machine.

(5) Exposure Reproducibility. When the equipment is operated on an adequate power supply as specified by the manufacturer, the estimated coefficient of variation of radiation exposures shall be no greater than 0.05 for any specific combination of technique factors. This requirement shall be deemed to have been met if, when 4 exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to 5 times the maximum exposure (Emax) minus the minimum exposure (Emin): E > 5 (Emax - Emin)

(6) Accuracy.

(a) Deviation of technique factors from the indicated values for kVp and exposure time (if time is independently selectable) shall not exceed the limits specified for that system by its manufacturer. In the absence of manufacturer's specifications the deviation shall not exceed 10 percent of the indicated value for kVp and 20 percent for exposure time.

(b) kVp Limitations. Dental x-ray machines with a nominal fixed kVp of less than 50 kVp shall not be used to make diagnostic dental radiographs on humans.

(7) Administrative Controls:

(a) Patient and film holding devices shall be used when the techniques permit;

(b) The tube housing and the PID shall not be hand-held during an exposure;

(c) The X-ray system shall be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of subsections (2)(a) of this rule or its updated version;

(d) All patients shall be provided with a leaded lap apron during any X-ray exposure;

(e) Dental fluoroscopy without image intensification shall not be used;

(f) Pointed cones shall not be utilized unless specific authorization has been granted by the Agency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0350
Definitions

In addition to the definitions provided in division 100 and 106 of these rules, the following definitions shall be applicable to this rule.

(1) "Computed Tomography Dose Index" means the integral from -7T to +7T of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic section thickness and the number of tomograms produced in a single scan. This definition assumes that the dose profile is centered around z = 0 and that, for a multiple tomogram system, the scan increment between adjacent scans is nT.

(2) "Contrast Scale" means the change in the linear attenuation coefficient per CTN relative to water.

(3) "CS" (see Contrast scale).

(4) "CT Conditions of Operation" means all selectable parameters governing the operation of a CT X-ray system including, but not limited to, nominal tomographic section thickness, filtration, and the technique factors as defined in 333-106-0005.

(5) "CTDI" (see Computed tomography dose index).

(6) "CT Gantry" means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structures and frames which hold these components.

(7) CTN (see CT number).

(8) CT Number means the number used to represent the X-ray attenuation associated with each elemental area of the CT image.

(9) "Dose Profile" means the dose as a function of position along a line.

(10) "Elemental Area" means the smallest area within a tomogram for which the X-ray attenuation properties of a body are depicted (see also Picture element.)

(11) "Multiple Tomogram System" means a computed tomography X-ray system which obtains X-ray transmission data simultaneously during a single scan to produce more than one tomogram.

(12) "Noise" means the standard deviation of the fluctuations in CTN expressed as a percentage of the attenuation coefficient of water.

(13) "Nominal Tomographic Section Thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross-sectional volume over which X-ray transmission data are collected.

(14) "Picture Element" means an elemental area of a tomogram.

(15) "Reference Plane" means a plane which is displaced from and parallel to the tomographic plane.

(16) "Scan" means the complete process of collecting X-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

(17) "Scan Increment" means the amount of relative displacement of the patient with respect to the CT X-ray system between successive scans measured along the direction of such displacement.

(18) "Scan Sequence" means a preselected set of 2 or more scans performed consecutively under preselected set of 2 or more scans performed consecutively under preselected CT conditions of operation.

(19) "Scan Time" means the period of time between the beginning and end of X-ray transmission data accumulation for a single scan.

(20) "Single Tomogram System" means a CT X-ray system which obtains X-ray transmission data during a scan to produce a single tomogram.

(21) "Tomographic Plane" means that geometric plane which is identified as corresponding to the output tomogram.

(22) "Tomographic Section" means the volume of an object whose X-ray attenuation properties are imaged in a tomogram.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0355
Requirements for Equipment

(1) Termination of Exposure:

(a) Means shall be provided to terminate the X-ray exposure automatically by either de-energizing the X-ray source or shuttering the X-ray beam in the event of equipment failure affecting data collection. Such termination shall occur within an interval that limits the total scan time to no more than 110 percent of its preset value through the use of either a back-up timer or devices which monitor equipment function;

(b) A visible signal shall indicate when the X-ray exposure has been terminated through the means required by subsection (1)(a) of this rule;

(c) The operator shall be able to terminate the X-ray exposure at any time during a scan, or series of scans under CT X-ray system control, of greater than one-half second duration.

(2) Tomographic Plane Indication and Alignment:

(a) For any single tomogram system, means shall be provided to permit visual determination of the tomographic plane or a reference plane offset from the tomographic plane;

(b) For any multiple tomogram system, means shall be provided to permit visual determination of the location of a reference plane. This reference plane can be offset from the location of the tomographic planes;

(c) If a device using a light source is used to satisfy subsection (2)(a) or (b) of this rule, the light source shall provide illumination levels sufficient to permit visual determination of the location of the tomographic plane or reference plane under ambient light conditions of up to 500 lux.

(3) Beam-On and Shutter Status Indicators and Control Switches:

(a) The CT X-ray control and gantry shall provide visual indication whenever X-rays are produced and, if applicable, whether the shutter is open or closed;

(b) Each emergency button or switch shall be clearly labeled as to its function.

(4) Indication of CT Conditions of Operation. The CT X-ray system shall be designed such that the CT conditions of operation to be used during a scan or a scan sequence shall be indicated prior to the initiation of a scan or a scan sequence. On equipment having all or some of these conditions of operations at fixed values, this requirement may be met by permanent markings. Indication of CT conditions of operation shall be visible from any position from which scan initiation is possible.

(5) Extraneous Radiation. When data are being collected for image production, the radiation adjacent to the tube port shall not exceed that permitted by OAR 333-106-0101(5) of these rules.

(6) Maximum Surface CTDI Identification. The angular position where the maximum surface CTDI occurs shall be identified to allow for reproducible positioning of a CT dosimetry phantom.

(7) Additional Requirements Applicable to CT X-ray Systems Containing a Gantry Manufactured After September 3, 1985:

(a) The total error in the indicated location of the tomographic plane or reference plane shall not exceed five millimeters;

(b) If the X-ray production period is less than one-half second, the indication of X-ray production shall be actuated for at least one-half second. Indicators at or near the gantry shall be discernible from any point external to the patient opening where insertion of any part of the human body into the primary beam is possible;

(c) The deviation of indicated scan increment versus actual increment shall not exceed plus or minus one millimeter with any mass from 0 to 100 kilograms resting on the support device. The patient support device shall be incremented from a typical starting position to the maximum incremented distance or 30 cm, whichever is less, and then returned to the starting position. Measurement of actual versus indicated scan increment may be taken anywhere along this travel;

(d) Premature termination of the X-ray exposure by the operator shall necessitate resetting of the CT conditions of operation prior to the initiation of another scan.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0365
Surveys, Calibrations, Spot Checks, and Operating Procedures

(1) Surveys:

(a) All CT X-ray systems installed after December 1990 and those systems not previously surveyed shall have a survey made by, or under the direction of, a qualified expert. In addition, such surveys shall be done after any change in the facility or equipment which might cause a significant increase in radiation hazard;

(b) The registrant shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be made available to the Agency upon request.

(2) Radiation Calibrations:

(a) The calibration of the radiation output of the CT X-ray system shall be performed by, or under the direction of, a qualified expert who is physically present at the facility during such calibration;

(b) The calibration of a CT X-ray system shall be performed at intervals specified by a qualified expert and after any change or replacement of components which, in the opinion of the qualified expert, could cause a change in the radiation output;

(c) The calibration of the radiation output of a CT X-ray system shall be performed with a calibrated dosimetry system. The calibration of such system shall be traceable to a national standard. The dosimetry system shall have been calibrated within the preceding two years;

(d) CT dosimetry phantom(s) shall be used in determining the radiation output of a CT X-ray system. Such phantom(s) shall meet the following specifications and conditions of use:

(A) CT dosimetry phantom(s) shall be right circular cylinders of polymethyl methacrylate of density 1.19 +- 0.01 grams per cubic cm or a reasonable substitute. The phantom(s) shall be at least 14 cm in length and shall have diameters of 32.0 centimeters for testing CT X-ray systems designed to image any section of the body and 16.0 cm for systems designed to image the head or for whole body scanners operated in the head scanning mode;

(B) CT dosimetry phantom(s) shall provide means for the placement of a dosimeter(s) along the axis of rotation along a line parallel to the axis of rotation 1.0 cm from the outer surface and within the phantom. Means for the placement of dosimeters or alignment devices at other locations may be provided;

(C) Any effects on the doses measured due to the removal of phantom material to accommodate dosimeters shall be accounted for through appropriate corrections to the reported data or included in the statement of maximum deviation for the values obtained using the phantom;

(D) All dose measurements shall be performed with the CT dosimetry phantom placed on the patient couch or support device without additional attenuation materials present.

(3) The calibration shall be required for each type of head, body, or whole-body scan performed at the facility.

(4) Calibration shall meet the following requirements:

(a) The dose profile along the center axis of the CT dosimetry phantom for the minimum, maximum, and midrange values of the nominal tomographic section thickness used by the registrant shall be measurable. Where less than three nominal tomographic thicknesses can be selected, the dose profile determination shall be performed for each available nominal tomographic section thickness;

(b) The CTDI along the two axes specified in paragraph (2)(d)(B) of this rule shall be measured. The CT dosimetry phantom shall be oriented so that the measurement point 1.0 cm from the outer surface and within the phantom is in the same angular position within the gantry as the point of maximum surface CTDI identified. The CT conditions of operation shall correspond to typical values used by the registrant.

NOTE: For the purpose of determining the CTDI, the manufacturer's statement as to the nominal tomographic section thickness for that particular system may be utilized.

(c) The spot checks specified in section (5) of this rule shall be made;

(d) Calibration procedures shall be in writing. Records of calibrations performed shall be maintained for inspection by the Agency.

(5) Spot Checks:

(a) The spot check procedures shall be in writing and shall have been developed by a qualified expert;

(b) The spot-check procedures shall incorporate the use of a CT dosimetry phantom which has a capability of providing an indication of contrast scale, noise, nominal tomographic section thick-ness, the resolution capability of the system for low and high contrast objects, and measuring the mean CTN for water or other reference material;

(c) Spot checks shall be included in the calibration required by section (2) of this rule and at time intervals and under system conditions specified by a qualified expert;

(d) Spot checks shall include acquisition of images obtained with the CT dosimetry phantom(s) using the same processing mode and CT conditions of operations as are used to perform calibrations required by section (2) of this rule. The images shall be retained, until a new calibration is performed, in two forms as follows:

(A) Photographic copies of the images obtained from the image display device; and

(B) Images stored in digital form on a storage medium compatible with the CT X-ray system.

(e) Written records of the spot checks performed shall be maintained for inspection by the Agency.

(6) Operating Procedures:

(a) The CT X-ray system shall not be operated except by an individual who has been specifically trained in its operation;

(b) Information shall be available at the control panel regarding the operation and calibration of the system. Such information shall include the following:

(A) Dates of the latest calibration and spot checks and the location within the facility where the results of those tests may be obtained;

(B) Instructions on the use of the CT dosimetry phantom(s) including a schedule of spot checks appropriate for the system, allowable variation for the indicated parameters, and the results of at least the most recent spot checks conducted on the system;

(C) The distance in millimeters between the tomographic plane and the reference plane if a reference plane is utilized; and

(D) A current technique chart available at the control panel which specifies for each routine examination the CT conditions of operation and the number of scans per examination.

(7) If the calibration or spot check of the CT X-ray system identifies that a system operating parameter has exceeded a tolerance established by the qualified expert, use of the CT X-ray system on patients shall be limited to those uses permitted by established written instructions of the qualified expert.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0370
Operator Requirements

(1) Computed Tomography (CT) X-ray systems shall be operated by individuals who:

(a) Are registered with the American Registry of Radiologic Technologists (A.R.R.T); and

(b) Have received additional CT system training; and

(c) Meet the clinical experience requirements for C.T. established by A.R.R.T.; and

(d) Are currently licensed by the Oregon Board of Radiologic Technology.

(2) Individuals who are registered with the A.R.R.T. and credentialed as an R.T.(R) and (CT) are considered to have met the CT training requirement in 333-106-0370(1) of this rule and clinical experience requirement in section (1)(a) of this rule.

(3) Those individuals who have met the requirements of (1) of this rule prior to the effective date of this rule are considered to have met (1)(a) of this rule.

(4) Technologists operating CT systems must do so under the direction of a radiologist.

(5) Positron Emission-Computed Tomography (PET/CT) or Single Photon Emission-Computed Tomography (SPECT/CT) systems shall be operated by:

(a) Any registered radiographer with the credential R.T. (R); or

(b) Registered radiation therapist with the credential R.T. (T); and

(c) Who are currently licensed by the Oregon Board of Radiologic Technology; or

(d) Registered certified nuclear medicine technologist with the credentials R.T. (N); or

(e) Certified Nuclear Medicine Technologist (CNMT) by the Nuclear Medicine Technologist Certification Board (NMTCB).

(6) The individuals mentioned in (5) of this rule must also have successfully completed appropriate additional education and training and demonstrated competency in the use and operation of PET/CT or SPECT/CT systems.

(7) Appropriate additional training is considered training that covers the topic areas outlined in the PET/CT curriculum developed by the Multi-Organizational Curriculum Project Group sponsored by the American Society of Radiologic Technologists and the Society of Nuclear Medicine Technologists, or equivalent training approved by the Agency and:

(a) Includes the content specified in the PET/CT curriculum for the area(s) that the individual is not already trained or certified in; or

(b) Individuals meeting the requirements of (5) of this rule and who have successfully completed training that the Agency has evaluated and judged to be substantially equivalent to that specified in (7)(a) of this rule.

(8) R.T.(N) 's or CNMT's who have become certified in Computed Tomography through the American Registry of Radiologic Technologists are considered to have met the training requirements in (5) of this rule.

(9) Technologists operating PET/CT or SPECT/CT systems must do so under the direction of an authorized user licensed to perform imaging and localization studies in accordance with OAR 333-116-0320 of these rules.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0601
Veterinary Medicine Radiographic Installations Additional Requirements

(1) Equipment:

(a) The protective tube housing shall be of the diagnostic type;

(b) Collimating devices shall be provided and used for collimating the useful beam to the area of clinical interest;

(c) All X-ray equipment sold (etc.) after October 1991 must be equipped with a variable adjustable collimator and beam-defining light that meets all of the requirements of OAR 333-106-0301(1), (2) and (3) of these rules;

(d) The total filtration permanently in the useful beam shall not be less than 0.5 mm Al equivalent for machines operating up to 50 KVp, 1.5 mm Al equivalent for machines operating between 50 and 70 kVp, and 2.5 mm Al equivalent for machines operating above 70 kVp;

(e) A device shall be provided to terminate the exposure after a preset time or exposure;

(f) A dead-man type of exposure switch shall be provided, together with an electrical cord of sufficient length, so that the operator can stand out of the useful beam and at least 12 feet (3.66 m) from the animal during all X-ray exposures.

(2) Structural Shielding: All wall, ceiling and floor areas shall be equivalent to or provided with applicable protective barriers to assure compliance with division 120.

(3) Operating Procedures:

(a) The operator shall stand well away from the useful beam and the animal during radiographic exposures;

(b) No individual other than the operator shall be in the X-ray room while exposures are being made unless such individual's assistance is required;

(c) When an animal must be held in position during radiography, mechanical supporting or restraining devices should be used. If the animal must be held by an individual, that individual shall be protected with appropriate shielding devices, such as protective gloves and apron, and that individual shall be so positioned that no part of the body will be struck by the

useful beam. The exposure of any individual used for this purpose shall be monitored with appropriate personnel monitoring devices.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0700
Mammography X-Ray Systems Definitions

In addition to the definitions provided in division 100 and 106 of these rules, the following definitions shall be applicable to the rules in this section.

(1) Air Kerma means the sum of the initial energies of all the charged particles liberated by uncharged ionizing particles in a given mass of air. The unit used to measure the quantity of kerma is the Gray (Gy). For x-rays with energies below 300 kiloelectronvolts (keV), 1Gy=100 rad and is equivalent to 114 (R) of exposure.

(2) FDA means the Food and Drug Administration.

(3) An Image receptor support surface means that portion of the image receptor support which is the x-ray input surface and is used to support the patient's breast during mammography.

(4) Interpreting physician means a licensed physician who interprets mammographic images and meets the qualifications of OAR 333-106-0750(2) of these rules.

(5) Lead Interpreting Physician means a physician who interprets mammographic images, meets the qualifications of OAR 333-106-0750(2) of these rules, and who has the general responsibility for ensuring that the registrant's quality assurance program meets all applicable rules and regulations.

(6) Mammographic screening means the use of radiation to test women for the detection of diseases of the breast when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such tests for the purposes of diagnosis. Screening is considered as self-referral by asymptomatic women without physicians orders (see 333-100-0020(5)(6) and 333-106-0035(3)).

(7) Mammography means radiography of the breast.

(8) Mammography equipment evaluation means an onsite assessment of a mammography unit/s or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable state and federal standards.

(9) Mammography unit/s means an assemblage of components for the production of X-rays for use during mammography, including, at a minimum; An X-ray generator, an X-ray control, a tube housing assembly, a beam limiting device, and the supporting structures for these components.

(10) Medical Physicist means a person trained in evaluating the performance of mammography equipment and quality assurance programs and meets the qualifications of OAR 333-106-0750(3) of these rules.

(11) MQSA means the Mammography Quality Standards Act of 1992.

(12) Phantom means a test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer. (The "FDA accepted phantom" meets this requirement.)

(13) Quality Assurance is a comprehensive concept that comprises all of the management practices instituted by the registrant or the registrant's representative/s to ensure that:

(a) Every imaging procedure is necessary and appropriate to the clinical problem at hand;

(b) The images generated contain information critical to the solution of that problem;

(c) The recorded information is correctly interpreted and made available in a timely fashion to the patient's physician;

(d) The examination results in the lowest possible radiation exposure, cost, and inconvenience to the patient, consistent with objective (13)(b) of this rule.

(14) Quality Assurance Program includes such facets as efficacy studies, continuing education, quality control, preventive maintenance, and calibration of equipment.

(15) Quality Control means a series of distinct technical procedures that ensure the production of a satisfactory product, e.g., a high quality screening or diagnostic image.

(16) Quality Control Technologist means an individual who is qualified under MQSA, and who is responsible for those quality assurance responsibilities not assigned to the Lead Interpreting Physician or to the Medical Physicist.

(17) Resting period means the period of time necessary to bleed out air that has been trapped between the radiographic film and intensifying screen during the loading process in the darkroom. This period of time is usually measured in minutes and determined by the individual manufacturer of the intensifying screen/mammography cassette combination.

(18) Standard Breast means a 4.2 cm thick compressed breast, consisting of 50 percent adipose, and 50 percent glandular tissue.

(19) Survey means an onsite physics consultation and evaluation of a registrant's mammography equipment, and quality assurance program performed by a medical physicist.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0710
Equipment Standards

Only x-ray systems meeting the design and performance standards required under Mammography Quality Standards Act (MQSA) shall be used, unless otherwise specified in the following rules.

(1) System design. The x-ray system shall be specifically designed for mammography.

(2) Image receptor.

(a) Image receptor systems shall be specifically designed, or appropriate for mammography.

(b) Systems using screen-film image receptors shall provide, at a minimum, image receptor sizes of 18 X 24 and 24 X 30 cm.

(c) An adequate number of image receptors shall be provided to accommodate the resting period recommended by the manufacturer.

(3) Target/filter. The x-ray system shall have the capability of providing kVp/target/filter combinations compatible with image receptor systems meeting the following requirements;

(a) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

(b) When more than one target is provided, the system shall indicate, prior to exposure, the preselected target material.

(c) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after exposure, the target material and/or focal spot actually used during the exposure.

(4) Beam quality: When used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam shall have a minimum half-value layer (HVL). The minimum HVL, for mammography equipment designed to operate below 50 kVp, is determined by dividing the actual kVp by 100, and is expressed in mm Al equivalent.

(5) Resolution: Until October 28, 2002, focal spot condition shall be evaluated either by determining system resolution or by measuring focal spot dimensions. After October 28, 2002, facilities shall evaluate focal spot condition only by determining system resolution.

(a) Each x-ray system used for mammography, in combination with the mammography screen-film combination used, shall provide a minimum resolution of 11 Cycles/mm (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.

(b) The bar pattern shall be placed 4.5 cm above the image receptor support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.

(6) Compression.

(a) All mammography systems shall incorporate a compression device capable of compressing the breast with a force of at least 25 pounds.

(b) Effective October 28, 2002, the maximum compression force for the initial power drive shall be between 25 pounds and 45 pounds.

(c) All mammography systems shall be equipped with different sized compression paddles that match the sizes of all full field image receptors provided for the system. The compression paddle shall:

(A) Be flat and parallel to the image receptor support and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied. If the compression paddle is not designed to be flat and parallel to the image receptor support during compression, it shall meet the manufacturer's design specifications and maintenance requirements;

(B) Have a chest wall edge that is straight and parallel to the edge of the image receptor support;

(C) Clearly indicate the size and available positions of the detector at the x-ray input surface of the compression paddle;

(D) Not extend beyond the chest wall edge of the image receptor support by more than 1 percent of the SID when tested with the compression

paddle placed above the support surface at a distance equivalent to a standard breast thickness;

(E) Shall not be visible, at its vertical edge, on the image.

(d) When equipped with a compression paddle height digital display, the display shall accurately represent the actual height of the compression paddle to within +- 0.5 cms. Testing shall be performed according to manufacturer's specifications.

(7) System capabilities. A mammographic x-ray system utilizing screen-film image receptors shall:

(a) Be equipped with moving grids matched to all image receptor sizes provided.

(b) Provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, non-grid, magnification; and various target-filter combinations.

(A) The automatic exposure control shall be capable of maintaining film optical density (OD) within +0.30 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 cms and the kVp is varied appropriately for such thicknesses over the kVp range used clinically. If this requirement can not be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different thicknesses and compositions that must be used so that optical densities within + 0.30 of the average under photo- timed conditions can be produced.

(B) After October 28, 2002, the AEC shall be capable of maintaining film optical density (OD) to within + 0.15 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically.

(8) Breast entrance kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.

(9) Collimation.

(a) All mammography systems shall have beam-limiting devices that allow the entire chest wall edge of the x-ray field to extend to the chest wall edge of the image receptor and provide means to assure that the X-ray field does not extend beyond any edge of the image receptor by more than 2 percent of the SID. Under no circumstances, shall the x-ray field extend beyond the non-chest wall edges of the image receptor support.

(b) The total misalignment of the edges of the visually defined light field with the respective edges of the X-ray field either along the length or width of the visually defined field shall not exceed 2 percent of the SID.

(10) Kilovoltage peak (kVp) accuracy and reproducibility;

(a) The kVp, shall be accurate within + 5 percent of the indicated or selected kVp at the lowest clinical kVp that can be measured by a kVp test device, and the most commonly used, and highest available clinical kVp; and

(b) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.

(11) Dose. The average glandular dose delivered during a single cranio-caudal view of an FDA accepted phantom simulating a standard breast, shall not exceed 250 millirad (mRad) (2.5 milliGy). The dose shall be determined with technique factors and conditions used, by the registrant, clinically for a standard breast. The testing protocol used shall be the same as used by MQSA.

(a) If the average glandular dose exceeds 250 mRad (2.5 milliGray) but is no greater than 275 mRad (2.75 milliGray), patient mammography may be continued until the cause of the problem is determined and corrected. Correction must be completed within 30 working days of when the registrant became aware of the problem. If correction has not been completed within 30 working days, and the registrant has not requested an extension in writing from the agency, patient mammography must cease until correction of the dose problem has occurred.

(b) If the average glandular dose exceeds 275 mRad (2.5 milliGray), patient mammography must cease until the cause of the dose problem is determined and corrected.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0720

Quality Assurance Program

(1) The registrant shall have a written, on-going equipment quality assurance program specific to mammographic imaging, covering all components of the diagnostic x-ray imaging system. The quality assurance program shall include the testing required in section (5) of this rule, as well as the evaluation of the test results and corrective actions necessary to ensure consistently high-quality images with minimum patient exposure. Responsibilities under this requirement are as follows:

(a) The registrant shall identify in policy/procedure, by name, a Lead Interpreting Physician meeting the requirements of OAR 333-106-0750(2) of these rules, whose responsibilities at a minimum must include:

(A) Ensuring that the registrant's quality assurance program meets all associated rules and regulations;

(B) Ensuring that an effective quality assurance program exists;

(C) Providing frequent feedback to mammography technologists regarding film quality and quality control procedures;

(D) Reviewing the Quality Control Technologist's test data at least every three months, or more if consistency has not been shown or problems are evident;

(E) Reviewing the Medical Physicist's annual survey report or equipment evaluation results.

(b) The registrant shall identify in policy/procedure, by name, and have the services of, a Medical Physicist who meets the requirements of OAR 333-106-0750(3) of these rules. The Medical Physicist shall assist in overseeing the equipment quality assurance practices of the registrant. At a minimum, the Medical Physicist shall be responsible for the annual surveys, mammography equipment evaluations, and associated reports meeting all the requirements of MQSA.

(c) The registrant shall identify in policy/procedure, by name, a single qualified Quality Control Technologist meeting the requirements of OAR 333-106-0750(1) of these rules, who shall be responsible for:

(A) Equipment performance monitoring functions;

(B) Analyzing the monitoring results to determine if there are problems requiring correction;

(C) Carrying out or arranging for the necessary corrective actions when results of quality control tests including those specified in section (5) of this rule, indicate the need; and

(D) The Quality Control Technologist may be assigned other tasks associated with the quality assurance program that are not assigned to the Lead Interpreting Physician or Medical Physicist. These additional tasks must be documented in written policy/procedure.

(2) Annual Survey. At intervals not to exceed 12-14 months, the registrant shall have a Medical Physicist meeting the requirements of OAR 333-106-0750(3) of these rules conduct a survey to evaluate the mammography equipment, and the effectiveness of the quality assurance program required in section (1) of this rule. Records of annual surveys shall be maintained for a minimum of 2 years, and shall be available on-site for agency review.

(3) Annual survey/or equipment evaluation corrective actions. Corrective action shall be completed within 30 working days of when the registrant received written or verbal notice of recommendations or failures on their annual survey/or equipment evaluation report, unless otherwise noted in these rules or a written request for extension has been submitted to and approved by the Agency;

(a) Correction of equipment related failures or recommendations shall be demonstrated by a repeat test using the same test methodology and documentation, or a test accepted as the equivalent by the Agency, that was used to initially identify the problem.

(b) When the results of a quality control test/s fail to meet applicable action limits defined in these rules, the appropriate action regarding the suspension or continuation of mammography as defined in these rules or in MQSA, shall be taken.

(4) Quality assurance records. The registrant shall ensure that;

(a) Records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, policies, previous inspection findings, and radiation protection are maintained until inspected by the agency.

(b) Quality control monitoring data and records, problems detected by the analysis of that data, corrective actions, and records of the Lead Interpreting Physician's periodic reviews of the Quality Control Technologist's monitoring data taken must be maintained for a minimum of two 2 years.

(5) Equipment quality control tests frequency. The registrant shall ensure that the following quality control tests are performed when applicable equipment or components are initially installed or replaced and performed thereafter at least as often as the frequency specified in Table 7. The referenced table is available on the Agency's website: http://oregon.gov/DHS/ph/rps/index.shtml

(6) Testing methods and action limits for quality control tests shall meet the most current requirements of MQSA, in addition to the following;

(7) Screen/film contact. Screen film contact tests shall be performed on all screens used clinically, using a 40-mesh test tool and 4 cm thick sheet of acrylic. Screens demonstrating one or more areas of poor contact that are greater than 1 cm in diameter, that are not eliminated by screen cleaning,

and remain in the same location during subsequent tests, shall not be used for mammography. Screen/film contact shall be such that any areas of poor contact, regardless of size, shall not detract from image quality.

(8) Processor performance. A processor performance test shall be performed by sensitometric means and evaluated daily, after the solution temperature in the processor has reached proper temperature, and just prior to processing any clinical mammograms. The test shall be an assessment of the base plus fog, mid-density, density difference, and developer temperature.

(a) Sensitometers and densitometers used to evaluate processor performance shall be calibrated per the manufacturer's recommended calibration procedures for such devices. A record of the calibration shall be maintained until inspected by the Agency. Densitometers shall be checked against the instrument control strip at least monthly.

(b) The mid-density and density difference action limits must be within + 0.15 of the control operating level.

(c) The base plus fog (B+F) action limit must be within + 0.03 of the control operating level.

(d) If the mid-density and/or the density difference fall outside of the + 0.10 control limit but within the + 0.15 control limit for a period of 3 days (a trend), steps must be taken to determine the cause and correct the problem;

(e) If the mid-density and/or the density difference falls outside of the + 0.15 control limit, mammograms must not be processed through the processor until the cause of the problem is determined, corrected, and a repeat test is done demonstrating that the mid-density and/or density difference are within the + 0.15 control limit;

(f) Processor quality control graphs must be in the format of the registrant's accrediting body or equivalent, and indicate test date/s, mid-density and density difference action limits, base plus fog action limit, film brand, type and emulsion number in use, the date when chemistry changes occurred and corrective action(s) taken when limits are exceeded;

(g) Cross over records and calculations must be maintained until reviewed by the Agency during the annual inspection. New mid-density and/or density difference operating levels must be charted on a new graph page.

(h) Re-establishment of operating levels must be done in accordance with the accrediting body's protocol regarding the appropriateness of this procedure or at the specific direction of the facility's medical physicist.

(i) While re-establishing operating levels (5 day average), the facility must chart each day's results against it's old operating control levels. At the end of the five days, a new chart must be established, indicating the new calculated operating limits. During the 5 day average, the facility will not be cited for having exceeded the old processor operating levels; and

(j) When collecting data for the 5 day average, a phantom image test shall be conducted each day to verify the adequacy of image quality. Should the phantom image test exceed either the 0.20 background optical density limit or the + 0.05 density difference limit, mammography must be suspended until the cause of the problem is identified and corrected, and a repeat phantom image test is shown to be within limits.

(9) Primary/secondary barrier transmission evaluation must be conducted upon initial x-ray system installation and significant modification of the system or the facility.

(10) Image quality. The mammography system must be capable of producing an image of the phantom demonstrating the following;

(a) A minimum score of 4.0 fibers, 3.0 speck groups, and 3.0 masses (or the most current minimum score established by the accrediting body and accepted by the FDA).

(b) Background density action limits within + 0.20 of the control level;

(c) Density difference action limits within + 0.05 of the control level;

(d) Milliampere seconds (mAs) within + 15% of the control level;

(e) Demonstrating a level of contrast sufficient enough to clearly help define fibril, speck, and mass edges.

(f) Without objectionable levels of image noise or quantum mottle that obscure the visualization of fibrils, specks, or masses.

(g) Demonstrating reasonably sharp fibril, and mass margins.

(h) With a minimum optical density (measured at the center of the phantom) of 1.20.

(i) Phantom image test records must be in the most current format of the registrant's accrediting body or the equivalent, and indicate the exposure mode, kVp, and photo-cell used for the test as well as remarks indicating the corrective action that was taken when limits were exceeded.

(j) When phantom image results do not meet the requirements defined in sections (a), (b), (c), (d), (e), (f), (g), or (h) of this rule, corrective action must occur, and a repeat phantom image test must be performed demonstrating compliance, before further mammography examinations are performed using the x-ray machine.

(11) Darkroom fog. Darkroom fog levels shall not exceed 0.05 in optical density difference when sensitized film is exposed to darkroom conditions with safelight on for 2 minutes. Film shall be sensitized by exposing it to sufficient light from an appropriate intensifying screen so that after processing, an optical density of at least 1.20 is achieved.

(a) If the darkroom fog optical density difference exceeds 0.05 but is less than 0.10, mammography may be continued until the problem is corrected.

(b) If the darkroom fog optical density difference exceeds 0.10, mammography must be curtailed until the problem is corrected and the density difference no longer exceeds 0.05.

(12) Repeat rate. Corrective actions shall be recorded and the results of these corrective actions shall be assessed if the reject rate exceeds 5 percent or changes by + 2% from the previously measured rate. The reject rate shall be based on repeated clinical images.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0730
Additional Requirements

(1) Masks. Masks shall be provided on the view boxes to block extraneous light from the viewer's eye when the illuminated surface of the view box is larger than the area of clinical interest.

(2) Film processors utilized for mammography shall be:

(a) Used with x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

(b) Use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.

(c) Be adjusted to and operated at the specifications recommended by the mammographic film manufacturer, or at other settings such that the sensitometric performance is at least equivalent.

(3) Instruments and devices. The following instruments and devices shall be available and properly maintained;

(a) FDA accepted image quality phantom;

(b) 21 step sensitometer;

(c) Densitometer.

(4) Image retention. Clinical images shall be retained for a minimum of 5 years or not less than 10 years if no additional mammograms of the patient are performed.

(5) Mobile Mammography. In addition to meeting the requirements of this section as well as 333-106-0710, 333-106-0720, 333-106-0730, and 333-106-0750 of these rules, registrants shall ensure that for a mammography system that is used at more than one location:

(a) The film processor is operated in accordance with the requirements of 333-106-0720 of these rules, and is located where the mammography examinations are performed (batch processing is prohibited).

(b) The following tests are conducted, evaluated and documented after every move and before any mammography examinations are conducted, in order to verify that the unit's performance continues to meet quality requirements:

(A) Phantom image;

(B) The measured radiation output or the data from the post exposure mAs display does not deviate by more than + 10 % of the established operating level.

(6) Technique charts. Mammography technique charts shall posted in the vicinity of the mammography system's X-ray control. The technique chart shall indicate;

(a) Technique factors for 3, 3-5, 5-7, and > 7 cm compressed breast thicknesses for fatty, 50 percent fatty-50 percent dense, and dense breast tissue;

(b) The target/filter combination to be used;

(c) The kVp to be selected for the patient sizes and breast tissue compositions indicated in section (a) of this rule, or if an auto-kVp mode is used, indicate the post kVp that is selected;

(d) The exposure mode to be used (i.e. auto-kVp, manual, etc.);

(e) The manual technique factors to be used for small, medium, and large sized breast tissue specimens, and Implanted breasts;

(f) The film/screen combination to be used;

(g) The date that the technique chart was last reviewed for accuracy and the name of the reviewer.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-106-0750
Personnel Qualifications

(1) Operator qualifications. In order to use any mammography X-ray machine the operator of the mammography X-ray unit must have the following qualifications:

(a) Have a current license issued by the Oregon Board of Radiologic Technology; and

(b) Have prior to the effective date of these rules qualified as a radiologic technologist under the MQSA interim rules or completed 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not be limited to;

(A) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, imaging patients with breast implants;

(B) The performance of 25 examinations under the direct supervision of an individual qualified under this section; and

(C) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams; and

(D) Be currently registered and in good standing with the American Registry of Radiologic Technologist (ARRT); and

(E) Be certified in mammography by the ARRT or the equivalent; or

(F) Provide documented evidence that an ARRT mammography certification test is scheduled. Technologists meeting the requirements of sections (1)(a)(b)(A), (B), (C), and (D) of this rule may work under the supervision (supervision means that a fully qualified technologist is on-site and readily available to answer questions or assist) of a technologist, meeting all of the requirements of this rule, for up to one year while waiting to take the certification test.

(2) Interpreting Physician qualifications. All physicians interpreting mammograms shall meet MQSA qualifications and hold a current license to practice medicine in the State of Oregon.

(3) Medical Physicist qualifications. All Medical Physicists conducting surveys and equipment evaluations of mammography facilities and providing oversight of their quality assurance programs shall;

(a) Meet MQSA requirements; and

(b) Be currently licensed as a vendor by the agency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0001
Purpose and Scope

(1) This division establishes procedures for the registration and the use of particle accelerators.

(2) In addition to the requirements of this division, all registrants are subject to the requirements of divisions 100, 101, 120 and 111 of these rules. Registrants engaged in industrial radiographic operations are also subject to the requirements of divisions 105 and 108 of these rules, and registrants engaged in the healing arts are also subject to the requirements of division 106 of these rules. Registrants whose operations result in the production of radioactive material are also subject to the requirements of division 102 of these rules.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0002
Registration Requirements

No person may receive, possess, use, transfer, own, or acquire a particle accelerator unless they apply for, and are granted, a registration issued pursuant to division 333-101.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-109-0003
General Requirements for the Issuance of a Registration for Particle Accelerators

In addition to the requirements of division 101 of these rules, a registration application for use of a particle accelerator will be approved only if the Agency determines that:

(1) The applicant is qualified by reason of training and experience to use the accelerator in question for the purpose requested in accordance with this division and divisions 120 and 111 of these rules in such a manner as to minimize danger to public health and safety or property;

(2) The applicant's equipment, facilities, operating and emergency procedures are adequate to protect health and minimize danger to public health and safety or property;

(3) The issuance of the registration will not be harmful to the health and safety of the public;

(4) The applicant has appointed a qualified radiation safety officer;

(5) The applicant and/or the applicant's staff has substantial experience in the use of particle accelerators and training sufficient for application to its intended uses;

(6) The applicant has established a radiation safety committee to approve, in advance, proposals for uses of particle accelerators, whenever deemed necessary by the Agency;

(7) The applicant has an adequate training program for operators of particle accelerators;

(8) A shielding design, by a qualified expert licensed to do shielding design in Oregon, must be submitted with the registration application; ;

(9) For all new accelerators, a record indicating that a radiation safety survey has been conducted prior to the use of the accelerator, must be sent to the Agency as soon as practical after the registration application is submitted; and

(10) Copies of the facility's operating and emergency procedures must be submitted with the registration application.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0005
Equipment

(1) A label bearing essentially the words CAUTION — RADIATION — THIS MACHINE PRODUCES RADIATION WHEN ENERGIZED must be placed near any switch which energizes any portion of the machine. All labels must be the conventional colors (magenta or purple on yellow background) and bear the conventional radiation symbol.

(2) Any apparatus used in beam alignment procedures must be designed in such a way that excessive radiation will not strike the operator.

(3) Any switch or device which may cause the radiation machine to produce radiation when actuated must be located on a control panel or console, and must cause a warning light immediately adjacent to such switch or device to light; this light must remain lit when, and only when, the associated control circuit is energized.

(4) A lock must be provided on the control panel or console that prevents unauthorized operation of the accelerator.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0010
Administrative Responsibilities

(1) A person at each facility must be designated to be responsible for maintaining radiation safety. This person, designated the radiation safety officer, must be responsible for the following:

(a) Establishing and maintaining operational procedures so that the radiation exposure of each worker is kept as far below the maximum permissible dose as is practical;

(b) Instructing all personnel who work with or near radiation producing machines, in safety practices;

(c) Maintaining a system of personnel monitoring;

(d) Arranging for establishment of radiation control areas, including placement of appropriate radiation warning signs and/or devices;

(e) Providing for radiation safety inspection of radiation producing machines, including operation of all safety devices on a routine basis;

(f) Reviewing modifications to apparatus, shielding and safety interlocks;

(g) Investigating and reporting to proper authorities any case of excessive exposure to personnel and taking remedial action;

(h) Being familiar with all applicable rules for the control of ionizing radiation; and

(i) Terminating operations at the facility because of radiation safety considerations.

(2) No individual must be permitted to act as an operator of an accelerator until such person has:

(a) Received an acceptable amount of training in radiation safety as approved by the radiation safety officer;

(b) Has received copies of and instruction in this division, the applicable requirements of divisions 120 and 111 of these rules and:

(A) Pertinent registration conditions; and

(B) Operating and emergency procedures; and

(C) Must have demonstrated understanding of documents and information required in this rule;

(c) Demonstrated competence to in the use of the accelerator, related equipment and radiation survey instruments which will be employed; and

(d) Been approved by the radiation safety officer. Each operator must be responsible for:

(A) Keeping radiation exposure to all individuals as low as is practical;

(B) Being familiar with safety procedures as they apply to each machine;

(C) Wearing of personnel monitoring devices, if applicable; and

(D) Notifying the radiation safety officer of known or suspected excessive radiation exposures to any individual.

(3) The radiation safety committee or the radiation safety officer must have the authority to terminate the operations at a particle accelerator facility if such action is deemed necessary to minimize danger to public health and safety or property.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0015
Operating Procedures

(1) Particle accelerators, when not in operation must be secured to prevent unauthorized use.

(2) Written operating procedures pertaining to radiation safety must be established for each accelerator facility by the radiation safety officer.

(3) Written emergency procedures pertaining to radiation safety must be established by the radiation safety officer. These must list the telephone number(s) of the radiation safety officer and must include the following actions to be taken in case of a known, or suspected, accident involving radiation exposures:

(a) Notifying the radiation safety officer; and

(b) Arranging for medical examination.

(4) Personnel must not expose any part of their body to the radiation beam.

(5) Accelerator must not be left unattended while energized unless access to radiation areas or high radiation areas is physically prevented.

(6) All safety and warning devices, including interlocks, must be checked for proper operation at intervals not to exceed three months. Results of such tests must be maintained at the accelerator facility for inspection by the Agency.

(7) Records of personnel monitoring results and safety device tests must be maintained for inspection by the Agency.

(8) An appropriate radiation monitor must be used within an accelerator target room and other high radiation areas. This may be:

(a) An area monitor with an easily observable indicator that warns of radiation levels above a predetermined limit in accessible areas; and/or

(b) A personal radiation monitor of the “chirpie” type carried into the room; and/or

(c) A portable survey instrument carried into the room.

(9) Personal radiation dosimeters that measure the expected radiations and are of sufficient range to be useful under normal and accident conditions shall be worn by all persons designated by the radiation safety officer.

(10) Records of all radiation protection surveys, inspections and maintenance performed on the accelerator and related components must be kept current and on file at each accelerator facility, and maintained for inspection by the Agency.

(11) The safety interlock system must not be used to turn off the accelerator beam except in an emergency.

(12) Electrical circuit diagrams of the accelerator and the associated safety interlock systems must be kept current and maintained for inspection by the Agency and must be available to the operator at each accelerator facility.

(13) If, for any reason, it is necessary to intentionally bypass a safety interlock or interlocks, such action must be:

(a) Authorized by the radiation safety committee or radiation safety officer;

(b) Recorded in a permanent log and a notice posted at the accelerator control console; and

(c) Terminated as soon as possible.

(14) A copy of the current operating and the emergency procedures must be maintained at the accelerator control panel.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0025
Shielding and Safety Design Requirements

(1) A qualified expert, acceptable to the Agency, must be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation.

(2) Each particle accelerator installation must be provided with such primary and/or secondary barriers as are necessary to assure compliance with OAR 333-120-0100 and 333-109-0030.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0030
Particle Accelerator Controls and Interlock Systems

(1) Instrumentation, readouts and controls on the particle accelerator control console must be clearly identified and easily discernible.

(2) Each entrance into a target room or other high radiation area must be provided with a safety interlock that shuts down the machine under conditions of barrier penetration.

(3) Each safety interlock must be on a circuit which must allow it to operate independently of all other safety interlocks.

(4) All safety interlocks must be designed so that any defect or component failure in the safety interlock system prevents operation of the accelerator.

(5) When a safety interlock system has been tripped, it must only be possible to resume operation of the accelerator by manually resetting controls at the position where the safety interlock has been tripped and, lastly, at the main control console.

(6) A scram button or other emergency power cutoff switch must be located and easily identifiable in all high radiation areas. Such a cutoff switch must include a manual reset so that the accelerator cannot be restarted from the accelerator control console without resetting the cutoff switch.

(7) All safety interlocks must not be dependent upon the operation of a single circuit; i.e., they must be of redundant or fail-safe design.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0035
Warning Devices

(1) Each location designated as a high radiation area, and each entrance to such location, must be equipped with easily observable warning lights that operate when, and only when, radiation is being produced.

(2) Except in facilities designed for human exposure, each high radiation area must have an audible warning device which must be activated for 15 seconds prior to the possible creation of such high radiation area. Such warning device must be clearly discernible in all high radiation areas.

(3) Barriers, temporary or otherwise and pathways leading to high radiation areas must be posted in accordance with OAR 333-120-0400.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0040
Radiation Monitoring Requirements

(1) There must be available at each particle accelerator facility appropriate portable monitoring equipment which is operable and has been appropriately calibrated for the radiations being produced at the facility. Such equipment must be tested for proper operation daily and calibrated at intervals not to exceed one year and after each servicing and repair.

(2) A radiation protection survey must be performed and documented by a qualified expert, acceptable to the Agency, when changes have been made in shielding, operation, equipment or occupancy of adjacent areas.

(3) Radiation levels in all high radiation areas must be continuously monitored. The monitoring devices must be electrically independent of the accelerator control and safety interlock systems and capable of providing a readout at the control panel.

(4) All area monitors must be calibrated at intervals not to exceed one year and after each servicing and repair.

(5) Whenever applicable, periodic surveys must be made to determine the amount of airborne particulate radioactivity present.

(6) Whenever applicable, periodic smear surveys must be made to determine the degree of contamination.

(7) All surveys must be made in accordance with the written procedures established by a qualified expert, acceptable to the Agency or the radiation safety officer.

(8) Records of all radiation protection surveys, calibrations and instrumentation tests must be maintained at the accelerator facility for inspection by the Agency.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-109-0045
Ventilation Systems

(1) Ventilation systems must be provided to ensure that personnel entering any area where airborne radioactivity may be produced will not be exposed to airborne radioactive materials in excess of those limits specified in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401.

(2) A registrant, as required by OAR 333-120-0190, must not vent, release or otherwise discharge airborne radioactive material to an unrestricted area which exceed the limits specified in 10 CFR Part 20 Table 2 Appendix B to 20.1001 to 20.2401, except as authorized pursuant to OAR 333-104-0035. For purposes of this rule concentrations may be averaged over a period not greater than one year. Every effort should be made to maintain releases of radioactive material to unrestricted areas as far below these limits as is reasonably achievable.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0001
Purpose and Scope

(1) The rules in this division establish radiation safety requirements for persons using sources of radiation for well logging operations including mineral logging, radioactive markers and subsurface tracer studies. The requirements of this division are in addition to, and not in substitution for, the requirements of divisions 100, 102, 111 and 120 of these rules.

(2) The rules in this division apply to all licensees or registrants who use sources of radiation for well logging operations including mineral logging, radioactive markers or subsurface tracer studies.

(3) The requirements set out in this division do not apply to the issuance of a license authorizing the use of licensed material in tracer studies involving multiple wells, such as field flooding studies, or to the use of sealed sources auxiliary to well logging but not lowered into wells.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0005
Definitions

As used in this division, the following definitions apply:

(1) "Energy compensation source (ECS)" means a small sealed source, with an activity not exceeding 3.7 MBq (100 microcuries), used within a well logging tool, or other tool components, to provide a reference standard to maintain the tool's calibration when in use.

(2) "Field Station" means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary jobsites.

(3) "Fresh water aquifer," for the purpose of this part, means a geologic formation that is capable of yielding fresh water to a well or spring.

(4) "Injection Tool" means a device used for controlled subsurface injection of radioactive tracer material.

(5) "Irretrievable well logging source" means any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well and for which all reasonable effort at recovery has been expended.

(6) "Licensed material" means byproduct, source, or special nuclear material received, processed, used, or transferred under a license issued by the Agency under the rules in this chapter.

(7) "Logging assistant" means any individual who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who performs surveys required by 333-113-0401.

(8) "Logging Supervisor" means the individual who uses licensed material or provides personal supervision of the use of licensed sources of radiation at the well site and who is responsible to the licensee for assuring compliance with the requirements of Agency rules and the conditions of the license.

(9) "Logging Tool" means a device used subsurface to perform well-logging.

(10) "Mineral Logging" means any logging performed for the purpose of mineral exploration other than oil or gas.

(11) "Personal Supervision" means guidance and instruction by a logging supervisor who is physically present at the jobsite and watching the performance of the operation in such proximity that contact can be maintained and immediate assistance given as required.

(12) "Radioactive Marker" means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation. For purposes of these rules, this term includes radioactive collar markers and radioactive iron nails.

(13) "Safety review" means a periodic review provided by the licensee for its employees on radiation safety aspects of well logging. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, accidents or errors that have been observed, and opportunities for employees to ask safety questions.

(14) "Sealed source" means any licensed material that is encased in a capsule designed to prevent leakage or escape of the licensed material

(15) "Source Holder" means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

(16) "Subsurface Tracer Study" means the release of unsealed license material or a substance tagged with licensed radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

(17) "Surface casing for protecting fresh water aquifers" means a pipe or tube used as a lining in a well to isolate fresh water aquifers from the well.

(18) "Temporary Jobsite" means a location where radioactive materials are present for the purpose of performing well logging operations or subsurface tracer studies.

(19) "Tritium neutron generator target source" means a tritium source used within a neutron generator tube to produce neutrons for use in well logging applications.

(20) "Uranium Sinker Bar" means a weight containing depleted uranium used to pull a logging tool down toward the bottom of a well.

(21) "Well" means a drilled hole in which well logging operations and subsurface tracer studies are performed. As used in this division, "well" includes drilled holes for the purpose of oil, gas, mineral, groundwater or geological exploration.

(22) "Well-Logging" means all operations involving the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well or adjacent formations that are used in oil, gas, mineral, groundwater or geological exploration.

(23) "Wireline" means a cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0007
Specific Licenses For Well Logging.

(1) A person, as defined in 333-100-0005 must file an application for a specific license authorizing the use of radioactive materials for well logging in accordance with 333-102-0190.

(2) The Agency will approve an application for a specific license for the use of radioactive material in well logging if the applicant meets the following requirements:

(a) The applicant must satisfy the general requirements specified in 333-102-0200 for radioactive material and any special requirements contained in this division.

(b) The applicant must develop a program for training well logging supervisors and well logging assistants and submit to the Agency a description of this program which specifies the:

(A) Initial training;

(B) On-the-job training;

(C) Annual safety reviews provided by the licensee;

(D) Means the applicant will use to demonstrate the logging supervisor's knowledge and understanding of and ability to comply with the Agency's rules and licensing requirements and the applicant's operating and emergency procedures; and

(E) Means the applicant will use to demonstrate the logging assistant's knowledge and understanding of and ability to comply with the applicant's operating and emergency procedures.

(c) The applicant must submit to the Agency written operating and emergency procedures as described in 333-113-0205 or an outline or summary of the procedures that includes the important radiation safety aspects of the procedures.

(d) The applicant must establish and submit to the Agency its program for annual inspections of the job performance of each logging supervisor to

ensure that the Agency's rules, license requirements, and the applicant's operating and emergency procedures are followed. Inspection records must be retained in accordance with 333-100-0057.

(e) The applicant must submit a description of its overall organizational structure as it applies to the radiation safety responsibilities in well logging, including specified delegations of authority and responsibility.

(f) If an applicant wants to perform leak testing of sealed sources, the applicant must identify the manufacturers and the model numbers of the leak test kits to be used. If the applicant wants to analyze its own wipe samples, the applicant must establish procedures to be followed and submit a description of these procedures to the Agency. The description must include the:

(A) Instruments to be used;

(B) Methods of performing the analysis; and

(C) Pertinent experience of the person who will analyze the wipe samples.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-113-0010
Agreement With Well Owner of Operator

(1) No licensee must perform well logging operations with a sealed source(s) unless, prior to commencement of the operation, the licensee has a written agreement with the well operator, well owner, drilling contractor or land owner. This written agreement must identify who will meet the following requirements:

(a) In the event that a well to be logged, using radioactive material, penetrates a potable aquifer or contains potable water, that well must be cased from top to bottom prior to the well-logging;

(b) In the event a sealed source is lodged downhole, a reasonable effort at recovery will be made;

(c) No person shall attempt to recover a sealed source in a manner which, in the licensee's opinion, could result in its rupture; and

(d) In the event a decision is made to abandon the sealed source down hole, the requirements of OAR 333-113-0501(3) must be met within 30 days.

NOTE: A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner, or operator, are part of the same corporate structure or otherwise similarly affiliated.

(2) The licensee must retain a copy of the written agreement after the completion of the well logging operation in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0101
Limits on Levels of Radiation

Sources of radiation must be used, stored and transported in such a manner that the requirements of division 120 of this chapter are met.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0105
Storage Precautions

(1) Each source of radiation, except accelerators, must be provided with a storage and/or transport container. The container must be provided with a lock, or tamper seal for calibration sources, to prevent unauthorized removal of, or exposure to, the source of radiation.

(2) Sources of radiation must be stored in a manner which will minimize danger from explosion and/or fire.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0110
Transport Precautions

(1) The licensee may not transport licensed material unless the material is packaged, labeled, marked, and accompanied with appropriate shipping papers in accordance with rules set out in 49 CFR Parts 171 to 178.

(2) Security precautions during storage and transportation.

(a) The licensee must store each source containing licensed material in a storage container or transportation package. The container or package must be locked and physically secured to prevent tampering or removal of licensed material from storage by unauthorized personnel. The licensee must store licensed material in a manner which will minimize danger from explosion or fire.

(b) The licensee must lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0115
Radiation Survey Instruments

(1) The licensee or registrant must maintain sufficient calibrated and operable radiation survey instruments, capable of detecting beta and gamma radiation, at each field station and temporary jobsite to make physical radiation surveys as required by this division and by OAR 333-120-0200. Instrumentation must be capable of measuring 0.001 mSv (0.1 mrem) per hour through at least 0.5 mSv (50 mrem) per hour.

(2) Each radiation survey instrument must be calibrated:

(a) At intervals not to exceed six months and after each instrument servicing;

(b) For linear scale measurements, at least two points located approximately 1/3 and 2/3 of full-scale on each scale; for logarithmic scale instruments, at midrange of each decade and at two points of at least one decade; and for digital instruments, at appropriate points; and

(c) So that accuracy within 20 percent of the true radiation level can be demonstrated on each scale.

(3) Calibration records must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0120
Leak Testing of Sealed Sources

(1) Testing and Record Keeping Requirements. Each licensee using sealed sources of radioactive material must have the sources tested for leakage at intervals not to exceed six months. Records of leak test results must be kept in units of microcuries (Bq) and maintained in accordance with 333-100-0057. (2) Method of Testing. Tests for leakage must be performed only by persons specifically authorized to perform such tests by the Agency, the U.S. Nuclear Regulatory Agency, an Agreement State or a Licensing State. The test sample must be taken from the surface of the source, source holder or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample must be analyzed for radioactive contamination and the analysis must be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

(3) Interval of Testing. Each sealed source of radioactive material must be tested at intervals not to exceed six months. In the absence of a certificate from a transferor indicating that a test has been made prior to the transfer, the sealed source must not be put into use until tested. If, for any reason, it is suspected that a sealed source may be leaking, it must be removed from service immediately and tested for leakage as soon as practical.

(4) Leaking or Contaminated Sources.

(a) If the test reveals the presence of 0.005 microcurie (185 Bq) or more of leakage or contamination, the licensee must immediately withdraw the source from use and have it decontaminated, repaired or disposed of in accordance with these rules.

(b) The licensee must check the equipment associated with the leaking source for radioactive contamination and, if contaminated, have it decontaminated or disposed of in accordance with these rules.

(c) A report describing the leaking source and equipment involved, the test results and the corrective action taken must be filed with the Agency within 30 days of discovery.

(5) Exemptions. The following sources are exempted from the periodic leak test requirements of sections (1) through (4) of this rule:

(a) Hydrogen-3 sources;

(b) Sources of radioactive material with a half-life of 30 days or less;

(c) Sealed sources of radioactive material in gaseous form;

(d) Sources of beta and/or gamma emitting radioactive material with an activity of 100 microcuries (3.7 MBq) or less;

(e) Sources of alpha emitting radioactive material with an activity of ten microcuries (0.370 MBq) or less;

(f) Each ECS that is not exempt from testing in accordance with section (5)(e) of this rule must be tested at intervals not to exceed three years. In the absence of a certificate from a transferor that a test has been made within the three years before the transfer, the ECS may not be used until tested; and

(g) Any source in storage and not being used need not be tested. When the source is removed from storage for use or transfer to another person, it must be tested before use or transfer unless it has been tested for leakage within six months before the date of use or transfer.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0125
Physical Inventory

Each licensee or registrant must conduct a semiannual physical inventory to account for all sources of radiation. Records of inventories must be maintained in accordance with 333-100-0057 and must include the quantities and kinds of sources of radiation, the location where sources of radiation are assigned, the date of the inventory and the name of the individual conducting the inventory. Physical inventory records may be combined with leak test records.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0130
Utilization Records

Each licensee or registrant must be maintained in accordance with 333-100-0057 showing the following information for each source of radiation:

(1) Make, model number and a serial number or a description of each source of radiation used. In the case of unsealed licensed material used for subsurface tracer studies, the radionuclide and quantity of activity used in a particular well and the disposition of any unused tracer materials;

(2) The identity of the well-logging supervisor or field unit to whom assigned;

(3) Locations where used and dates of use; and

(4) In the case of tracer material and radioactive markers, the utilization record must indicate the radionuclide and activity used in a particular well.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0135
Design, Performance and Certification Criteria for Sealed Sources

(1) Each sealed source, except those containing radioactive material in gaseous form, used in well logging operations and manufactured after May 1, 1983 must be certified by the manufacturer, or other testing organization acceptable to the Agency, to meet the following minimum criteria:

(a) Be of doubly encapsulated construction;

(b) Contain radioactive material whose chemical and physical forms are as insoluble and nondispersible as practical; and

(c) Has been individually pressure tested to at least 24,600 pounds per square inch absolute (1.695 x 107 pascals) without failure.

(2) For sealed sources, except those containing radioactive material in gaseous form, acquired after May 1, 1984 in the absence of a certificate from a transferor certifying that an individual sealed source meets the requirements of section (1) of this rule, the sealed source must not be put into use until such determinations and testing have been performed.

(3) Each sealed source, except those containing radioactive material in gaseous form, used in well logging operations after May 1, 1985 must be certified by the manufacturer, or other testing organization acceptable to the Agency, as meeting the sealed source performance requirements for oil well-logging as contained in the **American National Standard N43.6**, "Classification of Sealed Radioactive Sources," (formerly N542, ANSI/NBS 126).

(4) After source disposal certification documents must be maintained in accordance with 333-100-0057. If the source is abandoned downhole, the certification documents must be maintained until the Agency authorizes disposition.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0140
Labeling

(1) Each source, source holder or logging tool containing radioactive material must bear a durable, legible and clearly visible marking or label, which has, as a minimum, the standard radiation caution symbol specified in 333-120-0400, without the co ventional color requirement, and the following wording:

DANGER
RADIOACTIVE
or
CAUTION
RADIOACTIVE

This labeling must be on the smallest component transported as a separate piece of equipment.

(2) Each container used to store or transport radioactive materials must have permanently attached to it a durable, legible and clearly visible label that has, as a minimum, the standard radiation caution symbol and the following wording:

DANGER
RADIOACTIVE
or
CAUTION
RADIOACTIVE
NOTIFY CIVIL AUTHORITIES OR
(NAME OF COMPANY)

(3) The licensee may use a uranium sinker bar in well logging applications only if it is legibly impressed with the words:

"CAUTION — RADIOACTIVE — DEPLETED URANIUM" and "NOTIFY CIVIL AUTHORITIES (or COMPANY NAME) IF FOUND."

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0145
Inspection and Maintenance

(1) Each licensee or registrant must conduct, at intervals not to exceed six months, a visual check of source holders, logging tools, source handling tools, storage containers, transport containers and injection tools to ensure proper labeling and physical condition. Records of inspection and maintenance must be maintained in accordance with 333-100-0057.

(2) If any inspection conducted pursuant to section (1) of this rule reveals defects or damage to labeling or components, the device must be removed from service until repairs have been made.

(3) If a sealed source is stuck in the source holder, the licensee must not perform any operation, such as drilling, cutting or chiseling, on the source holder unless the licensee is specifically approved by the U.S. Nuclear Regulatory Agency, an Agreement State or a Licensing State to perform this operation.

(4) The repair, opening or modification of any sealed source must be performed only by persons specifically authorized to do so by the Agency, the U.S. Nuclear Regulatory Agency, an Agreement State or a Licensing State.

(5) Removal of a sealed source from a source holder or logging tool, and maintenance on sealed sources or holders in which sealed sources are contained may not be performed by the licensee unless a written procedure has been developed and approved either by the Agency, the Nuclear Regulatory Agency or by an Agreement State or a Licensing State.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0201
Training Requirements

(1) No licensee or registrant shall permit any individual to act as a logging supervisor as defined in this division until such individual has:

(a) Received, in a course recognized by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, instruction in the subjects outlined in OAR 333-113-0203 and demonstrated an understanding thereof;

(b) Read and received instruction in the rules contained in this division and the applicable rules of divisions 100, 120 and 111 of these rules or their equivalent, conditions of appropriate license or certificate of registration, and the licensee's or registrant's operating and emergency procedures, and demonstrated an understanding thereof;

(c) Demonstrated competence to use sources of radiation, related handling tools and radiation survey instruments which will be used on the job by a field evaluation; and

(d) Has demonstrated understanding of the requirements in 333-113-0201(1)(a) and (b) of this rule by successfully completing a written exam.

(2) No licensee or registrant shall permit any individual to assist in the handling of sources of radiation until such individual has:

(a) Read or received instruction in the licensee's or registrant's operating and emergency procedures and demonstrated an understanding thereof;

(b) Demonstrated competence to use, under the personal supervision of the logging supervisor, the sources of radiation, related handling tools and radiation survey instruments which will be used on the job; and

(c) The licensee must provide safety reviews for logging supervisors and logging assistants at least once during each calendar year.

(3) The licensee or registrant must maintain employees training records until inspection by the Agency following termination of the individual's employment.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0205
Operating and Emergency Procedures

The licensee's or registrant's operating and emergency procedures must include instructions in at least the following:

(1) Handling and use of sources of radiation to be employed so that:

(a) No individual is likely to be exposed to radiation doses in excess of the standards established in division 120 of these rules; and

(b) Use of sealed sources in wells without surface casing for protecting fresh water aquifers, if appropriate.

(2) Methods and occasions for conducting radiation and contamination surveys. (See 333-113-0401).

(3) Methods and occasions for locking and securing sources of radiation.

(4) Personnel monitoring and the use of personnel monitoring equipment.

(5) Transportation to temporary jobsites and field stations, including the packaging and placing of sources of radiation in vehicles, placarding of vehicles and securing sources of radiation during transportation to prevent accidental loss, tampering, or unauthorized removal;

(6) Minimizing exposure of individuals in the event of an accident. Including, but not limited to, unshielded sources and inhalation or ingestion of licensed tracer materials.

(7) Procedure for notifying proper personnel in the event of an accident.

(8) Maintenance of records.

(9) Use, inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers and injection tools.

(10) Procedures to be followed in the event a sealed source is lodged downhole.

(11) Procedures to be used for picking up, receiving and opening packages containing radioactive material.

(12) For the use of tracers, decontamination of the environment, equipment and personnel.

(13) Maintenance of records generated by logging personnel at temporary jobsites.

(14) Notifying proper persons in the event of an accident.

(15) Actions to be taken if a sealed source is ruptured, including actions to prevent the spread of contamination and minimize inhalation and ingestion of radioactive material and actions to obtain suitable radiation survey instruments as required by OAR 333-113-0115.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0210
Personnel Monitoring

(1) The licensee must not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be replaced at least monthly and other personnel dosimeters replaced at least quarterly. After replacement, each personnel dosimeter must be promptly processed.

(2) The licensee must provide bioassay services to individuals using licensed materials in subsurface tracer studies if required by the license.

(3) Personnel monitoring records must be maintained in accordance with 333-100-0057 and for inspection until the Agency authorizes disposition.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0301
Security

(1) A logging supervisor must be physically present at a temporary jobsite whenever licensed materials are being handled or are not stored and locked in a vehicle or storage place. The logging supervisor may leave the jobsite in order to obtain assistance if a source becomes lodged in a well.

(2) During well logging, except when radiation sources are below ground or in shipping or storage containers, the logging supervisor or other individual designated by the logging supervisor must maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in 333-100-0005.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0305
Handling Tools

The licensee must provide and require the use of tools that will assure remote handling of sealed sources other than low activity calibration sources.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0310
Subsurface Tracer Studies

(1) Protective gloves and other appropriate protective clothing and equipment must be used by all personnel handling radioactive tracer material. Precautions must be taken to avoid ingestion or inhalation of radioactive materials.

(2) No licensee shall cause the injection of radioactive material into potable aquifers without prior written authorization from the Agency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0325
Energy Compensation Source

The licensee may use an Energy Compensation Source (ECS) which is contained within a logging tool, or other tool components, only if the ECS contains quantities of licensed material not exceeding 3.7 MBq (100 microcuries).

(1) For well logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of 333-113-0120, 333-113-0125 and 333-113-0130.

(2) For well logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of 333-113-0010, 333-113-0120, 333-113-0125, 333-113-0130, 333-113-0150 and 333-113-0501.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-113-0335
Tritium Neutron Generator Target Source

(1) Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 GBq (30 curies) and in a well with a surface casing to protect fresh water aquifers, is subject to the requirements of this division except 333-113-0010, 333-113-0135 and 333-113-0501.

(2) Use of a tritium neutron generator target source, containing quantities exceeding 1,110 GBq (30 curies) or in a well without a surface casing to protect fresh water aquifers, is subject to the requirements of this division except 333-113-0135.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-113-0401
Radiation Surveys

(1) Radiation surveys must be made and recorded for each area where radioactive materials are used and stored.

(2) Radiation surveys must be made and recorded before transport for the radiation levels in all occupied positions and on the exterior of each vehicle used to transport radioactive material. Such surveys must include each source of radiation or combination of sources to be transported in the vehicle.

(3) If the sealed source assembly is removed from the logging tool before departing the jobsites, the logging tool detector must be energized, or a survey meter used, to assure that the logging tool is free of contamination.

(4) Radiation surveys must be made and recorded at the jobsite or well-head for each tracer operation, except those using hydrogen-3, carbon-14 and sulfur-35. These surveys must include measurements of radiation levels before and after the operation.

(5) If the licensee has reason to believe that, as a result of any operation involving a sealed source, the encapsulation of the sealed source could be damaged by the operation, the licensee must conduct a radiation survey, including a contamination survey, during and after the operation.

(6) The licensee must make a radiation survey at the temporary jobsite before and after each subsurface tracer study to confirm the absence of contamination.

(7) Records required pursuant to sections (1) through (6) of this rule must include the dates, the identification of individual(s) making the survey, the identification of survey instruments(s) used and an exact description of the location of the survey. Records of these surveys must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0403
Radioactive Contamination Control.

(1) If the licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee must initiate immediately the emergency procedures required by 333-113-0205.

(2) If contamination results from the use of licensed material in well logging, the licensee must decontaminate all work areas, equipment, and unrestricted areas.

(3) During efforts to recover a sealed source lodged in the well, the licensee must continuously monitor, with an appropriate radiation detection instrument or a logging tool with a radiation detector, the circulating fluids from the well, if any, to check for contamination resulting from damage to the sealed source.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-113-0405
Documents and Records Required at Field Stations

Each licensee or registrant must maintain, for inspection by the Agency, the following documents and records for the specific devices and sources used at the field station:

(1) Appropriate license, certificate of registration or equivalent document(s);

(2) Operating and emergency procedures;

(3) Applicable rules;

(4) Records of the latest survey instrument calibrations pursuant to OAR 333-113-0115;

(5) Records of the latest leak test results pursuant to OAR 333-113-0120;

(6) Records of quarterly inventories required pursuant to OAR 333-113-0125;

(7) Utilization records required pursuant to OAR 333-113-0130;

(8) Records of inspection and maintenance required pursuant to OAR 333-113-0145;

(9) Survey records required pursuant to OAR 333-113-0401; and

(10) Training records required pursuant to OAR 333-113-0201.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0410
Documents and Records Required at Temporary Jobsites

Each licensee or registrant conducting operations at a temporary jobsite must have the following documents and records available at that site for inspection by the Agency:

(1) Operating and emergency procedures;

(2) Survey records required pursuant to OAR 333-113-0401 for the period of operation at the site;

(3) Evidence of current calibration for the radiation survey instruments in use at the site;

(4) When operating in the state under reciprocity, a copy of the appropriate license, certificate of registration or equivalent document(s);

(5) Shipping papers for the transportation of radioactive material;

(6) Copy of the license;

(7) Current leak test; and

(8) Validation certificate.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-113-0501
Notification of Incidents, Abandonment and Lost Sources

(1) Notification of incidents and sources lost in other than well logging operations must be made in accordance with appropriate provisions of division 120 of these rules.

(2) Whenever a sealed source or device containing radioactive material is lodged downhole the licensee must:

(a) Monitor at the surface for the presence of radioactive contamination with a radiation survey instrument or logging tool during logging tool recovery operations;

(b) If the environment, any equipment, or personnel are contaminated with licensed material, they must be decontaminated before release from the site or release for unrestricted use; and

(c) Notify the Agency immediately by telephone and subsequently, within 30 days, by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured. This letter must identify the well or other location, describe the magnitude and extent of the escape of radioactive material, assess the consequences of the rupture and explain efforts planned or being taken to mitigate these consequences.

(3) When it becomes apparent that efforts to recover the radioactive source will not be successful, the licensee must:

(a) Notify the Agency by telephone of the circumstances that resulted in the inability to retrieve the source:

(A) Obtain Agency approval to implement abandonment procedures; or

(B) That the licensee implemented abandonment before receiving Agency approval because the licensee believed there was an immediate threat to public health and safety;

(b) Advise the well-operator of requirements specified in these rules regarding abandonment and an appropriate method of abandonment, that must include:

(A) The immobilization and sealing in place of the radioactive source with a cement plug;

(B) The setting of a whipstock or other deflection device unless the source is not accessible to any subsequent drilling operations; and

(C) The mounting of a permanent identification plaque at the surface of the well, containing the appropriate information required by section (4) of this rule.

(c) Notify the Agency by telephone, giving the circumstances of the loss and request approval of the proposed abandonment procedures; and

(d) File a written report with the Agency within 30 days of the abandonment. The report must contain the following information:

(A) Date of occurrence;

(B) A description of the well logging source involved, including the radionuclide and its quantity, and chemical and physical form;

(C) Surface location and identification of the well;

(D) Results of efforts to immobilize and seal the source in place;

(E) A brief description of the attempted recovery effort;

(F) Depth of the source;

(G) Depth of the top of the cement plug;

(H) Depth of the well;

(I) Any other information, such as a warning statement, contained on the permanent identification plaque; and

(J) The names of state agencies receiving a copy of this report.

(4) Whenever a sealed source containing radioactive material is abandoned downhole, the licensee must provide a permanent plaque for posting the well or well-bore. This plaque must:

(a) Be constructed of long-lasting material, such as stainless steel or monel; and

(b) Contain the following information engraved on its face:

(A) The word CAUTION;

(B) The radiation symbol without the conventional color requirement;

(C) The date of abandonment;

(D) The name of the well-operator or well-owner;

(E) The well name and well identification number(s) or other designation;

(F) The sealed source(s) by radionuclide and activity;

(G) The source depth and the depth to the top of the plug;

(H) An appropriate warning, depending on the specific circumstances of each abandonment and approved by the Agency; and

(I) The size of the plaque should be convenient for use on active or inactive wells, e.g., a seven-inch square. Letter size of the word "CAUTION" should be approximately twice the letter size of the rest of the information, e.g., 1/2-inch and 1/4-inch letter size, respectively.

(5) The licensee must immediately notify the Agency by telephone and subsequently by confirming letter if the licensee knows or has reason to believe that radioactive material has been lost in or to an underground potable aquifer. Such notice must designate the well location and must

describe the magnitude and extent of loss of radioactive material, assess the consequences of such loss and explain efforts planned or being taken to mitigate these consequences.

(6) The licensee may apply to the Agency for a variance to the requirements of this division for abandonment of an irretrievable well logging source. The request must include the reason these rules cannot be followed and the proposed acceptable alternative. The request must be signed by both the licensee and the well owner/operator.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0010
Purpose and Scope

This division contains the requirements and provisions for the production, preparation, compounding and use of radionuclides in the healing arts and for issuance of licenses authorizing the medical use of this material in Oregon. These requirements and provisions provide for the radiation safety of workers, the general public, patients, and human research subjects. The requirements and provisions of this division are in addition to, and not in substitution for, others in these rules. The requirements and provisions of these rules apply to applicants and licensees subject to this division unless specifically exempted.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0020
Definitions

As used in this division, the following definitions apply:

(1) "Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used, or stored.

(2) "Area of use" means a portion of an address of use that has been set aside for the purpose of receiving, using or storing radioactive material;

(3) "Authorized Medical Physicist" means an individual who:

(a) Meets the requirements in 333-116-0730, or 333-116-0905 and 333-116-0760; or

(b) Is identified as an authorized medical physicist or teletherapy physicist on:

(A) A specific medical use license issued by the Agency or an Agreement State or the US Nuclear Regulatory Commission;

(B) A medical use permit issued by a Commission master material licensee;

(C) A permit issued by a Commission or Agreement State broad scope medical use licensee; or

(D) A permit issued by a Commission master material license broad scope medical use permittee.

(4) "Authorized nuclear pharmacist" means a pharmacist who:

(a) Meets the requirements in OAR 333-116-0910 and 333-116-0915; or

(b) Is identified as an authorized nuclear pharmacist on an Agency, Agreement State, or U.S. Nuclear Regulatory Commission license that authorizes the use of radioactive material in the practice of nuclear pharmacy; or

(c) Is identified as an authorized nuclear pharmacist on a license issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission specific licensee of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy; or

(d) Is approved as an authorized nuclear pharmacist by a nuclear pharmacy licensed (authorized) by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State to approve authorized nuclear pharmacists.

(5)"Authorized user" means a practitioner of the healing arts who:

(a) Meets the requirements listed in OAR 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0690, 333-116-0700, 333-116-0710, 333-116-0720, and 333-116-0740; or

(b) Is identified as an authorized user on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(c) Is identified as an authorized user on a permit issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission licensee of broad scope that is authorized to permit the medical use of radioactive material.

(6) "Black Box" means the radiopharmaceutical production purification system used in a PET facility.

(7) "Brachytherapy" means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal, or interstitial application.

(8) "Brachytherapy source" means an individual sealed source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose of radiation within a few centimeters, by surface, intracavitary, or interstitial application that is not designed to be disassembled by the user.

(9) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. This source may also be used for other purposes.

(10)"Dental use" means the intentional external administration of the radiation from radioactive material to human beings in the practice of dentistry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(11) "Dentist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

(12) "Diagnostic clinical procedures manual" means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

(13) "High dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate in excess of 2 Gray (200 RADs) per hour, to the point or surface where the dose is prescribed.

(14) "Human Research Subject" means a living person that an authorized user, conducting research, obtains data resulting from the intentional internal or external administration of radioactive material, or the radiation from radioactive material, to the individual. For the purpose of these rules, unless otherwise noted, the term patient applies to a human research subject.

(15) "Low dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate of less than 2 Gray (200 RADs)) per hour, to the point or surface where the dose is prescribed.

(16) "Management" means the chief executive officer or that individual's designee;

(17) "Manual Brachytherapy", as used in this part, means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed on, or in close proximity, to the treatment site or inserted directly into the tissue volume.

(18) "Medical Event or Medical Error" means an event where a patient or human research subject:

(a) Receives a dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; or

(b) Receives a dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site); or

(c) An event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician

(19) "Medical institution" means an organization in which more than one medical discipline is practiced;

(20) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation from radioactive material to patients or human research subjects under the supervision of an authorized user.

(21) "Ministerial change" means a change that is made, after ascertaining the applicable requirements, by persons in authority in conformance with the requirements and without making a discretionary judgment about whether those requirements should apply in the case at hand.

(22) "Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual or wrong radiopharmaceutical; or

(B) When both the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceed 1.11 megabecquerels (30 uCi).

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131;

(A) Involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(B) When the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:

(A) Involving the wrong individual or wrong treatment site; or

(B) When the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose.

(d) A teletherapy radiation dose:

(A) Involving the wrong individual, wrong mode of treatment, or wrong treatment site;

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose;

(C) When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20 percent of the total prescribed dose.

(e) A brachytherapy radiation dose:

(A) Involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

(B) Involving a sealed source that is leaking;

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(D) When the calculated administered dose differs from the prescribed dose by more than 20 percent of the prescribed dose.

(f) A diagnostic radiopharmaceutical dosage, other than quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; or

(B) When the dose to the individual exceeds 50 millisieverts (5 rem) effective dose equivalent or 500 millisieverts (50 rem) dose equivalent to any individual organ.

(23) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

(24) "Nuclear Pharmacist" means an authorized nuclear pharmacist, as defined in OAR 333-116-0020, who has received additional training, pursuant to 333-116-0910 and 333-116-0915 in the management and handling of radioactive drugs and is authorized by license to receive, use, transfer, and dispose of such radioactive drugs.

(25) "Output" means the exposure rate, dose rate or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(26) "Patient Intervention" means actions taken by a patient or human research subject, whether intentional or unintentional, interrupt or terminate the administration of radioactive materials or radiation.

(27) "PET" means Positron Emission Tomography

(28) "PET Isotope Nuclear Pharmacy" means a licensed facility that compounds radiopharmaceuticals using positron emitting isotopes for use at licensed medical facilities.

(29) "PET cyclotron facility" means a facility that manufacturers short-lived radioisotopes for use in compounding radiopharmaceuticals at a PET Isotope Nuclear Pharmacy.

(30) "PET Medical Facility" means a clinical nuclear medicine facility that utilizes positron-emitting isotopes for diagnostic imaging.

(31) "Pharmacist" means an individual licensed by a State or Territory of the United States, The District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(32) "Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

(33) "Podiatric use" means the intentional external administration of the radiation from byproduct material to human beings in the practice of podiatry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(34) "Podiatrist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

(35) "Positron Emission Tomography (PET) facility" means a facility comprised of an accelerator that produces positron-emitting isotopes, a radiopharmacy that specializes in preparation of PET radiopharmaceuticals, and/or a clinic that uses PET isotopes for medical diagnostic purposes.

(36) "Preceptor" means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a Radiation Safety Officer. The preceptor must have previously met all of the applicable requirements and be so named on a radioactive materials license issued by the Agency, the Nuclear Regulatory Commission, an Agreement State or licensing state.

(37) "Prescribed dosage" means the specified activity or range of activity of a radiopharmaceutical or radioisotope as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(38) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(c) For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

(39) "Pulsed dose-rate remote afterloader" means a special type of remote afterloading device that uses a single source capable of delivering dose rates in the "high dose rate" range, but is used to simulate the radiobiology of a low dose rate treatment by inserting the source for a given fraction of each hour.

(40) "Radiation Safety Officer" means an individual that:

(a) Meets the requirements in 333-116-0640, 333-116-0650, 333-116-0740 and 333-116-0760; or

(b) Is identified as a Radiation Safety Officer on:

(A) A specific medical use license issued by the Commission or Agreement State; or

(B) A medical use permit issued by a Commission master material licensee.

(41) "Recordable Event" (See Medical Event and Misadministration)

(42) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(43) "Stereotactic Radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose to a tissue volume.

(44) "Structured educational program" means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

(45) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(46) "Teletherapy physicist" means the individual identified as the qualified teletherapy physicist on a Agency license.

(47) "Therapeutic Dosage" means a dosage of unsealed byproduct material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

(48) "Therapeutic Dose" means a radiation dose delivered from a source containing byproduct material to a patient or human research subject for palliative or curative treatment.

(49) "Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

(50) "Unit dosage" means a dosage intended for medical use in a single patient or human research subject that has been obtained from a manufacturer or preparer licensed by the Agency as a nuclear pharmacy.

(51) "Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

(52) "Written directive" means an order in writing for a specific patient, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in OAR 333-116-0125(1)(e), containing the following information:

(a) For any administration of quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: the radioisotope, number of sources, and source strengths; and

(B) After implantation but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0027
Implementation

(1) A licensee must implement the provisions in division 333-116 no later June 15, 2006.

(2) When a requirement in division 333-116 differs from the requirement in an existing license condition, the more restrictive requirement must govern until there is a license amendment or license renewal.

(3) Any existing license condition, not affected by a requirement in division 333-116, remains in effect until the license is amended or renewed.

(4) If a license condition exempted a licensee from a provision of division 333-116 on June 15, 2006, it will continue to exempt a licensee from the corresponding provision in Division 333-116.

(5) If a license condition cites provisions in division 333-116 that will be deleted on June 15, 2006, then the license condition remains in effect until the license is amended or renewed to modify or remove the condition.

(6) Licensees must continue to comply with any license condition that requires it to implement procedures required by 333-116-0525, 333-116-0580, 333-116-0583, and 333-116-0587 until there is a license amendment or renewal that modifies the license condition.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0035
Application for License, Amendment, or Renewal

(1) An application must be signed by the management of the facility.

(2) An application for a license for medical use of radioactive material as described in OAR 333-116-0200, 333-116-0300, 333-116-0320, 333-116-0360, 333-116-0400, and 333-116-0420 and for medical use of remote afterloaders in 333-116-0480, must be made by filing a "Radioactive Materials License Application : Medical." A request for a license amendment or renewal may be submitted in letter format.

(3) Except for medical use of remote afterloaders, a separate license application must be filed for each medical use of radioactive material as described in 333-116-0480 by filing a "Radioactive Materials License Application : Medical." A request for a license amendment or renewal may be submitted in letter format.

(4) An application for a license for medical use of radioactive material as described in 333-116-0800, Licensing and Registration of Positron Emission Tomography (PET) Facilities, must be made by filing a "Radioactive Materials License Application : Medical."

(a) In addition to the information required in the "Radioactive Materials License Application : Medical," the application must also include information regarding any radiation safety aspects of the medical use of the radioactive material that is not addressed in this division, as well as any specific information necessary for:

(A) Radiation safety precautions and instructions;

(B) Training and experience of proposed users;

(C) Methodology for measurement of dosages or doses to be administered to patients or human research subjects; and

(D) Calibration, maintenance, and repair of equipment necessary for radiation safety.

(b) The applicant of licensee must also provide any other information requested by the Agency in its review of the application.

NOTE: An applicant that satisfies the requirements specified in OAR 333-102-0900 may apply for a Broad Scope A specific license.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0040
License Amendments

A licensee must apply for and must receive a license amendment:

(1) Before receiving or using radioactive material for a method or type of medical use not permitted by the license issued under this division;

(2) Before permitting anyone, except a visiting authorized user described in OAR 333-116-0110, to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist under the license. A visiting authorized user is an individual who:

(a) Meets the requirements of 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0700, 333-116-0710 or 333-116-0720, 333-116-0740 and 333-116-0760 of these rules; or

(b) Is a nuclear pharmacist who meets the requirements in OAR 333-116-0910 and 333-116-0760; or

(c) Is a medical physicist, who meets the requirements in 333-116-0730, 333-116-0740, 333-116-0760 and 333-116-0905; or

(d) Is identified as an authorized user, or an authorized nuclear pharmacist, or an authorized medical physicist on a Nuclear Regulatory Commission or Agreement State license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively, or

(3) Before changing the Radiation Safety Officer or Teletherapy Physicist;

(4) Before receiving radioactive material in excess of the amount authorized on the license;

(5) Before adding to or changing the area of use or mailing address identified on the license; and

(6) Before changing statements, representations and procedures which are incorporated into the license.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0045
Provisions for Research Involving Human Subjects.

(1) A licensee may conduct research involving human research subjects only if authorized by the Agency. This applies whether or not the research is conducted, funded, supported, or regulated by a Federal agency that has implemented the Federal Policy for the Protection of Human Subjects (Federal Policy). In addition, the licensee must, before conducting research:

(a) Obtain review and approval of the research from an "Institutional Review Board," as defined and described in the Federal Policy; and

(b) Obtain "informed consent," as defined and described in the Federal Policy, from the human research subject.

(2) Nothing in this Section relieves a licensee from complying with the other requirements in this part.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0050
Notifications

(1) A licensee must provide to the Agency a copy of the board certification, the Nuclear Regulatory Commission or Agreement State license, or the permit issued by a licensee of Broad Scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, pursuant to OAR 333-116-0040(2)(a) through (d).

(2) A licensee must notify the Agency by letter no later than 30 days after:

(a) An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer or an authorized medical Physicist permanently discontinues performance of duties under the license or has a name change.

(b) The licensee's mailing address changes;

(c) The licensee's name changes, but the name does not constitute a transfer of control ot the license as described in OAR 333-102-0305 of these rules; or

(d) The licensee has added to or changed the areas where radioactive material is used in accordance with 333-116-0200 and 333-116-0300.

(3) The licensee must mail the documents required in this division to the Agency for review.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0057
License Issuance

(1) The Agency must issue a license for the medical use of radioactive material if:

(a) The applicant has filed a "Radioactive Materials License Application: Medical" in accordance with the instructions in OAR 333-116-0035;

(b) The applicant has paid any applicable fee as provided in division 103 of these rules;

(c) The Agency finds the applicant equipped and committed to observe the safety standards established by the Agency in these rules for the protection of the public health and safety; and

(d) The applicant meets the requirements of division 102 of these rules.

(2) The Agency must issue a license for mobile services if the applicant:

(a) Meets the requirements in section (1) of this rule; and

(b) Assures that individuals or human research subjects to whom radiopharmaceuticals or radiation from implants will be administered may be released following treatment in accordance with 333-116-0460.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0090
Statement of Authorities and Responsibilities for the Radiation Protection Program

(1) In addition to the radiation protection program requirements of 333-120-0020, a licensee's management must approve in writing:

(a) Requests for a license application, renewal, or amendment before submittal to the Agency;

(b) Any individual before allowing that individual to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist; and

(c) Radiation protection program changes that do not require a license amendment and are permitted under 333-116-0123.

(2) A licensee's management must appoint a Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the Radiation Safety Officer, must ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements.

(3) For up to 60 days each year, a licensee may permit an authorized user or an individual qualified to be a Radiation Safety Officer, under 333-116-0650, 333-116-0740 and 333-116-0760, to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer, as provided in 333-116-0090(7) of this rule, if the licensee takes the actions required 333-116-0090(2), (5), (7) and (8) of this rule and notifies the Agency in accordance with 333-116-0050(2).

(4) A licensee may simultaneously appoint more than one temporary Radiation Safety Officer in accordance with 333-116-0090(3) of this rule, if needed to ensure that the licensee has a temporary Radiation Safety Officer that satisfies the requirements to be a Radiation Safety Officer for each of the different types of uses of byproduct material permitted by the license.

(5) A licensee must establish the authority, duties, and responsibilities of the Radiation Safety Officer in writing.

(6) A licensee must provide the Radiation Safety Officer sufficient authority, organizational freedom, time, resources, and management prerogative, to:

(a) Identify radiation safety problems;

(b) Initiate, recommend, or provide corrective actions;

(c) Stop unsafe operations; and,

(d) Verify implementation of corrective actions.

(7) Licensees that are authorized for two or more different types of uses of radioactive material under division 333-116, must establish a Radiation Safety Committee to oversee all uses of radioactive material permitted by the license. The Committee must include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer. The Committee may include other members the licensee considers appropriate.

(8) A licensee's Radiation Safety Committee must meet at intervals not to exceed six months. The licensee must maintain minutes of each meeting in accordance with 333-100-0057.

(9) A licensee must retain a record of actions taken under 333-116-0090(1), (2) and (5) of this rule in accordance with 333-100-0057. These records must be retained for the life of the license.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0100
Supervision

(1) A licensee who permits the receipt, possession, use or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by OAR 333-116-0030 must:

(a) In addition to the requirements in 333-111-0010, instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, the licensee's written quality management program, the Oregon Rules for the Control of Radiation and the license conditions appropriate to that individual's use of radioactive material; and

(b) Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures, written directive procedures, regulations of 333-116, and license conditions with respect to the medical use of radioactive material.

(2) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user, as allowed by OAR 333-116-0030(3) must:

(a) In addition to the requirements in 333-111-0010, instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's use of radioactive material; and

(b) Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, the written radiation protection procedures established by the licensee and division 333-116, and license conditions.

(3) A licensee that permits supervised activities under sections (1) and (2) of this rule is responsible for the acts and omissions of the supervised individual.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0105
Written Directives

(1) A written directive must be prepared, dated and signed by an authorized user prior to administration of I-131 sodium iodide greater than 1.11 Megabecquerels (MBq) (30 microcuries (uCi)), or any therapeutic dosage of a radiopharmaceutical, or any therapeutic dose of radiation from radioactive material.

(2) The written directive must contain the patient or human research subject's name and the following:

(a) For any administration of quantities greater than 1.11 MBq (30 uCi) of sodium iodide I-131; the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-131: the radiopharmaceutical dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates (including gamma angle), collimator size, plug pattern, total dose for the treatment, and the total treatment volume for each anatomically distinct treatment site;

(d) For teletherapy: the total dose, dose per fraction, number of fractions, treatment site, and overall treatment period;

(e) For remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: treatment site, the radionuclide, number of sources and source strengths or dose; and

(B) After implantation but prior to completion of the procedure: the radionuclide, treatment site, and total source strength and exposure time (or equivalently, the total dose).

(3) A written revision to an existing written directive may be made if the revision is dated and signed by an authorized user before the administration of the dosage of unsealed byproduct material, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next fractional dose.

(4) If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within 48 hours of the oral revision.

(5) The licensee must retain the written directive in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0107
Procedures for Administrations Requiring a Written Directive

(1) For any administration requiring a written directive, the licensee must develop, implement, and maintain written procedures to provide high confidence that:

(a) The patient's or human research subject's identity is verified before each administration; and

(b) Each administration is in accordance with the written directive.

(2) The procedures required by 333-116-0107(1) of this rule must, at a minimum, address the following items applicable to the licensee's use of radioactive material:

(a) Verifying the identity of the patient or human research subject;

(b) Verifying that the specific details of the administration are in accordance with the written directive and, if applicable, the treatment plan;

(c) Checking both manual and computer-generated dose calculations; and

(d) Verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical devices.

(3) The licensee must retain a copy of procedures in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0110
Visiting Authorized User

(1) A licensee may permit any visiting authorized user to use licensed material for medical use under the terms of the licensee's license for 60 days each year if:

(a) The visiting authorized user has the prior written permission of the licensee's management and, if the use occurs on behalf of an institution, the institution's Radiation Safety Committee;

(b) The licensee has a copy of the Agency license or a license issued by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, that identifies the visiting authorized user by name as an authorized user for medical use; and

(c) Only those procedures for which the visiting authorized user is specifically authorized by the Agency license are performed by that individual.

(2) A licensee need not apply for a license amendment in order to permit a visiting authorized user to use licensed material as described in section (1) of this rule.

(3) A licensee must retain copies of the records specified in this rule in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0120
Mobile Nuclear Medicine Service Administrative Requirements

(1) The Agency will only license mobile nuclear medicine services in accordance with OAR 333-116-0300, 333-116-0320, and 333-116-0400 of this division and OAR 333-102-0130.

(2) Mobile nuclear medicine service licensees must:

(a) Obtain a letter signed by the management of each client for which services are rendered that authorizes use of licensed radioactive material at the client's address of use. This letter must clearly delineate the authority and responsibility of both the client and the mobile medical service. If the client is licensed, the letter must document procedures for notification, receipt, storage and documentation of transfer of radioactive material delivered to the client's address for use by the mobile medical service. The mobile nuclear medicine service licensee must retain the letter for three years after the last provision of service.

(b) Check instruments used to measure the activity of unsealed byproduct material for proper function before use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function must include a constancy check;

(c) Check survey instruments for proper operation with a dedicated check source before use at each client's address; and

(d) Survey all areas of use to ensure compliance with the requirements in 333-120 before leaving a client's address.

(3) If a mobile nuclear medicine service provides services that the client also is authorized to provide, the client is responsible for assuring that services are conducted in accordance with the rules in this division while the mobile nuclear medicine service is under the client's direction.

(4) A mobile nuclear medicine service may not order radioactive material to be delivered directly from the manufacturer or the distributor to the client's address of use unless the client has a radioactive materials license. Radioactive material delivered to the client's address of use must be received and handled in conformance with the client's license.

(5) A mobile medical service licensee must, at a minimum, maintain the following documents onboard each mobile unit:

(a) Current operating and emergency procedures;

(b) Copy of the current license;

(c) Copies of the letter required by 333-116-0120(2) of this rule;

(d) Current calibration records for each survey instrument and diagnostic equipment or dose delivery device in use; and

(e) Survey records covering uses associated with the mobile unit during, at a minimum, the preceding 90 calendar days.

(6) A licensee must retain copies of the records specified in this rule in accordance with 333-100-0057. The record s required for 333-116-0120(2)(b), (c) and (d) of this rule must include the date of the survey or test, the results of the survey or test, the instrument used to make the survey or source used to perform the test, and the name of the individual who performed the survey or test.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0123
Radiation Safety Program Changes

(1) A licensee may revise its radiation protection program without Agency approval if:

(a) The revision does not require a license amendment under 333-116-0040;

(b) The revision is in compliance with the regulations and the license;

(c) The revision has been reviewed and approved by the Radiation Safety Officer, licensee management and, if applicable, the Radiation Safety Committee; and

(d) The affected individuals are instructed on the revised program before the changes are implemented.

(2) A licensee must retain a record of each change in accordance with 333-100-0057. The record must include the effective date of the change, a copy of the old and new radiation safety procedures, the reason for the change, a summary of radiation safety matters that were considered before making the change, the signature of the Radiation Safety Officer, and the signatures of the affected authorized users and of management, or, in a medical institution, the Radiation Safety Committee's chairman and the management representative.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0125
Quality Management Program

(1) Each applicant or licensee under this division, as applicable, must establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The quality management program must include written policies and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive (see NOTE below) is prepared for:

(A) Any teletherapy radiation dose;

(B) Any gamma stereotactic radiosurgery radiation dose;

(C) Any brachytherapy radiation dose;

(D) Any administration of quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131; or

(E) Any therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That final plans of treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery are in accordance with the respective written directives;

(d) That each administration is in accordance with the written directive; and

(e) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

NOTE: If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision. Also, a written

revision to an existing written directive may be made for any diagnostic or therapeutic procedure provided that the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next teletherapy fractional dose. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in the patient's record and a written directive is prepared within 24 hours of the oral directive.

(2) The licensee shall:

(a) Develop procedures for and conduct a review of the quality management program including, since the last review, an evaluation of:

(A) A representative sample of patient administrations,

(B) All recordable events, and

(C) All misadministrations to verify compliance with all aspects of the quality management program; these reviews shall be conducted at intervals no greater than 12 months;

(b) Evaluate each of these reviews to determine the effectiveness of the quality management program and, if required, make modifications to meet the objectives of section (2)(a) of this rule; and

(c) Retain records of each review, including the evaluations and findings of the review, in an auditable form for three years.

(3) The licensee shall evaluate and respond, within 30 days after discovery of the recordable event, to each recordable event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for five years or until inspected by the agency, of the relevant facts and what corrective action, if any, was taken.

(4) The licensee shall retain:

(a) Each written directive; and

(b) A record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in OAR 333-116-0125(1)(a) of this rule, in an auditable form, for five years, or until inspected by the agency, after the date of administration.

(5) The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Agency Office within 30 days after the modification has been made.

(6) Each applicant for a new license, as applicable, shall submit to the Agency Office in accordance with OAR 333-102-0190 a quality management program as part of the application for a license and implement the program upon issuance of the license by the agency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0130
Records and Reports of Misadministrations

(1) For a misadministration that meets the definition in 333-116-0020 a licensee must:

(a) Notify the Agency by telephone no later than the next calendar day after discovery of the misadministration.

NOTE: The 24-hour phone number of the Agency Office is (971) 673-0515.

(b) The licensee must submit a written report to the Agency Office within 15 days after the discovery of the misadministration. The written report must include:

(A) The licensee's name;

(B) The prescribing physician's name;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect on the patient;

(F) What improvements are needed to prevent recurrence;

(G) Actions taken to prevent recurrence; and

(H) Certification that the licensee notified the patient, or the patient's responsible relative or guardian (this person will be subsequently referred to as "the patient" in this section), and if not, why not, and if the patient was notified, what information was provided to the patient. The report must not include the patient's name or other information that could lead to identification of the patient.

(c) The licensee must notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician agrees to inform the patient or believes, based on medical judgment, that telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. These notifications must be made within 24 hours after the licensee discovers the misadministration. If the referring physician, patient or the patient's responsible relative or guardian cannot be reached within 24 hours, the licensee must notify them as soon as practicable. The licensee is not required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician; however, the licensee must not delay medical care for the patient because of this.

(d) If the patient was notified, the licensee also must furnish, within 15 days after discovery of the misadministration, a written report to the patient by sending either:

(A) A copy of the report that was submitted to the Agency; or

(B) A brief description of both the event and the consequences as they may affect the patient, provided a statement is included that the report submitted to the Agency can be obtained from the licensee.

(2) Each licensee must retain a record of each misadministration in accordance with 333-100-0057. The record must contain the names of all individuals involved in the event (including the physician, allied health personnel, the patient, and the patient's referring physician), the patient's social security number or identification number if one has been assigned, a brief description of the misadministration, why it occurred, the effect on the patient, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

(3) Aside from the notification requirement, nothing in this section must affect any rights or duties of licensees and physicians in relation to each other, patients or responsible relatives or guardians.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0150
Quality Control of Imaging Equipment

(1) Each licensee must establish written quality control procedures for all diagnostic equipment used to obtain images from radionuclide studies. As a minimum the quality control procedures and frequencies must include quality control procedures recommended by equipment manufacturers or procedures which have been approved by the Agency. The licensee must conduct quality control procedures in accordance with written procedures.

(2) Copies of procedures and records generated from implementing these procedures must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0160
Possession, Use, Calibration and Check of Dose Calibrators

(1) A medical use licensee authorized to administer either radiopharmaceuticals or unsealed radioactive materials must possess a dose calibrator and use it to measure the amount of activity of radionuclides prior to administration to each patient or human research subject. The licensee must also develop, implement and maintain written procedures for proper calibration and operation of the dose calibrator.

(2) At a minimum, a licensee must:

(a) Check each dose calibrator for constancy and proper operation with a dedicated check source at the beginning of each day of use. To satisfy the requirement of this Section, the check must be done on a frequently used setting with a sealed source of not less than 1.85 megabecquerels (50 uCi) of any photon-emitting radionuclide with a half-life greater than 90 days. The results of this test must be within +10 percent of the sources stated activity. Sources used for the daily constancy test must be determined by the manufacturer to be within +5 percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology.

(b) Test each dose calibrator for accuracy upon installation and at intervals not to exceed 12 months thereafter by assaying at least two sealed sources containing different photon-emitting radionuclides 1.85 megabecquerels (50 uCi) each, at least one of which has a principal photon energy between 100 keV and 500 keV. All sources used to satisfy the accuracy test must be determined by the manufacturer to be within + 5 percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology;

(c) Test each dose calibrator for linearity upon installation and at intervals not to exceed three months thereafter over the range of use between 1.1 megabecquerels (30 microcuries) and the highest dosage that will be administered; and

(d) Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee must keep a record of this test for the duration of the use of the dose calibrator.

(3) A licensee must mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 1.1 megabecquerels (30 microcuries) and must repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.

(4) A licensee must also perform checks and tests required by 333-116-0160(2) of this rule following adjustment or repair of the dose calibrator and prior to use.

(5) A licensee must retain a record of each check and test required by 333-116-0160(2) of this rule in accordance with 333-100-0057. The records required by 333-116-0160(2) of this rule must include:

(a) For constancy, the model and serial number of the dose calibrator, the identity and calibrated activity of the radionuclide contained in the check source, the date of the check, the activity measured, the instrument settings and the initials of the individual who performed the check;

(b) For accuracy, the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, the instrument settings and the signature of the Radiation Safety Officer;

(c) For linearity, the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test and the signature of the Radiation Safety Officer; and

(d) For geometry dependence, the model and serial number of the dose calibrator, the configuration and calibrated activity of the source measured, the activity of the source, the activity measured and the instrument setting for each volume measured, the date of the test and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0165
Possession, Use Calibration, and Check of Instruments to Measure Dosages of Alpha- or Beta-emitting Radionuclides

(1) For other than unit dosages, a licensee must possess and use instrumentation to measure the radioactivity of alpha- or beta-emitting radionuclides. A licensee must measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha- or beta-emitting radionuclides prior to administration to each patient or human research subject.

(2) A licensee must develop, implement, and maintain written procedures for use of the instrumentation. At a minimum, a licensee must:

(a) Perform tests before initial use, and following repair, on each instrument for accuracy, linearity, and geometry dependence, unless it is not appropriate for the use of the instrument; and make adjustments when necessary;

(b) Perform accuracy annually;

(c) Perform linearity tests annually over the range of medical use; and

(d) Check each instrument for constancy and proper operation at the beginning of each day of use.

(3) Accuracy tests must be performed with source(s) that are traceable to National Institute of Standards and Technology (NIST) or by a supplier who has compared the source to a source that was calibrated by NIST.

(4) A licensee must retain a record of each check and test required by this section in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0170
Calibration and Check of Survey Instrument

(1) A licensee must ensure that the survey instruments used to show compliance with divisions 333-0116 and 333-120 have been calibrated before first use, annually and following repair.

(2) To satisfy the requirements of section (1) of this rule the licensee must:

(a) Calibrate all required scale readings up to 10 millisieverts (1000 mrem) per hour with a radiation source;

(b) For each scale that must be calibrated, calibrate two readings separated by at least 50 percent of scale reading; and

(c) Conspicuously note on the instrument the date of calibration.

(3) To satisfy the requirements of section (2) of this rule, the licensee must:

(a) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 10 percent; and

(b) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent if a correction chart or graph is conspicuously attached to the instrument.

(4) A licensee must check each survey instrument for proper operation with the dedicated check source before each use. The licensee is not required to keep records of these checks.

(5) The licensee must retain a record of each calibration required in section (1) of this rule in accordance with 333-100-0057. The record must include:

(a) A description of the calibration procedure; and

(b) A description of the source used and the certified exposure rates from the source and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration and the date of calibration.

(6) To meet the requirements of sections (1), (2) and (3) of this rule, the licensee may obtain the services of individuals licensed by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform calibrations of survey instruments. Records of calibrations which contain information required by section (5) of this rule, must be maintained by the licensee calibration in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0180
Determination of Dosages of Unsealed Radioactive Material for Medical Use

A licensee must:

(1) Assay, within 30 minutes before medical use, the activity of each radiopharmaceutical dosage that contains more than 370 kilobecquerels (10 uCi) of a alpha-, beta-, or photon-emitting radionuclide;

(2) For a dosage of a alpha- or beta-emitting radionuclide prepared by the licensee, this determination must be made by direct measurement or by a combination of measurements and calculations.

(3) A licensee must not use a dosage if the dosage differs from the prescribed dosage by more than 20 percent, unless authorized in writing by an authorized user.

(4) Retain a record of the assays required by this section in accordance with 333-100-0057. The record must contain the:

(a) Generic name, trade name or abbreviation of the radiopharmaceutical, its lot number and expiration dates and the radionuclide;

(b) Patient's name and identification number if one has been assigned;

(c) Prescribed dosage and activity of the dosage at the time of assay or a notation that the total activity is less than 370 kilobecquerels (10 uCi);

(d) Date and time of the assay;

(e) Date and time of administration; and

(f) Initials of the individual who performed the assay.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0190
Authorization for Calibration and Reference Source

Any person authorized by OAR 333-116-0030 for medical use of radioactive material may receive, possess and use the following radioactive material for check, calibration and reference use:

(1) Sealed sources manufactured and distributed by persons specifically licensed pursuant to OAR 333-102-0290 or equivalent provisions of the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State and that do not exceed 1.11GBq (30 mCi) each;

(2) Any radioactive material listed in OAR 333-116-0300, 333-116-0320 or 333-116-0360 with a half-life of 100 days or less in individual amounts not to exceed 1.11GBq (30 mCi), except Y-90 sources not to exceed 2.8 GBq (75 mCi);

(3) Any radioactive material listed in 33-116-0300, 333-116-0320 or 333-116-0360 with a half life greater than 100 days in individual amounts not to exceed 7.4 MBq (200 milliCi) each; and

(4) Technetium-99m in individual amounts to exceed 1.85 GBq (50 mCi).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0200

Requirements for Possession of Sealed Sources and Brachytherapy Sources

(1) A licensee in possession of any sealed source or brachytherapy source must follow the radiation safety and handling instructions supplied by the manufacturer or equivalent instructions approved by the Agency, and must maintain the instructions for the duration of source use in a legible form convenient to users.

(2) A licensee in possession of a sealed source must assure that:

(a) The source is tested for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

(b) The source is tested for leakage at intervals not to exceed six months or at intervals approved by the Agency, another Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission in the Sealed Source and Device Registry (SS&D).

(3) To satisfy the leak test requirements of this division, the licensee must assure that:

(a) Leak tests are capable of detecting the presence of 185 Bq (0.005 uCi) of radioactive material on the test sample, or in the case of radium, the escape of radon at the rate of 37 Bq (0.001 uCi) per 24 hours;

(b) Test samples are taken from the source or from the surfaces of the device in which the source is mounted or stored on which radioactive contamination might be expected to accumulate; and

(c) For teletherapy units, test samples are taken when the source is in the "off" position.

(4) A licensee must retain leak test records in accordance with 333-100-0057. The records must contain the model number and serial number if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in microcuries (Bq), a description of the method used to measure each test sample, the date of the test and the signature of the Radiation Safety Officer.

(5) If the leak test reveals the presence of 185 Bq (0.005 uCi) or more of removable contamination, the licensee must:

(a) Immediately withdraw the sealed source from use and store it in accordance with the requirements of these rules; and

(b) File a report within five days of receiving the leakage test results with the Agency describing the equipment involved, the test results and the action taken.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than 30 days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 3.7 MBq (100 uCi) or less of beta or photon-emitting material or 370 kBq (10 uCi) or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. The licensee must, however, test each such source for leakage before any use or transfer unless it has been tested for leakage within six months before the date of use or transfer.

(7) A licensee in possession of a sealed source or brachytherapy source must conduct a semi-annual physical inventory of all such sources in its possession. The licensee must retain each inventory record in accordance with 333-100-0057. The inventory records must contain the model number of each source and serial number if one has been assigned, the identity of each source radionuclide and its estimated activity, the location of each source, date of the inventory and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0220

Labeling of Vials and Syringes

Each syringe and vial that contains unsealed byproduct material must be labeled to identify the radioactive drug. Each syringe shield and vial shield must also be labeled unless the label on the syringe or vial is visible when shielded. The label must include the radiopharmaceutical name or abbreviation, the type of diagnostic study or therapy procedure to be performed and the patient's name.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0250

Surveys for Contamination and Ambient Radiation Dose Rate

(1) A licensee must survey with an appropriate radiation detection survey instrument, at the end of each day of use, all areas where radiopharmaceuticals are routinely prepared for use or administered. Radiation surveys are not required in areas where patients or human research subjects are confined when they cannot be released under 333-116-0260. Radiation surveys are required when patients receive a therapeutic dose or brachytherapy implant and prior to release.

(2) A licensee must survey with an appropriate radiation detection survey instrument at least once each week all areas where radiopharmaceuticals or radioactive wastes are stored.

(3) A licensee must conduct the surveys required by section (1) and (2) of this rule so as to be able to measure dose rates as low as 1 Sv (0.1 mrem) per hour.

(4) A licensee must establish dose rate action levels for the surveys required by section (1) and (2) of this rule and must require that the individual performing the survey immediately notify the Radiation Safety Officer if a dose rate exceeds an action level.

(5) A licensee must survey for removable contamination each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered and each week where radioactive materials are stored.

(6) A licensee must conduct the surveys required by section (5) of this rule so as to be able to detect contamination on each wipe sample of 33.3 Bq (2000 dpm).

(7) A licensee must establish removable contamination action levels for the surveys required by section (5) of this rule and must require that the individual performing the survey immediately notify the Radiation Safety Officer if contamination exceeds action levels.

(8) A licensee must retain a record of each survey required by this rule in accordance with 333-100-0057. The record must include the date of the survey, a sketch of each area surveyed, action levels established for each area, the measured dose rate at several points in each area expressed in _Sv mrem per hour or the removable contamination in each area expressed in Bq (dpm) per 100 square centimeters, the serial number and the model number of the instrument used to make the survey or analyze the samples and the initials of the individual who performed the survey.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0255

Surveys Of Patients And Human Research Subjects Treated With A Remote Afterloader Unit

(1) Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that the source(s) has been removed from the patient or human research subject and returned to the safe shielded position.

(2) A licensee shall retain a record of these surveys in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0260

Release of Patients Containing Therapeutic Quantities of Radiopharmaceuticals or Permanent Implants

(1) The licensee may authorize the release from its control of any individual who has been administered radiopharmaceuticals or permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).

(2) The licensee must provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain radiation exposures to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the dose to a breast-feeding infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions must also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the potential consequences, if any, of failure to follow the guidance.

(3) The licensee must maintain a record of the basis for authorizing the release of an individual, for a minimum of five years after the date of release in accordance with 333-100-0057.

(4) The licensee must maintain a record, for a minimum of five years after the date of release, in accordance with 333-100-0057, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0280
Storage of Volatiles and Gases

(1) A licensee must store volatile radiopharmaceuticals and radioactive gases in the shippers radiation shield and container.

(2) A licensee must store and use a multidose container in a properly functioning fume hood.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0290
Decay-In-Storage

(1) A licensee may hold radioactive material with a physical half-life of less than 65 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of OAR 333-120-0500 of these rules if the licensee:

(a) Holds radioactive material for decay a minimum of 10 half-lives;

(b) Monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey instrument for the radiation being monitored, set on its most sensitive scale and with no interposed shielding;

(c) Removes or obliterates all radiation labels; and

(d) Separates and monitors each generator column individually with all radiation shielding removed to ensure that its contents have decayed to background radiation level before disposal.

(2) For radioactive material disposed in accordance with these rules the licensee must retain a record of each disposal until inspection by the Agency. The record must include the date of the disposal, the date on which the radioactive material was placed in storage, the model and serial number of the survey instrument used, the background dose rate, the radiation dose rate measured at the surface of each waste container and the name of the individual who performed the survey.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0300
Use of Unsealed Radioactive Material for Uptake, Dilution or Excretion Studies for Which a Written Directive Is Not Required

(1) A licensee may use any unsealed radioactive material for a diagnostic use involving measurements of uptake, dilution or excretion that:

(a) The Food and Drug Administration (FDA) has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); and

(b) Is obtained from a manufacturer or preparer licensed under 333-102-0285 or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(c) Is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100; or

(d) Is prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

(2) A licensee using a radiopharmaceutical specified in section (1) of this rule for a clinical procedure other than one specified in the product label or package insert instructions for use must comply with the product label or package insert instructions regarding physical form, route of administration and dosage range.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0310
Possession of Survey Instrument

A licensee authorized to use radioactive material for uptake, dilution and excretion studies must have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 Sv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour. The instrument must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0320
Use of Radiopharmaceuticals, Generators and Reagents Kits for Imaging and Localization Studies for Which a Written Directive Is Not Required

(1) A licensee may use any radioactive material in a diagnostic radiopharmaceutical, except aerosol or gaseous form, or any generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material for:

(a) Which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); or

(b) Which is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100; or

(c) Obtained from a manufacturer or preparer licensed under 333-102 and 333-116 or equivalent Nuclear Regulatory Commission or Agreement State requirements.

(2) A licensee using radiopharmaceuticals specified in section (1) of this rule for clinical procedures other than one specified in the product label or package insert instructions must comply with the product label or package insert regarding physical form and dosage range.

(3) A licensee must elute generators in compliance with OAR 333-116-0330 and prepare radiopharmaceuticals from kits in accordance with the manufacturer's instructions.

(4) Technetium-99m pentetate as an aerosol for lung function studies is not subject to the restrictions in section (1) of this rule. Provided the conditions of OAR 333-116-0340 are met, a licensee must use radioactive aerosols or gases only if specific application is made to and approved by the Agency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0330
Permissible Molybdenum-99 Concentration

(1) A licensee must not administer to humans a radiopharmaceutical containing more than 0.15 kBq (0.15 uCi) of molybdenum-99 per MBq (mCi) of technetium-99m.

(2) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators must measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with section (1) of this rule.

(3) A licensee who must measure molybdenum concentration must retain a record of each measurement in accordance with 333-100-0057. The record must include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in MBq (mCi), the measured activity of the molybdenum expressed in kBq (uCi), the ratio of the measures expressed as kBq (uCi) of molybdenum per MBq (mCi) of technetium, the date of the test and the initials of the individual who performed the test.

(4) A licensee must report immediately to the Agency each occurrence of molybdenum-99 concentration exceeding the limits specified in section (1) of this rule.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0340
Control of Aerosols and Gases

(1) A licensee who administers radioactive aerosols or gases must do so with a system that will keep airborne concentrations within the limits prescribed by OAR 333-120-0130 and 333-120-0180.

(2) The system must either be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(3) A licensee must only administer radioactive gases in rooms that are at negative pressure compared to surrounding rooms.

(4) Before receiving, using or storing a radioactive gas, the licensee must calculate the amount of time needed after a release to reduce the concentration in the area of use to the occupational limit listed in 10 CFR Part 20 Appendix B to 20.1001 to 20.2401. The calculation must be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(5) A licensee must post the time calculated in accordance with 333-116-0340(4) of this rule at the area of use and require that, in case of a gas spill, individuals evacuate the room until the posted time has elapsed.

(6) A licensee must check the operation of collection systems before each use and measure the ventilation rates in areas of use at intervals not to exceed six months. Records of these checks and measurements must be maintained for 5 years or until inspected by the Agency.

(7) A copy of the calculations required in 333-116-0340(4) of this rule must be recorded and retained for the duration of the license.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0350
Possession of Survey Instruments

A licensee authorized to use radioactive material for imaging and localization studies must have in its possession a portable, radiation detection survey instrument capable of detecting dose rates over the range of 1 µSv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 µSv (1 mrem) per hour to 10 millisieverts (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0360
Use of Unsealed Radioactive Materials or Radiopharmaceuticals for Which a Written Directive is Required

A licensee may use for therapeutic administration any unsealed radioactive material or radiopharmaceutical prepared for medical use that:

(1) Has been granted acceptance or approval by the Food and Drug Administration; and

(2) Has been prepared by an authorized nuclear pharmacist, a physician who is an authorized user on a license from the Agency, other Agreement State, or the U.S. Nuclear Regulatory Commission; or

(3) Has been manufactured and distributed under a license from the Agency, other Agreement State, or the U.S. Nuclear Regulatory Commission; or

(4) Obtained from and prepared by an Agency or Nuclear Regulatory Commission or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or

(5) Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0370
Safety Instruction

(1) A licensee must provide oral and written radiation safety instruction for all personnel caring for patients or human research subjects undergoing radiopharmaceutical therapy who cannot be released under 333-116-0260. Refresher training must be provided at intervals not to exceed one year.

(2) To satisfy 333-116-0370(1) of this rule, the instruction must describe the licensee's procedures for:

(a) Patient or human research subject control;

(b) Visitor control; including

(A) Routine visitation to hospitalized individuals in accordance with 333-120-0180(1)(a); and

(B) Visitation authorized in accordance with 333-120-0180(3).

(c) Contamination control;

(d) Waste control; and

(e) Notification of the Radiation Safety Officer or authorized user in case of the patient's death or medical emergency.

(3) A licensee must maintain, in accordance with 333-100-0057, a list of individuals receiving instruction required by 333-116-0370(1) of this rule, a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0380
Safety Precautions

(1) For each patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with OAR 333-116-0260 or 333-116-0190, a licensee must:

(a) Provide a private room with a private sanitary facility;

(b) Post the door with a "Caution: Radioactive Material" sign and note on the door or on the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after administration of the dosage, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of OAR 333-120-0180 of these rules and retain until inspection by the Agency a record of each survey that includes the time and date of the survey, a plan of the area or list of points surveyed, the measured dose rate at several points expressed in mrem per hour, the instrument used to make the survey and the initials of the individual who made the survey;

(e) Either monitor material and items removed from the room to determine that any contamination cannot be distinguished from the natural background radiation level with an appropriate radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle materials and items as radioactive waste;

(f) Instruct the patient or human research subject and, where appropriate, the individual's family, orally and in writing concerning radiation safety precautions that will help to keep radiation dose to household members and the public as low as reasonably achievable before authorizing release of the individual;

(g) Survey the room and private sanitary facility for removable contamination with an appropriate radiation detection survey instrument before assigning another patient to the room. The room must not be reassigned until removable contamination is less than 33.3 Bq (2000 dpm) per 100 square centimeters; and

(h) Measure the thyroid burden of each individual who helped prepare or administer a liquid dosage of iodine-131 within three days after administering the dosage. A record of each thyroid burden measurement must be retained in accordance with OAR 333-120-0650 of these rules. Each record must contain the date of measurement, the name of the individual whose thyroid burden was measured, the calculated thyroid burden, the effective dose equivalent, the name of the individual who made the measurements and the signature of the Radiation Safety Officer. Other procedures acceptable to the Agency may be used for individuals who only prepare, but do not administer, doses of stabilized I-131.

(2) A licensee must notify the Radiation Safety Officer or the authorized user immediately if the patient or human research subject dies or has a medical emergency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0390
Possession of Survey Instruments

A licensee authorized to use radioactive material for radiopharmaceutical therapy must have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 µSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 µSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0400
Use of Sealed Sources for Diagnosis

A licensee must only use sealed sources for diagnostic medical use as approved in the Sealed Source and Device Registry.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0405
Training for Use of Sealed Sources for Diagnosis.

Except as provided in 333-116-0710, the licensee must require the authorized user of a diagnostic sealed source for use in a device authorized under 333-116-0400 to be a physician, dentist, or podiatrist who:

(1) Is certified by a specialty board whose certification process includes all of the requirements in 333-116-0405(2) and (3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2) Has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology; and

(e) Has completed training in the use of the device for the uses requested.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0410
Availability of Survey Instrument

A licensee authorized to use radioactive material as a sealed source for diagnostic purposes must have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range 1 uSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 uSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instrument must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0420
Use of Sources for Manual Brachytherapy

A licensee must use only brachytherapy sources for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research with an active Investigational Device Exemption (IDE) application accepted by the Food and Drug Administration and are manufactured, labeled, packaged and distributed under a specific license issued by the Nuclear Regulatory Commission or an Agreement State.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0425
Surveys After Source Implant and Removal

(1) Immediately after implanting sources in a patient or a human research subject, the licensee must make a survey to locate and account for all sources that have not been implanted.

(2) Immediately after removing the last temporary implant source from a patient or a human research subject, the licensee must make a survey of the room and the patient or the human research subject with an appropriate radiation detection survey instrument to confirm that all sources have been removed.

(3) A licensee must retain a record of the surveys required by sections (1) and (2) of this rule in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0430
Safety Instructions

(1) The licensee must provide oral and written radiation safety instruction to all personnel caring for a patient receiving implant therapy. Refresher training must be provided at intervals not to exceed one year.

(2) To satisfy section (1) of this rule, the instruction must describe:

(a) Size and appearance of the brachytherapy sources;

(b) Safe handling and shielding instructions in case of a dislodged source;

(c) Procedures for patient control;

(d) Procedures for visitor control including both:

(A) Routine visitation to hospitalized individuals in accordance with 333-120-0180(1)(a); and

(B) Visitation authorized in accordance with 333-120-0180(3); and

(e) Procedures for notification of the Radiation Safety Officer or authorized user if the patient dies or has a medical emergency.

(3) A licensee must retain a record of individuals receiving instruction required by 333-116-0430(1) of this rule in accordance with 333-100-0057. The record must contain a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0440
Safety Precaution

(1) A licensee must, for each patient or human research subject receiving implant therapy:

(a) Not place the patient or human research subject in the same room with a patient or human research subject who is not receiving radiation therapy;

(b) Post the patient's or human research subject's door with a "Caution: Radioactive Materials" sign and note on the door or in the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with OAR 333-120-0180 of these rules. Retain a record of each survey in accordance with 333-116-0057. Each record must include the time and date of the survey, a sketch of the area or list of points surveyed, the measured dose rate at several points expressed in microsieverts (mrem) per hour, the instrument used to make the survey and the initials of the individual who made the survey; and

(e) Instruct the patient or human research subject and, where appropriate, the patient's or human research subject's family, orally and in writing concerning radiation safety precautions that will help to keep the radiation dose to household members and the public as low as reasonably achievable before releasing the patient if the patient was administered a permanent implant.

(2) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Dislodged from the patient; and

(b) Lodged within the patient following removal of the source applicators.

(3) A licensee must notify the Radiation Safety Officer or authorized user immediately if the patient or human research subject dies or has a medical emergency.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0445
Calibration Measurements of Brachytherapy Sources

(1) Before the first medical use of a brachytherapy source on or after July 1, 2006, a licensee must have:

(a) Determined the source output or activity using a dosimetry system that meets the requirements of 333-116-0560(1);

(b) Determined source positioning accuracy within applicators; and

(c) Used published protocols currently accepted by nationally recognized bodies to meet the requirements of 333-116-0445(1) of this rule.

(2) Instead of a licensee making its own measurements as required in this rule, the licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American

Association of Physicists in Medicine that are made in accordance with 333-116-0445(1) of this rule.

(3) A licensee must mathematically correct the outputs or activities determined in 333-116-0445(1) of this rule for physical decay at intervals consistent with one percent physical decay.

(4) Only an authorized medical physicist must calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under 333-116-0445(1) of this rule.

(5) A licensee must retain a record of each calibration in accordance with 333-100-0057. Each record must include:

(a) The date of the calibration;

(b) The manufacturer's name, model number, and serial number for the source and the instruments used to calibrate the source;

(c) The source output or activity;

(d) The source positioning accuracy within the applicators; and

(e) The name of the individual, the source manufacturer, or the calibration laboratory that performed the calibration.

(6) Records of decay of strontium-90 sources for ophthalmic treatments must maintain a record of the activity of a strontium-90 source for the life of the source. The record must include:

(a) The date and initial activity of the source; and

(b) For each decay calculation, the date and the source activity.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0447
Decay of Strontium-90 Sources for Ophthalmic Treatments

(1) Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under 333-116-0445.

(2) A licensee shall retain a record of the activity of each strontium-90 source in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0450
Brachytherapy Sources Inventory

(1) A licensee must maintain accountability at all times for all brachytherapy sources in storage or use.

(2) As soon as possible after removing sources from a patient or human research subject, the licensee must return brachytherapy sources to a secure storage area.

(3) A licensee must retain the records required in 333-116-0450(1) and 333-116-0450(2) of this rule in accordance with 333-100-0057.

(a) For temporary implants, the record must include:

(A) The number and activity of sources removed from storage, the time and date they were removed from storage, the name of the individual who removed them from storage, and the location of use; and

(B) The number and activity of sources returned to storage, the time and date they were returned to storage, and the name of the individual who returned them to storage.

(b) For permanent implants, the record must include:

(A) The number and activity of sources removed from storage, the date they were removed from storage, and the name of the individual who removed them from storage;

(B) The number and activity of sources not implanted, the date they were returned to storage, and the name of the individual who returned them to storage; and

(C) The number and activity of sources permanently implanted in the patient or human research subject.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0460
Release of Patients Treated with Temporary Implant

(1) Immediately after removing the last temporary implant source from a patient or human research subject, the licensee must make a radiation survey of the patient or human research subject with an appropriate radiation detection survey instrument to confirm that all sources have been removed. The licensee must not release from confinement for medical care a patient or human research subject treated by temporary implant until all sources have been removed.

(2) A licensee must retain a record of patient surveys which demonstrate compliance with OAR 333-116-0460(1) of this rule in accordance with 333-100-0057. Each record must include the date of the survey, the name of the patient, the dose rate from the patient expressed as μSv (mrem) per hour and measured within one meter from the patient and the initials of the individual who made the survey.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0470
Possession of Survey Instruments

A licensee authorized to use radioactive material for implant therapy must have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 μSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0475
Therapy Related Computer Systems

(1) The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(a) The source-specific input parameters required by the dose calculation algorithm;

(b) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(c) The accuracy of isodose plots and graphic displays; and

(d) The accuracy of the software used to determine sealed source positions from radiographic images.

(2) Acceptance testing must be performed when new software is installed, for each software revision and when new computer hardware or treatment planning system hardware is installed or repaired.

(3) Records of acceptance testing must be retained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0480
Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

A licensee must use sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA and are manufactured, labeled, packaged and distributed under a specific license issued by the Nuclear Regulatory Commission or an Agreement State.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0490
Installation, Maintenance, Adjustment and Repair

(1) Only a person specifically licensed by the Nuclear Regulatory Commission or an Agreement State must install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source(s), reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(2) Except for low dose-rate remote afterloader units, only a person specifically licensed by the Nuclear Regulatory Commission or an Agreement State must install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.

(3) For a low dose-rate remote afterloader unit, only a person specifically licensed by the Nuclear Regulatory Commission or an Agreement

State or an authorized medical physicist must install, replace, relocate, or remove a sealed source(s) contained in the unit.

(4) A licensee must retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units in accordance with OAR 333-100-0057. For each installation, maintenance, adjustment and repair, the record must include the date, description of the service, and name(s) of the individual(s) who performed the work.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0495
Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee must:

(a) Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;

(b) Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with the source(s);

(c) Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and

(d) Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the source(s) in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures must include:

(A) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

(B) The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

(C) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(2) A copy of the procedures required by 333-116-0495(1)(d) of this rule must be physically located at the unit console.

(3) A licensee must post instructions at the unit console to inform the operator of:

(a) The location of the procedures required by 333-116-0495(1)(d) of this rule; and

(b) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(4) A licensee must provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties in:

(a) The procedures identified in paragraph (1)(d) of this section; and

(b) The operating procedures for the unit.

(5) A licensee must ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

(6) A licensee must retain a record of individuals receiving instruction required by 333-116-0495(4) of this rule in accordance with 333-100-0057.

(7) A licensee must retain a copy of the procedures required by 333-116-0495(1)(d) and (4)(b) of this rule until the licensee no longer possesses the remote afterloader, teletherapy unit, or gamma stereotactic radiosurgery unit.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0500
Amendment

In addition to the requirements specified in OAR 333-116-0040, a licensee must apply for and must receive a license amendment before:

(1) Making any change in the treatment room shielding;

(2) Making any change in the location of the teletherapy unit within the treatment room;

(3) Using the teletherapy unit in a manner that could result in increased radiation levels in areas outside the teletherapy treatment room;

(4) Relocating the teletherapy unit; or

(5) Allowing an individual not listed on the licensee's license to perform the duties of the teletherapy physicist.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0525
Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee must control access to the treatment room by a door at each entrance.

(2) A licensee must equip each entrance to the treatment room with an electrical interlock system that will:

(a) Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

(b) Cause the source(s) to be shielded when an entrance door is opened; and

(c) Prevent the source(s) from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source(s) on-off control is reset at the console.

(3) A licensee must require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

(4) Except for low-dose remote afterloader units, a licensee must construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

(5) For licensed activities where sources are placed within the patient's or human research subject's body, a licensee must only conduct treatments which allow for expeditious removal of a decoupled or jammed source.

(6) In addition to the requirements specified in paragraphs (1) through (5) of this rule, a licensee must:

(a) For medium dose-rate and pulsed dose-rate remote afterloader units, require:

(A) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove the source applicator(s) in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.

(b) For high dose-rate remote afterloader units, require:

(A) An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.

(c) For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit.

(d) Notify the Radiation Safety Officer, or his/her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

(7) A licensee must have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Remaining in the unshielded position; or

(b) Lodged within the patient following completion of the treatment.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0530
Possession of Survey Instrument

A licensee authorized to use radioactive material in a teletherapy therapy unit must have in its possession either both a portable radiation detection survey instrument capable of detecting dose rates over the range 1 µSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 µSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0540
Radiation Monitoring Device

(1) A licensee must have in each teletherapy room a permanent radiation monitor capable of continuously monitoring beam status.

(2) Each radiation monitor must be capable of providing visible evidence of a teletherapy unit malfunction that results in an exposed or partially exposed source. The visible indicator of high radiation levels must be observable by an individual prior to entering the teletherapy room.

(3) Each radiation monitor must be equipped with a backup power supply separate from the power supply to the teletherapy unit. This backup power supply may be a battery system or other type of uninterruptible power supply (UPS).

(4) Each radiation monitor must be checked with a dedicated check source for proper operation each day before the teletherapy unit is used for treatment of patients.

(5) A licensee must maintain a record of the check required by OAR 333-116-0540(4) of this rule until inspection by the Agency. The record must include the date of the check, notation that the monitor indicates when the source is exposed and the initials of the individual who performed the check.

(6) If a radiation monitor is inoperable, the licensee must require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism that may result in an exposed or partially exposed source. The instrument or dosimeter must be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee must keep a record as described in OAR 333-116-0540(4) of this rule.

(7) If a radiation monitor is inoperable, the licensee must require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism. The instrument or dosimeter must be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee must keep a record as described in OAR 333-116-0540(5) of this rule.

(8) A licensee must promptly repair or replace the radiation monitor if it is inoperable.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0550
Viewing System

A licensee must construct or equip each teletherapy room to permit continuous observation of the patient from the teletherapy unit console during irradiation.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0560
Dosimetry Equipment

(1) Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee must have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions must be met.

(a) The system must have been calibrated using a system or source traceable to the National Institute of Standards and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration must have been performed within the previous two years and after any servicing that may have affected system calibration; or

(b) The system must have been calibrated within the previous four years; 18 to 30 months after that calibration, the system must have been intercompared at an intercomparison meeting with another dosimetry system that was calibrated within the past 24 months by the National Institute of Standards and Technology or by a calibration laboratory accredited by the AAPM. The intercomparison meeting must be sanctioned by a calibration laboratory or radiologic physics center accredited by the AAPM. The results of the intercomparison meeting must show that the calibration factor of the licensee's system had not changed by more than two percent. The licensee must not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee must use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.

(2) The licensee must have available for use a dosimetry system for spot-check output measurements, if applicable. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with 333-116-0560(1) of this rule. This comparison must have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in Section 333-116-0560(1) of this rule.

(3) The licensee must retain a record of each calibration, intercomparison and comparison for the duration of the license. For each calibration, intercomparison or comparison, the record must include the date, the model numbers and serial numbers of the instruments that were calibrated, intercompared or compared as required by 333-116-0560(1) and 333-116-0560(2) of this rule, the correction factors that were deduced, the names and credentials of the individuals who performed the calibration, intercomparison or comparison, and evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics center accredited by AAPM.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0570
Full Calibration Measurement

(1) A licensee authorized to use a teletherapy unit for medical use must perform full calibration measurements on each teletherapy unit:

(a) Before the first medical use of the unit; and

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the radioactive source or following reinstallation of the teletherapy unit in a new location;

(C) Following any repair of the teletherapy unit that includes removal of the radioactive source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one year.

(2) To satisfy the requirement of 333-116-0570(1) of this rule, full calibration measurements must include determination of:

(a) The output within 3 percent for the range of field sizes and for the distance or range of distances used for medical use;

(b) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(c) The uniformity of the radiation field and its dependence on the orientation of the useful beam;

(d) Timer accuracy, constancy, and linearity;

(e) On-off error; and

(f) The accuracy of all distance measuring and localization devices in medical use.

(3) A licensee must use the dosimetry system described in OAR 333-116-0560(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in 333-116-0570(2)(a) of this rule may then be made using a dosimetry system that indicates relative dose rates.

(4) A licensee must make full calibration measurements required by 333-116-0570(1) of this rule in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee must correct mathematically the outputs determined in 333-116-0570(2)(a) of this rule for physical decay for intervals not exceeding one month for cobalt-60 and intervals not exceeding six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.

(6) Full calibration measurements required by 333-116-0570(1) of this rule and physical decay corrections required by 333-116-0570(5) of this rule must be performed by a teletherapy or medical physicist certified to perform such measurements and named on the licensee's license or authorized by a license issued by the Nuclear Regulatory Commission or an Agreement State to perform such services.

(7) A licensee must retain a record of each calibration in accordance with 333-100-0057. The record must include the date of the calibration, the manufacturer's name, model number, and serial number for both the teletherapy unit and the source, the model numbers and serial numbers of the instruments used to calibrate the teletherapy unit, tables that describe the output of the unit over the range of field sizes and for the range of distances used in radiation therapy, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-

off error, the estimated accuracy of each distance measuring or localization device and the signature of the teletherapy physicist.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0573
Full Calibration Measurements on Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use must perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and

(B) Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding three months for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and

(d) At intervals not exceeding 1 year for low dose-rate remote afterloader units.

(2) To satisfy the requirement of 333-116-0573(1) of this rule, full calibration measurements must include, as applicable, determination of:

(a) The output within 5 percent;

(b) Source positioning accuracy to within 1 millimeter;

(c) Source retraction with backup battery upon power failure;

(d) Length of the source transfer tubes;

(e) Timer accuracy and linearity over the typical range of use;

(f) Length of the applicators; and

(g) Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

(3) A licensee must use the dosimetry system described in 333-116-0560(1) to measure the output.

(4) A licensee must make full calibration measurements required by 333-116-0573(1) of this rule in accordance with published protocols accepted by nationally recognized bodies.

(5) In addition to the requirements for full calibrations for low dose-rate remote afterloader units in 333-116-0573(2) of this rule, a licensee must perform an autoradiograph of the source(s) to verify inventory and source(s) arrangement at intervals not exceeding 1 quarter.

(6) For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with 333-116-0573(1) through (5) of this rule.

(7) A licensee must mathematically correct the outputs determined in section (2)(a) of this rule for physical decay at intervals consistent with 1 percent physical decay.

(8) Full calibration measurements required by (2)(a) of this rule and physical decay corrections required by (2)(g) of this rule must be performed by the authorized medical physicist.

(9) A licensee must retain a record of each calibration in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0577
Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use must perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

(C) Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

(c) At intervals not exceeding 1 year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

(2) To satisfy the requirement of (1)(a) of this rule, full calibration measurements must include determination of:

(a) The output within +/-3 percent;

(b) Relative helmet factors;

(c) Isocenter coincidence;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error;

(f) Trunnion centricity;

(g) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(h) Helmet microswitches;

(i) Emergency timing circuits; and

(j) Stereotactic frames and localizing devices (trunnions).

(3) A licensee must use the dosimetry system described in 333-116-0560(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in 333-116-0577(2)(a) of this rule may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee must make full calibration measurements required by 333-116-0577(1) of this rule must be performed in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee must mathematically correct the outputs determined in 333-116-0577(2)(a) of this rule at intervals not exceeding 1 month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.

(6) Full calibration measurements required by 333-116-0577(1) of this rule and physical decay corrections required by 333-116-0577(5) of this rule must be performed by the authorized medical physicist.

(7) A licensee must retain a record of each calibration in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0580
Periodic Spot-Checks for Teletherapy Units

(1) A licensee authorized to use teletherapy units for medical use must perform output spot-checks on each teletherapy unit at intervals not to exceed one month that include the determination of:

(a) Timer constancy, accuracy, and linearity over the range of use;

(b) On-off error;

(c) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(d) The accuracy of all distance measuring and localization devices used for medical use;

(e) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560; and

(f) The difference between the measurement made in 333-116-0580(1) of this rule and the anticipated output, expressed as a percentage of the anticipated value obtained at last full calibration corrected mathematically for physical decay.

(2) A licensee must use the dosimetry system described in OAR 333-116-0560 to make the measurement required in 333-116-0580(1) of this rule.

(3) A licensee must perform measurements required by 333-116-0580(1) of this rule in accordance with procedures established by the teletherapy or medical physicist. That individual is not required to actually perform the output spot-check measurements.

(4) A licensee must have the teletherapy or medical physicist review the results of each output spot-check within 15 days of each measurement. The teletherapy or medical physicist must promptly notify the licensee in writing of the results of each output spot-check. The licensee must keep a copy of each written notification in accordance with 333-100-0057.

(5) A licensee authorized to use a teletherapy unit for medical use must perform safety spot-checks of each teletherapy facility at intervals not to exceed one month and after each source installation to assure proper operation of:

(a) Electrical interlocks at each teletherapy room entrance;

(b) Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism;

(c) Beam condition indicator lights on the teletherapy unit, on the control console and in the facility;

(d) Viewing systems;

(e) Treatment room doors from inside and outside the treatment room; and

(f) Electrically assisted treatment room doors with the teletherapy unit electrical power turned “off”.

(6) A licensee must lock the control console in the "off" position if any door interlock malfunctions. No licensee must use the unit until the interlock system is repaired unless specifically authorized by the Agency.

(7) A licensee must promptly repair any system identified in 333-116-0580(5) of this rule that is not operating properly.

(8) A licensee must retain a record of each spot-check required by 333-116-0580(1) and 333-116-0580(5) of this rule in accordance with 333-100-0057. The record must include, the date of the spot-check, the manufacturer's name, model number and serial number for both the teletherapy unit and source, the manufacturer's name, model number and serial number of the instrument used to measure the output of the teletherapy unit, the measured timer accuracy, the calculated on-off error, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device, the difference between the anticipated output and the measured output, notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the individual who performed the periodic spot-check.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0583
Periodic Spot-checks for Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use must perform spot-checks of each remote afterloader facility and on each unit:

(a) Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

(b) Before each patient treatment with a low dose-rate remote afterloader unit; and

(c) After each source installation.

(2) A licensee must perform the measurements required by 333-116-0583(1) of this rule in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(3) A licensee must have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist must notify the licensee as soon as possible in writing of the results of each spot-check.

(4) To satisfy the requirements of 333-116-0583(1) of this rule, spot-checks must, at a minimum, assure proper operation of:

(a) Electrical interlocks at each remote afterloader unit room entrance;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

(d) Emergency response equipment;

(e) Radiation monitors used to indicate the source position;

(f) Timer accuracy;

(g) Clock (date and time) in the unit's computer; and

(h) Decayed source(s) activity in the unit's computer.

(5) If the results of the checks required in 333-116-0583(4) of this rule indicate the malfunction of any system, a licensee must lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee must retain a record of each check required by 333-116-0583(4) of this rule in accordance with 333-100-0057. The record must include, as applicable:

(a) The date of the spot-check;

(b) The manufacturers name, model number for the remote afterloader and source;

(c) An assessment of timer accuracy;

(d) Notations indicating the operability of each entrance door electrical interlock, radiation monitors, source exposure indicator lights, viewing and intercom systems, and clock and decayed source activity in the unit's computer; and

(e) The name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

(7) A licensee must retain a copy of the procedures required by 333-116-0583(4) of this rule until the licensee no longer possesses the remote afterloader unit.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0585
Additional Technical Requirements for Mobile Remote Afterloader Units

(1) A licensee providing mobile remote afterloader service must:

(a) Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

(b) Account for all sources before departure from a client's address of use.

(2) In addition to the periodic spot-checks required by 333-116-0583, a licensee authorized to use mobile afterloaders for medical use must perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks must be made to verify the operation of:

(a) Electrical interlocks on treatment area access points;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Applicators, source transfer tubes, and transfer tube-applicator interfaces;

(e) Radiation monitors used to indicate room exposures;

(f) Source positioning (accuracy); and

(g) Radiation monitors used to indicate whether the source has returned to a safe shielded position.

(3) In addition to the requirements for checks in 333-116-0585(2) of this rule, a licensee must ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

(4) If the results of the checks required in 333-116-0585(2) of this rule indicate the malfunction of any system, a licensee must lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(5) A licensee must retain a record of each check required by 333-116-0585(2) of this rule in accordance with 333-116-0057. The record must include:

(a) The date of the check;

(b) The manufacturer's name, model number, and serial number of the remote afterloader unit;

(c) Notations accounting for all sources before the licensee departs from a facility;

(d) Notations indicating the operability of each entrance door electrical interlock, radiation monitors, source exposure indicator lights, viewing and intercom system, applicators, source transfer tubes, and transfer tube applicator interfaces, and source positioning accuracy; and

(e) The signature of the individual who performed the check.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0587
Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use must perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

(a) Monthly;

(b) Before the first use of the unit on a given day; and

(c) After each source installation.

(2) A licensee must:

(a) Perform the measurements required by 333-116-0587(1) of this rule in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(b) Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist must notify the licensee as soon as possible in writing of the results of each spot-check.

(3) To satisfy the requirements of 333-116-0587(1)(a) of this rule, spot-checks must, at a minimum:

(a) Assure proper operation of:

(A) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(B) Helmet microswitches;

(C) Emergency timing circuits; and

(D) Stereotactic frames and localizing devices (trunnions).

(b) Determine:

(A) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560;

(B) The difference between the measurement made in 333-116-0587(3)(b)(A) of this rule and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay);

(C) Source output against computer calculation;

(D) Timer accuracy and linearity over the range of use;

(E) On-off error; and

(F) Trunnion centricity.

(4) To satisfy the requirements of 333-116-0587(1)(b) and (1)(c) of this rule, spot-checks must assure proper operation of:

(a) Electrical interlocks at each gamma stereotactic radiosurgery room entrance;

(b) Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Timer termination;

(e) Radiation monitors used to indicate room exposures; and

(f) Emergency off buttons.

(5) A licensee must arrange for the repair of any system identified in 333-116-0587(3) of this rule that is not operating properly as soon as possible.

(6) If the results of the checks required in 333-116-0587(4) of this rule indicate the malfunction of any system, a licensee must lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(7) A licensee must retain a record of each check required by 333-116-0587(3) and 333-116-0587(4) of this rule in accordance with 333-100-0057. The record must include:

(a) The date of the spot-check;

(b) The manufacturer's name, model number, and serial number for the gamma stereotactic radiosurgery unit and the instrument used to measure the output of the unit;

(c) An assessment of timer linearity and accuracy;

(d) The calculated on-off error;

(e) A determination of trunnion centricity;

(f) The difference between the anticipated output and the measured output;

(g) An assessment of source output against computer calculations;

(h) Notations indicating the operability of radiation monitors, helmet microswitches, emergency timing circuits, emergency off buttons, electrical interlocks, source exposure indicator lights, viewing and intercom systems, timer termination, treatment table retraction mechanism, and stereotactic frames and localizing devices (trunnions); and

(i) The name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

(8) A licensee must retain a copy of the procedures required by 333-116-0587(2) until the licensee no longer possesses the gamma stereotactic radiosurgery unit.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0590
Radiation Surveys Therapeutic Treatment Units

(1) In addition to the survey requirement in 333-120-0200, a person licensed under this rule must make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with the source(s) in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.

(2) The licensee must make the survey required by 333-116-0590(1) of this rule at installation of a new source and following repairs to the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(3) A licensee must retain a record of the radiation surveys required by 333-116-0590(1) of this rule for the duration of use of the unit. The record must include:

(a) The date of the measurements;

(b) The manufacturer's name, model number and serial number of the treatment unit, source, and instrument used to measure radiation levels;

(c) Each dose rate measured around the source while the unit is in the off position and the average of all measurements; and

(d) The signature of the individual who performed the test.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0600
Safety Checks and Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

(1) A licensee must have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed 5 years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(2) This inspection and servicing may only be performed by persons specifically licensed to do so by the Nuclear Regulatory Commission or an Agreement State.

(3) If the results of the checks required in 333-116-0600(1) of this rule indicate the malfunction of any system, the licensee must lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace or check the malfunctioning system.

(4) A licensee must retain, in accordance with 333-100-0057, a record of the facility checks following installation of a source. The record must include notations indicating the operability of each entrance door interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the Radiation Safety Officer. In addition each record must contain:

(a) The inspector's radioactive materials license number;

(b) The date of inspection;

(c) The manufacturer's name and model number and serial number of both the treatment unit and source;

(d) A list of components inspected and serviced, and the type of service; and

(e) The signature of the inspector.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0605
Therapy-Related Computer Systems

The licensee must perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(1) The source-specific input parameters required by the dose calculation algorithm;

(2) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(3) The accuracy of isodose plots and graphic displays;

(4) The accuracy of the software used to determine sealed source positions from radiographic images; and

(5) The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0610
Modification of Teletherapy Unit or Room Before Beginning a Treatment Program

(1) If the survey required by 333-116-0590 indicates that any individual member of the public is likely to receive a dose in excess of the limits specified in 333-120-0180, before beginning the treatment program the licensee must:

(a) Either equip the unit with stops or add additional radiation shielding to ensure compliance with 333-120-0180.

(b) Perform the survey required by 333-116-0590 again; and

(c) Include in the report required by 333-116-0620 the results of the initial survey, a description of the modification made to comply with 333-116-0610(1)(a) of this rule, and the results of the second survey.

(2) As an alternative to the requirements set out in 333-116-0610(a) of this rule a licensee may request a license amendment under 333-120-0180(3) that authorizes radiation levels in unrestricted areas greater than those permitted by 333-120-0180(1) of this chapter. A licensee may not begin the treatment program until the license amendment has been issued.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0620
Reports of Teletherapy Surveys, Checks, Tests and Measurements

A licensee must furnish a copy of the records required in OAR 333-116-0590, 333-116-0600, 333-116-0610 and the output from the teletherapy source expressed as rem (Sv) per hour at one meter from the source and determined during the full calibration required in OAR 333-116-0570 to the Agency within 30 days following completion of the action that initiated the record requirement.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0640
Radiation Safety Officer Training and Experience Requirements

Except as provided in OAR 333-116-0650, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in 333-116-0090 to be an individual that:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in (4) and (5) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a)(A) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;

(B) Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and

(C) Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

(b)(A) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(B) Have two years of full-time practical training and/or supervised experience in medical physics:

(i) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(ii) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users in 333-116-0670 and 333-116-0680;

(C) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

(2) Has completed a structured educational program consisting of 200 hours of classroom and laboratory training as follows:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry;

(f) Radiation dosimetry; and

(g) One year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes similar type(s) of medical use of radioactive material involving the following:

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;

(C) Securing and controlling byproduct material;

(D) Using administrative controls to avoid mistakes in the administration of byproduct material;

(E) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

(F) Using emergency procedures to control byproduct material; and

(G) Disposing of radioactive material; or

(3)(a) Is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under 333-116-0905(1) and has experience in radiation safety for similar types of use of byproduct material for which the licensee is seeking the approval of the individual as Radiation Safety Officer and who meets the requirements in 333-116-0640(4) and (5) of this rule; or

(b) Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual has Radiation Safety Officer responsibilities; and

(4) Has obtained written attestation, signed by a preceptor Radiation Safety Officer, that the individual has satisfactorily completed the requirements in 333-116-0640(5) and in 333-116-0640(1)(a)(A) and (B) or (333-116-0640(1)(b)(A) and (B) or 333-116-0640(2) or 333-116-0640(3)(a) or 333-116-0640(3)(b) of this rule, and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer for a medical use licensee; and

(5) Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0650
Training for Experienced Radiation Safety Officer

An individual identified as a Radiation Safety Officer on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license on July 1, 2006 who oversees only the use of radioactive material for which the licensee was authorized on that date need not comply with the training requirements of OAR 333-116-0640.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0660
Training for Uptake, Dilution or Excretion Studies

Except as provided in OAR 333-116-0740 and 333-116-0750, the licensee must require the authorized user of a radiopharmaceutical listed in OAR 333-116-0300 to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (3) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0670 and 333-116-0680 or equivalent Nuclear Regulator Commission or Agreement State requirements; or

(3) Has completed 60 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience must include:

(a) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in 333-116-0660, 333-116-0670 and 333-116-0680 or Nuclear Regulatory Commission or equivalent Agreement State requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(4) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in 333-116-0660, 333-116-0670 and 333-116-0680 or Nuclear Regulatory Commission or equivalent Agreement State requirements, that the individual has satisfactorily completed the

requirements in section (3) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under 333-116-0300.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0670
Training for Imaging and Localization Studies

Except as provided in OAR 333-116-0740 or 333-116-0750, the licensee shall require an authorized user of unsealed byproduct material for the uses authorized under OAR 333-116-0320 to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in 333-116-0670(3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0680 or equivalent Agreement State requirements; or

(3)(a) Has completed 700 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for imaging and localization studies. The training and experience must include, at a minimum:

(A) Classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use;

(v) Radiation biology; and

(B) Work experience, under the supervision of an authorized user, who meets the requirements in 333-116-0670 or 333-116-0680 or equivalent Nuclear Regulatory commission or Agreement State requirements, involving:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(v) Using procedures to safely contain spilled radioactive material and using proper decontamination procedures;

(vi) Administering dosages of radioactive drugs to patients or human research subjects; and

(vii) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(b) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in this rule or 333-116-0680 or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in 333-116-0670(3)(a) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under this rule or 333-116-0680.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0680
Training for Therapeutic Use of Radiopharmaceuticals

Except as provided in 333-116-0740, the licensee must require an authorized user of unsealed byproduct material for the uses authorized under 333-116-0360 to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in 333-116-0680(2) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

(2)(a) Has completed 700 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience must include:

(A) Classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use; and

(v) Radiation biology; and

(B) Work experience, under the supervision of an authorized user who meets the requirements in 333-116-0680(1) and (2) of this rule, or Nuclear Regulatory Commission or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in 333-116-0680(2) of this rule, must have experience in administering dosages in the same dosage category or categories (i.e., 333-116-0680(2)(a)(B)(vi)(I), (II), (III), (IV)) as the individual requesting authorized user status. The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Calibrating instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(v) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures;

(vi) Eluting generator systems, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(vii) Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

(I) Oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

(II) Oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131 2;

NOTE: Experience with at least 3 cases in Category (vii)(2) also satisfies the requirement in Category (vii)(A).

(III) Parenteral administration of any beta emitter or a photon-emitting radionuclide with a photon energy less than 150 keV; and/or

(IV) Parenteral administration of any other radionuclide; and

(b) Has obtained written certification that the individual has satisfactorily completed the requirements in 333-116-0680(2)(a) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under 333-116-0360. The written certification must be signed by a preceptor authorized user who meets the requirements in 333-116-0680(1), (2), or equivalent Nuclear regulatory Commission or Agreement State requirements. The preceptor authorized user, who meets the requirements in 333-116-0680(2), must have experience in administering dosages in the same dosage category or categories (i.e., 333-116-0680 (2)(a)(B)(vii)(I), (II), (III), or (IV) as the individual requesting authorized user status.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0683
Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Less Than or Equal to 1.22 Gigabecquerels (33 millicuries)

Except as provided in 333-116-0740, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive and the total treatment quantity is less than or equal to 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in 333-116-0683(3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0680(1) and (2) for uses listed in 333-116-0680(2)(a)(B)(vii)(I) or (II), 333-116-0687, or equivalent Agreement State requirements; or

(3)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in 333-116-0680(1) and (2), this rule, 333-116-0687 or Nuclear Regulatory Commission or equivalent Agreement State requirements. A supervising authorized user who meets the requirements in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(I) or (II). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written certification that the individual has satisfactorily completed the requirements in 333-116-0683(3)(a) and (3)(b) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under 333-116-0360. The written certification must be signed by a preceptor authorized user who meets the requirements in 333-116-0680(1) and (2), this rule, 333-116-0687, or equivalent Nuclear Regulatory Commission or Agreement State requirements. A preceptor authorized user, who meets the requirement in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(I) or (II).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0687
Qualifications for Authorized User for Oral Administration When a Written Directive is Required

Except as provided in 333-116-0740, the licensee must require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in (3)(c) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0680(1) and (2) for uses listed in 333-116-0680(2)(a)(B)(vii)(II), or equivalent Nuclear Regulatory commission or Agreement State requirements; or

(3)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in 333-116-0680(1) and (2), 333-116-0687, or equivalent Nuclear Regulatory Commission or Agreement State requirements. A supervising authorized user, who meets the requirements in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(II). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written certification that the individual has satisfactorily completed the requirements in 333-116-0687(3)(a) and (b) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under 333-116-0360. The written certification must be signed by a preceptor authorized user who meets the requirements in 333-116-0680(1) and (2), this rule, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(II).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0690
Training for Therapeutic Use of Brachytherapy Source

Except as provided in OAR 333-116-0740, the licensee must require the authorized user using manual brachytherapy sources specified in OAR 333-116-0420 for therapy to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in 333-116-0690(2) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2)(a) Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(B) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements at a medical institution, involving:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Checking survey meters for proper operation;

(iii) Preparing, implanting, and removing brachytherapy sources;

(iv) Maintaining running inventories of material on hand;

(v) Using administrative controls to prevent a medical event involving the use of byproduct material;

(vi) Using emergency procedures to control byproduct material; and

(b) Has obtained three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in this rule or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by 333-116-0690(2)(a)(B) of this rule; and

(c) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in 333-116-0690(2)(a) and (2)(b) of this rule and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized under 333-116-0420.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0700
Training for Ophthalmic Use of Strontium-90

Except as provided in OAR 333-116-0740, the licensee must require the authorized user using only strontium-90 for ophthalmic radiotherapy to be a physician who:

(1) Is an authorized user under 333-116-0690 or equivalent Nuclear Regulatory commission or Agreement State requirements; or

(2)(a) Has completed 24 hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology; and

(b) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This supervised clinical training must involve:

(A) Examination of each individual to be treated;

(B) Calculation of the dose to be administered;

(C) Administration of the dose; and

(D) Follow up and review of each individual's case history; and

(E) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in 333-116-0690, this rule, or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in 333-116-0700(1) and (2) of this rule and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0710
Training for Use of Sealed Sources for Diagnosis

Except as provided in OAR 333-116-0740 the licensee must require the authorized user using a sealed source in a device specified in OAR 333-116-0400 to be a physician, dentist or podiatrist who:

(1) Is certified in:

(a) Radiology, diagnostic radiology with special competence in nuclear radiology, radiation oncology or therapeutic radiology by the American Board of Radiology; or

(b) Nuclear medicine by the American Board of Nuclear Medicine; or

(c) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology.

(2) Has completed eight hours of instruction in basic radioisotope handling techniques specifically applicable to the use of the device. To satisfy the requirement for instruction, the training must include:

(a) Radiation physics, mathematics pertaining to the use and measurement of radioactivity and instrumentation;

(b) Radiation biology;

(c) Radiation protection and training in the use of the device for the purposes authorized by the license; and

(d) Training in the use of the device for the uses requested.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0715
Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive

Except as provided in 333-116-0740, the licensee shall require an authorized user for the parenteral administration requiring a written directive, to be a physician who:

(1) Is an authorized user under 333-116-0360 for uses listed in 333-116-0680(2)(a)(B)(vii), or equivalent Agreement State requirements; or

(2) Is an authorized user under 333-116-0690 or 333-116-0720, or equivalent Agreement State or Nuclear Regulatory Commission requirements and who meets the requirements in section (4) of this rule; or

(3) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under 333-116-0690 or 333-116-0720, and who meets the requirements in 333-116-0715(4) of this rule.

(4)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in 333-116-0680 or this rule, or equivalent Nuclear Regulatory Commission or Agreement State requirements, in the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in 333-116-0680 must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely, and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely, and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that include at least three cases involving the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV and/or at least three cases involving the parenteral administration of any other radionuclide, for which a written directive is required; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in paragraph (4)(b) or (4)(c) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation must be signed by a preceptor authorized user who meets the requirements in 333-116-0680 or this rule, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in 333-116-0680, must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-0720
Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Except as provided in OAR 333-116-0740, the licensee must require the authorized user of a sealed source specified in OAR 333-116-0480 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission (NRC) or an Agreement State and who meets the requirements in 333-116-0720(2)(c) and (3) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or

(2)(a) Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(B) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements at a medical institution, involving:

(i) Reviewing full calibration measurements and periodic spot-checks;

(ii) Preparing treatment plans and calculating treatment doses and times;

(iii) Using administrative controls to prevent a medical event involving the use of byproduct material;

(iv) Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;

(v) Checking and using survey meters; and

(vi) Selecting the proper dose and how it is to be administered; and

(b) Has completed three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by 333-116-0720(2)(a)(B) of this rule; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in (1)(a) or (2)(a) and (2)(b), and (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

(3) Has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0730
Training for Teletherapy or Brachytherapy Physicist

The licensee must require the teletherapy physicist to:

(1) Be certified by the American Board of Radiology in:

(a) Therapeutic radiological physics; or

(b) Roentgen ray and gamma ray physics; or

(c) X-ray and radium physics; or

(d) Radiological physics; or

(2) Be certified by the American Board of Medical Physics in radiation oncology physics; or

(3) Hold a master's or doctor's degree in physics, biophysics, radiological physics or health physics and have completed one year of full time training in therapeutic radiological physics and also one year of full time work experience under the supervision of a teletherapy or brachytherapy physicist at a medical institution. To meet this requirement, the individual must have performed the tasks listed in OAR 333-116-0200, 333-116-0570, 333-116-0580 and 333-116-0590 under the supervision of a teletherapy or brachytherapy physicist during the year of work experience.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0740
Training for Experienced Authorized User, Radiation Safety Officer, Teletherapy or Medical Physicist, Authorized Medical Physicist, Nuclear Pharmacist or Authorized Nuclear Pharmacist

(1) An individual identified as a Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist on a Nuclear Regulatory Commission or Agreement State license before July 1, 2006 who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of OAR 333-116-0640 through 333-116-0760 and 333-116-0905 through 333-116-0915.

(2) Practitioners of the healing arts identified as authorized users for the human use of radioactive material on an Agency, Nuclear Regulatory Commission or Agreement State or Licensing State license before July 1, 2006 who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of OAR 333-116-0640 through 333-116-0760.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0760
Recentness of Training

The training and experience specified in OAR 333-116-0640 through 333-116-0730 and 333-116-0905 through 333-116-0915 must have been obtained within the seven years preceding the date of application or the individual must have had continuing education and experience since the required training and experience was completed.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0800
Licensing and Registration of Positron Emission Tomography (PET) Facilities

(1) Each component of a PET facility (accelerator, radiopharmacy, and clinic) must be separately licensed pursuant to OAR 333-101-0005, 333-102-0200, 333-103-0005 or 333-103-0010.

(2) The licensee or registrant must receive applicable agency authorization at least thirty (30) days prior to the production of any accelerator-produced radioactive material or any change in accelerator configuration, shielding, location, room shielding or configuration, nuclide production method, ventilation systems, rabbit or other delivery systems, operating or emergency procedures, radiation safety personnel, authorized users or operators, or other applicable provisions authorized pursuant to these rules.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0810
Supervision of PET Facilities

(1) Management must ensure that there is a qualified Radiation Safety Officer (RSO) who must oversee the radiation safety aspects of the PET facility and be responsible for radiation safety of the accelerator facility, pharmacy, and PET clinic:

(a) In the case of separate licenses for different components in a PET facility, there must be a cooperative consortium of management and radiation safety personnel that acts as directors for the facility;

(b) Management, whether singular or in consortium, must write a statement of authority and responsibility for all staff handling or controlling the production and use of PET isotopes.

(2) The RSO must be assisted by personnel specifically trained and designated for the area of concern, whether accelerator operation, pharmaceutical production, or PET clinic.

(3) There must be a Radiation Safety Committee (RSC) for a PET facility. The RSC can be a subcommittee of an institutional RSC or a conjoint committee of individual licenses where several licensees are cooperating in the PET facility.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0820
Other Applicable Requirements

(1) The licensee must ensure that any radiopharmaceutical for which an Investigational New Drug (IND) status does not exist, or which must be used for research purposes in humans, is reviewed by an Institutional Review Board (IRB) or Human Subjects Review Board or Committee. The licensee must establish procedures, reviews, quality assurance, and emergency procedures for all procedures reviewed by the IRB. The IRB, the PET Radiation Safety Committee or subcommittee, and the PET or facility Radiation Safety Officer must review and approve any and all PET procedures, unless otherwise authorized in a radioactive materials license pursuant to OAR 333-102-0200.

(2) Transfers of radioisotopes must be in accordance with requirements in OAR 333-102-0330.

(3) PET facility radiation protection programs, occupational dose limits, radiation dose limits for the public, surveys and monitoring, restricted area control, storage of radioactive materials, internal exposure control, precautionary procedures, waste disposal, records, and reports must meet all applicable requirements of division 120 of these rules.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0830
Accelerator Facility Requirements

(1) Accelerators must be meet all requirements of division 109 of this chapter. Shielded-room accelerators must be equipped with interlocks and

personnel control; self-shielded accelerators must be shielded such that personnel access is prevented during operation.

(2) Non-ionizing radiation must meet requirements of division 112 of these rules.

(3) Target maintenance and repair, contamination control, and emergency actions must be conducted pursuant to division 120 of these rules.

(4) There must be an Understanding of Transfer (UOT) when isotopes are transferred from one licensee or entity to another for processing, specifying at what point control is transferred to personnel handling radiochemical production or radiopharmacy operation.

(5) Radiation surveys must be made prior to any accelerator operation or isotope production with a radiation survey instrument calibrated in accordance with requirements in OAR 333-116-0390. Periodic surveys must be done throughout times of operation to ensure that radiation levels meet all applicable requirements in division 120 (Radiation Protection Standards).

(6) Ventilation controls must be implemented to ensure compliance with all applicable local, state, and federal requirements. Controls must include monitoring of stacks and computer modeling of air emissions to confirm compliance with standards.

(7) Real-time (integrating) monitors must be used to confirm requirements in OAR 333-120-0100, 333-120-0160, 333-120-0170, and 333-120-0180.

(8) Contamination wipes for radioactive material must be made pursuant to requirements in OAR 333-116-0250;

(9) Dosimetry must address both gamma and beta doses in all areas of the facility. Licensees and registrants must monitor extremities to ensure compliance with OAR 333-120-0100. Bioassays, as defined in OAR 333-100-0005, are not required, but there must be evaluation of internal exposures, pursuant to OAR 333-120-0130, based on calculated releases and monitoring.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0840
Safety Considerations and Quality Management for PET Facilities

(1) The licensee must establish and implement a Quality Management program pursuant to OAR 333-116-0125 for PET products, as well as other production and calibration products.

(2) PET instrumentation and other equipment unique to the PET process must meet all applicable radiation protection standards pursuant to division 120 of these rules.

(3) Area monitors must be visible and audible to accelerator operators. Monitors must be checked for proper operation daily.

(4) Wasted targets must be treated as radioactive waste and must be properly dismantled, shielded, stored, and disposed.

(5) Accelerator shielding design and safety must meet requirements of OAR 333-109-0025.

(6) Shielding around guide-bends, targets, hot-cells, purification manifolds, etc. must ensure that limits in 333-120-0180 and OAR 333-120-0190 have been met in all areas of beam and nuclide production.

(7) Security provisions for unauthorized access, janitorial services, maintenance, visitors, tours, and personnel-in-training must conform to requirements in OAR 333-120-0180, 333-120-0250 and 333-120-0260.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0850
Radiopharmacy and Radiochemical Production

(1) All preparations used in humans must meet the Oregon State Board of Pharmacy standards, as well as applicable federal Food and Drug Administration (FDA) requirements.

(a) All research products to be used in humans must be reviewed and approved by the licensee's or consortium Institutional Review Board (IRB).

(b) No research radiopharmaceutical must be used in a human being until its pyrogenicity and purity have been shown to meet applicable standards.

(2) Pharmacy or chemistry personnel must work directly under the supervision of a physician who meets the training criteria in OAR 333-116-0670.

(3) There must be no transfers between or among licensees unless there is a signed Memorandum or Understanding of Transfer. Such memorandum must preclude any transfers from one licensee entity to another if there is incomplete information, purity questions, or non-approval from the IRB.

(4) There must be a detailed description of the shielding and operation of the "black box" (hot cell).

(5) There must be operating and emergency, training, and survey procedures for ease of movement of the product within the pharmacy production area. Emergency procedures must address potential high dose rate emergencies such as stuck rabbit (transport container), pneumatic tube contamination, manifold leak or spill, hot cell emergency, or other incident.

(6) Equipment and procedures must include:

(a) Hood with continuous stack monitoring system and procedures to confirm air emission standards compliance;

(b) Remote handling equipment for very high dose rates (all handling must be done remotely);

(c) Dose calibration, system validation, and calibration standards, for all individual doses;

(d) Ba-133 must not be used as a calibration source;

(e) Dose calibrator linearity check using a positron emitter (beta shield must be evaluated to prevent interference with annihilation measurement);

(f) Product delivery system design, shielding, carrier, and emergency procedures;

(g) Leak tests (hermeticity) of delivery container;

(h) Labeling requirements, transportation manifests, and packaging for outside deliveries;

(i) Transportation requirements pursuant to division 118 of these rules;

(j) Inventory control, "cradle to grave" tracking, and communication with PET clinic;

(k) Waste disposal procedures.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0880
Training and Experience for PET, PET/CT and SPECT/CT Personnel

(1) Pharmacy or chemistry personnel must have 40 extra hours above Nuclear Pharmacy requirements and 40 hours specific to PET. The 40 hours should be divided equally between didactic and practical applications.

(2) Authorized users who meet training requirements for human use in OAR 333-116-0670 must complete an additional 40 hours at an accepted PET training center.

(3) Technical personnel working under an authorized user must have basic radiation safety training, plus 40 additional hours specific to PET.

(4) Positron Emission-Computed Tomography (PET/CT) or Single Photon Emission-Computed Tomography (SPECT/CT) systems must be operated by:

(a) Any registered radiographer with the credential R.T. (R); or

(b) Registered radiation therapist with the credential R.T. (T); and

(c) Who are currently licensed by the Oregon Board of Radiologic Technology; or

(d) Registered certified nuclear medicine technologist with the credentials R.T. (N); or

(e) Certified Nuclear Medicine Technologist (CNMT) by the Nuclear Medicine Technologist Certification Board (NMTCB).

(5) The individuals mentioned in OAR 333-116-0880(4) of this rule must also have successfully completed appropriate additional education and training and demonstrated competency in the use and operation of PET/CT or SPECT/CT systems.

(6)(a) Appropriate additional training is considered training that covers the topic areas outlined in the PET/CT curriculum developed by the Multi-Organizational Curriculum Project Group sponsored by the American Society of Radiologic Technologists and the Society of Nuclear Medicine Technologists, or equivalent training approved by the Agency; and

(b) Includes the content specified in the PET/CT curriculum for the area(s) that the individual is not already trained or certified in; or

(c) Individuals meeting the requirements of OAR 333-116-0880(4) of this rule and who have successfully completed training that the Agency has evaluated and judged to be substantially equivalent to that specified in OAR 333-116-0880(6)(a).

(7) R.T.(N)'s or CNMT's who have become certified in Computed Tomography through the American Registry of Radiologic Technologists are considered to have met the training requirements in OAR 333-116-0880(4).

(8) Technologists operating PET/CT or SPECT/CT systems must do so under the direction of an authorized user licensed to perform imaging and localization studies in accordance with OAR 333-116-0320.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0905
Training for Authorized Medical Physicist

Except as provided in 333-116-0740, the licensee shall require the authorized medical physicist to be an individual that:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in 333-116-0905(2)(b) and (3) of this rule. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(b) Have two years of full-time practical training and/or supervised experience in medical physics:

(A) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(B) In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in 333-116-0720 or 333-116-0730; and

(c) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or

(2)(a) Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services and must include:

(A) Performing sealed source leak tests and inventories;

(B) Performing decay corrections;

(C) Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(D) Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(b) Has obtained written attestation that the individual has satisfactorily completed the requirements in 333-116-0905(1)(a) and (b) and (3) of this rule, or 333-116-0905(2)(a) and (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this rule, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

(3) Has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0910
Training for an Authorized Nuclear Pharmacist

Except as provided in 333-116-0740, the licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in 333-116-0910(2)(b) of this rule. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

(b) Hold a current, active license to practice pharmacy;

(c) Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and

(d) Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or

(2)(a) Has completed 700 hours in a structured educational program consisting of both:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use; and

(v) Radiation biology; and

(B) Supervised practical experience in a nuclear pharmacy involving:

(i) Shipping, receiving, and performing related radiation surveys;

(ii) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;

(iii) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(iv) Using administrative controls to avoid medical events in the administration of byproduct material; and

(v) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

(b) Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in paragraphs (1)(a), (1)(b), and (1)(c) or (2)(a) of this rule and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-0915
Training for Experienced Nuclear Pharmacists

A licensee may apply for and must receive a license amendment identifying an experienced nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program as specified in OAR 333-116-0910(2)(a) before December 2, 1994, and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements on preceptor statement in 333-116-0910(2)(b) and recentness of training in 333-116-0760 to qualify as an authorized nuclear pharmacist.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-116-1000
Report and Notification of a Medical Event

(1) A licensee must report any medical event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

(a) A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and

(A) The total dose delivered differs from the prescribed dose by 20 percent or more;

(B) The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or

(C) The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.

(b) A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:

(A) An administration of a wrong radioactive drug containing radioactive material;

(B) An administration of a radioactive drug containing radioactive material by the wrong route of administration;

(C) An administration of a dose or dosage to the wrong individual or human research subject;

(D) An administration of a dose or dosage delivered by the wrong mode of treatment; or

(E) A leaking sealed source.

(c) A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(2) A licensee must report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

(3) The licensee must notify by telephone the Agency no later than the next calendar day after discovery of the medical event.

(4) The licensee must submit a written report to the Agency within 15 days after discovery of the medical event.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the individual(s) who received the administration;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

(5) The licensee must provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee must notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this paragraph, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee must inform the individual, or appropriate responsible relative or guardian that a written description of the event can be obtained from the licensee upon request. The licensee must provide such a written description if requested.

(6) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-1010
Report and Notification of a Misadministration

(1) A licensee must report any misadministration that involves:

(a) A diagnostic radiopharmaceutical dosage greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-123, I-125 or I-131:

(A) Involving the wrong individual or wrong radiopharmaceutical; or

(B) When the administered dosage exceeds the prescribed dosage by more than 20 percent of the prescribed dosage.

(b) A diagnostic radiopharmaceutical dosage less than 1.11 megabecquerels (30 uCi) of either sodium iodide I-123, I-125 or I-131 involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage exceeds 1.33 megabecquerels (36 uCi)

(c) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131;

(A) Involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(B) When the administered dosage exceeds the prescribed dosage by more than 20 percent of the prescribed dosage.

(d) A gamma stereotactic radiosurgery radiation dose:

(A) Involving the wrong individual or wrong treatment site; or

(B) When the calculated total administered exceeds the total prescribed dose by more than 10 percent of the total prescribed dose.

(e) A teletherapy radiation dose:

(A) Involving the wrong individual, wrong mode of treatment, or wrong treatment site;

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose exceeds total prescribed dose by more than ten percent of the total prescribed dose;

(C) When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or

(D) When the calculated total administered dose exceeds the total prescribed dose by more than 20 percent of the total prescribed dose.

(f) A brachytherapy radiation dose:

(A) Involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site); or

(B) Involving a sealed source that is leaking;

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(D) When the calculated administered dose exceeds the prescribed dose by more than 20 percent of the prescribed dose.

(2) The licensee must notify by telephone the Agency no later than the next calendar day after discovery of the medical event.

(3) The licensee must submit a written report to the Agency within 15 days after discovery of the misadministration.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the individual(s) who received the administration;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-1015
Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child

(1) A licensee must report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of byproduct material or radiation from byproduct material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

(2) A licensee must report any dose to a nursing child that is a result of an administration of radioactivet material to a breast-feeding individual that:

(a) Is greater than 50 mSv (5 rem) total effective dose equivalent; or

(b) Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

(3) The licensee must notify the Agency by telephone no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in 333-116-1015(1) or (2) of this rule.

(4) The licensee must submit a written report to the Agency within 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in 333-116-1015(1) or (2) of this rule.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the embryo/fetus or the nursing child;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.

(b) The report must not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

(5) The licensee must provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter

referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under 333-116-1015(1) or (2) of this rule, unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee must make the appropriate notifications as soon as possible thereafter. The licensee may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this paragraph, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee must inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee must provide such a written description if requested.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-116-1030
Report Of A Leaking Source

A licensee must file a report with the Agency within five days if a leak test required by 333-116-0200 reveals the presence of 185 Bq (0.005 uCi) or more of removable contamination. The written report must include:

(1) The model number and serial number of the leaking source, if assigned;

(2) The radionuclide and its estimated activity;

(3) The results of the test;

(4) The date of the test; and

(5) The action taken.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-120-0015
Definitions

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Activity" is the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the becquerel (Bq) and the Curie (Ci). The becquerel is equal to one disintegration per second (dps) and the Curie is equal to 3.7x1010 dps.

(3) "Adult" means an individual 18 or more years of age.

(4) "Airborne radioactive material" means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(5) "Airborne radioactivity area" means a room, enclosure, or area in which the airborne radioactive materials, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in 10 CFR 20 Appendix B; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours present in a week, and intake of 0.6 percent of the annual limit of intake (ALI) or 12 DAC hours.

(6) "ALARA" (acronym for "as low as is reasonably achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this division as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the use of licensed materials in the public interest.

(7) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B.

(8) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include radiation from source, byproduct, or special nuclear materials regulated by the Agency.

(9) "Bioassay" (radiobioassay) means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

(10) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days; for Class W, Weeks, from 10 to 100 days; and for Class Y, Years, of greater than 100 days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms.

(11) "Collective dose" is the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(12) "Committed dose equivalent" (HT,50)means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50- year period following the intake.

(13) "Committed effective dose equivalent" (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues (HE,50)= The Sum of WTHT,50.

(14) "Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason.

(15) "Critical Group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(16) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(17) "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of the license; or

(b) Release of the property under restricted conditions and termination of the license.

(18) "Deep-dose equivalent" (Hd), which applies to external whole-body exposure, is the dose equivalent at a tissue depth of 1 cm (1000 mg/cm2).

(19) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of 10 CFR 20 Appendix B.

(20) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(21) "Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(22) "Dose or radiation dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent, as defined in other paragraphs of 333-120-0015.

(23) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(24) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(25) "Effective Dose Equivalent" (HE) is the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factor (WT) applicable to each of the body organs or tissues that are irradiated (HE = The Sum of WTHT).

(26) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(27) "Entrance or access point" means any location through which an individual could gain access to radiation areas or to radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(28) "Exposure" means being exposed to ionizing radiation or to radioactive material.

(29) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.

(30) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(31) "Eye dose equivalent" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm 2). (See "lens dose equivalent").

(32) "Generally applicable environmental radiation standards" means standards issued by the Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(33) "High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

(34) "Individual" means any human being.

(35) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, i.e DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(36) "Individual monitoring devices" (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(37) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(38) "Lens dose equivalent (LDE)" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm 2).

(39) "Member of the public" means any individual except when that individual is receiving an occupational dose.

(40) "Minor" means an individual less than 18 years of age.

(41) "Monitoring (radiation monitoring, radiation protection monitoring)" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

(42) "Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these regulations, "deterministic effect" is an equivalent term.

(43) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released under 333-116-0260, from voluntary participation in medical research programs, or as a member of the public.

(44) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(45) "Public dose" means the dose received by a member of the public from exposure to radiation or radioactive material released by a licensee, or to any other source of radiation under the control of a licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released under 333-116-0260, or from voluntary participation in medical research programs.

(46) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(47) "Radiation" (ionizing radiation) means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. Radiation, as used in this part, does not include non-ionizing radiation, such as radio- or microwaves, or visible, infrared, or ultraviolet light.

(48) "Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(49) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of the reference man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(50) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site.

(51) "Restricted area" means an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(52) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(53) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(54) "Shallow-dose equivalent" (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm2) averaged over an area of 1 square centimeter.

(55) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(56) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, "probabilistic effect" is an equivalent term.

(57) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

(58) "Total Effective Dose Equivalent" (TEDE) means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(59) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee.

(60) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gray (500 rad) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates(1). (1) At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equvalent, sievert and rem.

(61) "Weighting factor" (WT) for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of WT are:

Organ Dose Weighting Factors
Organ or Tissue – WT
Gonads — 0.25
Breast — 0.15
Red bone marrow — 0.12

Lung — 0.12
Thyroid — 0.03
Bone surfaces — 0.03
Remainder — 0.30(a)
Whole Body — 1.00(b)

(a) 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, WT = 1.0, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(62) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

(63) "Working level" (WL) is any combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in 1 liter of air that will result in the ultimate emission of 1.3x105 MeV of potential alpha particle energy.

(64) "Working level month" (WLM) means an exposure to 1 working level for 170 hours (2,000 working hours per year/12 months per year equals approximately 170 hours per month).

Stat. Auth.: ORS 453.605 - 453.807
Stat. Imp.: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0017
Implementation.

(1) Any existing license or registration condition that is more restrictive than OAR 333-120 remains in force until there is an amendment or renewal of the license or registration.

(2) If a license or registration condition exempts a licensee or registrant from a provision of OAR 333-120 in effect on or before July 1, 2006, it also exempts the licensee or registrant from the corresponding provision of OAR 333-120.

(3) If a license or registration condition cites provisions of OAR 333-120 in effect prior to July 1, 2006, which do not correspond to any provisions of OAR 333-120, the license or registration condition remains in force until there is an amendment or renewal of the license or registration that modifies or removes this condition.

Stat. Auth.: ORS 453.605 - 453.807
Stat. Imp.: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0020
Radiation Protection Programs

(1) Each licensee or registrant must develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed or registered activities and sufficient to ensure compliance with the provisions of this division. (See OAR 333-120-0610 for record keeping requirements relating to these programs.)

(2) Each licensee or registrant must use, to the extent practicable, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that are as low as is reasonably achievable (ALARA).

(3) Each licensee or registrant must periodically (at least annually) review the radiation protection program content and implementation.

(4) To implement the ALARA requirements of 333-120-0020(2) of this rule, and notwithstanding the requirements in 333-120-0180, a constraint on air emissions of radioactive material to the environment, excluding Radon-222 and its daughters, must be established by licensees such that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent in excess of 10 mrem (0.1 mSv) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee must report the excess as provided in 333-120-0720 and promptly take appropriate corrective action to ensure against recurrence.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0100
Occupational Dose Limits For Adults

(1) Each licensee or registrant must control the occupational dose to individual adults, except for planned special exposures under OAR 333-120-0150, to the following dose limits:

(a) An annual limit, which is the more limiting of:

(A) The total effective dose equivalent being equal to 0.05 Sv (5 rem); or

(B) The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).

(b) The annual limits to the lens of the eye, to the skin, and to the extremities which are:

(A) A lens dose equivalent of 0.15 Sv (15 rem), and

(B) A shallow-dose equivalent of 0.50 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, must be subtracted from the limits for planned special exposures, as defined in OAR 333-100-0005, that the individual may receive during the current year OAR 333-120-0150(5)(a) and during the individual's lifetime OAR 333-120-0150(5)(b).

NOTE: A licensee or registrant may permit a radiation worker to receive more than 0.05 Sv (5 rem) per year TEDE or 0.5 Sv (50 rem) to the skin, extremities, or organ, or 0.15 Sv (15 rem) to the lens of the eye during a planned special exposure (PSE) only if: (a) there are no other alternatives available or practical; (b) the PSE is authorized in writing before it occurs; (c) the individuals who will be exposed are told the reason for the PSE, the dose they are expected to receive, the risks from that dose and the conditions under which they will be working (e.g radiation or contamination levels), and how to keep their doses ALARA; (d) the licensee or registrant determines the worker's prior doses (lifetime history); (e) the total dose expected from the PSE plus any previous doses over the annual limit do not exceed the standard annual dose limits, or five times the standard limits in the worker's lifetime; (f) the licensee or registrant maintains the appropriate records and files the appropriate reports; and (g) after the PSE, the licensee or registrant records the dose received and notifies the worker in writing of the dose received within 30 days after the PSE. The dose received from the PSE does not affect the worker's ability to receive the standard annual doses but is included in the worker's lifetime history and added to any future PSEs.

(3) The assigned deep-dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow-dose equivalent must be the dose averaged over the contiguous 10 cm2 of skin receiving the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable:

(a) The deep-dose equivalent, lens dose equivalent and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable; or

(b) When a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in 333-120-0210(1)(e) the effective dose equivalent for external radiation must be determined as follows:

(A) When only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent must be the effective dose equivalent for external radiation; or

(B) When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in 333-120-0100(1) of this rule the reported deep dose equivalent value multiplied by 0.3 must be the effective dose equivalent for external radiation; or

(C) When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation must be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401 and may be used to determine the individual's dose (OAR 333-120-0650) and to demonstrate compliance with the occupational dose limits.

(5) In addition to the annual dose limits, the licensee must limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity (see 10 CFR Part 20 footnote 3 of Appendix B to 20.1001 to 20.2401).

(6) When monitoring is required by OAR 333-120-0210 each licensee or registrant must reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person (OAR 333-120-0630(5)).

(7) The licensee must reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0110
Compliance with Requirements for Summation of External and Internal Doses

(1) If the licensee is required to monitor under OAR 333-120-0210(1) and (2), the licensee must demonstrate compliance with the dose limits by summing external and internal doses. If the licensee is required to monitor only under OAR 333-120-0210(1) or only under OAR 333-120-0210(2), then summation is not required to demonstrate compliance with the dose limits. The licensee may demonstrate compliance with the requirements for summation of external and internal doses by meeting one of the conditions specified in 333-120-0110(2) and the conditions in 333-120-0110(3) and (4) of this rule.

NOTE: The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation, but are subject to separate limits.

(2) Intake by Inhalation. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity:

(a) The sum of the fractions of the inhalation ALI for each radionuclide; or

(b) The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000; or

(c) The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit.

NOTE: An organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, WT, and the committed dose equivalent, HT,50, per unit intake is greater than 10 percent of the maximum weighted value of HT50 (i.e WTHT50) per unit intake for any organ or tissue.

(3) Intake by Oral Ingestion. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10 percent of the applicable oral ALI, the licensee must account for this intake and include it in demonstrating compliance with the limits.

(4) Intake Through Wounds or Absorption Through Skin. The licensee must evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and does not need to be further evaluated.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0120
Determination of External Dose from Airborne Radioactive Material

Licensees must, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, eye dose equivalent, and shallow-dose equivalent from external exposure to the radioactive cloud (10 CFR, Part 20, Appendix B, Footnotes 1 and 2 to 20.1001 to 20.2401).

NOTE: Airborne radioactivity measurements and DAC values should not be used as the primary means to assess the deep-dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent to an individual should be based upon measurements using instruments or individual monitoring devices.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0130
Determination of Internal Exposure

(1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee must, when required under OAR 333-120-0210, take suitable and timely measurements of:

(a) Concentrations of radioactive materials in air in work areas; or

(b) Quantities of radionuclides in the body; or

(c) Quantities of radionuclides excreted from the body; or

(d) Combinations of these measurements.

(2) Unless respiratory protective equipment is used, as provided in OAR 333-120-0320 or the assessment of intake is based in bioassays, the licensee must assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

(3) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior or the material in an individual is known, the licensee may:

(a) Use that information to calculate the committed effective dose equivalent, and, if used, the licensee must document that information in the individual's record; and

(b) Upon prior approval of the Agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material (e.g aerosol size distribution or density); and

(c) Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of given radionuclide (see 10 CFR Part 20 Appendix B to 20.1001 to 20.2401) to the committed effective dose equivalent.

(4) If the licensee chooses to assess intakes of Class Y material using the measurements given in 333-120-0130(1), (2) or (3) of this rule, the licensee may delay the recording and reporting of the assessments for periods up to 7 months, unless otherwise required by OAR 333-120-0710 or 333-120-0720, in order to permit the licensee to make additional measurements basic to the assessments.

(5) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours must be either:

(a) The sum of the ratios of the concentration to the appropriate DAC value (e.g D, W, Y) from 10 CFR Part 20 Appendix B to 20.1001 to 20.2401 for each radionuclide in the mixture; or

(b) The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

(6) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture must be the most restrictive DAC of any radionuclide in the mixture.

(7) When a mixture of radionuclides in air exists, licensees may disregard certain radionuclides in the mixture if:

(a) The licensee uses the total activity of the mixture in demonstrating compliance with the dose limits in OAR 333-120-0100 and in complying with the monitoring requirements in OAR 333-120-0210(2); and

(b) The concentration of any radionuclide disregarded is less than 10 percent of its DAC; and

(c) The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

(8) When determining the committed effective dose equivalent, the following information may be considered:

(a) In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of one ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

(b) When the ALI (and the associated DAC) is determined by the nonstochastic organ dose limit of 0.50 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) (the stochastic ALI) is listed in parentheses in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401. In this case, the licensee may, as a simplifying assumption, use the stochastic ALIs to determine committed effective dose equivalent. However, if the licensee uses the stochastic ALIs, the licensee also must demonstrate that the limit in OAR 333-120-0100(1)(a)(B) is met.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0170
Dose to an Embryo/Fetus

(1) The licensee or registrant must ensure that the dose equivalent to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman does not exceed 5 mSv (0.5 rem). Records must be kept in accordance with OAR 333-120-0650.

NOTE: A woman is not a declared pregnant woman unless she says so in writing without being coerced. Unless a woman, who also is a radiation worker, has declared her pregnancy as required, she is to be treated as any other radiation worker. Pursuant to Title VII of the Civil Rights Act of 1964, as amended, no employer may restrict a fertile female's job because of concern for the health of the fetus that a woman might conceive. The court held that sex-specific fetal-protection policies are forbidden. Additionally, a female worker legally can declare pregnancy if she does not yet have documented medical proof. The document, "Instruction Concerning Prenatal Radiation Exposure," discusses declared pregnancy. It is available from Public Health Services, Radiation Protection Services Suite 640, 800 N.E. Oregon St., Portland, OR 97232, phone (971) 673-0490.

(2) The licensee or registrant must make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in 333-120-0170(1) of this rule.

(3) The dose equivalent to an embryo/fetus must be taken as the sum of:

(a) The deep-dose equivalent to the declared pregnant woman; and

(b) The dose equivalent to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman,

(4) If the dose equivalent to the embryo/fetus is found to have exceeded 4.5 mSv (0.45 rem) by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant must be deemed to be in compliance with 333-120-0170(1) of this rule if the additional dose to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

NOTE: If a pregnant radiation worker declares in writing to the licensee that she is pregnant, the dose limit to the embryo/fetus is 5 mSv (0.5 rem) during the entire pregnancy. The dose that is controlled is the dose to the embryo/fetus, not the dose to the woman, although for external penetrating radiation, the two are virtually synonymous.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0180

Dose Limits for Individual Members of the Public

(1) Each licensee or registrant must conduct operations so that:

(a) The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose contributions from background, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with 333-116-0260, from voluntary participation in medical research programs, and the licensee's disposal of radioactive material into sanitary sewerage in accordance with OAR 333-120-0520; and

(b) The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released in accordance with 333-116-0260, does not exceed 0.02 mSv (0.002 rem) in any one hour.

(2) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

(3) Notwithstanding 333-120-0180(1)(a) of this rule, a licensee may permit visitors to an individual who cannot be released, under 333-116-0260, to receive a radiation dose greater than 0.1 rem (1 mSv) if:

(a) The radiation dose received does not exceed 0.5 rem (5 mSv); and

(b) The authorized user, as defined in 333-116-0020(5), has determined prior to the visit that it is appropriate.

(4) A licensee, registrant or applicant may apply for prior Agency authorization to operate up to an annual dose limit for an individual member of the public of 5 mSv (0.5 rem). The licensee, registrant or applicant must include the following information in this application:

(a) Demonstration of the need for and the expected duration of operations in excess of the limit in 333-120-0180(1) of this rule; and

(b) The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and

(c) The procedures to be followed to maintain the dose as low as is reasonably achievable.

(5) In addition to the requirements of this division, a licensee or registrant subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190 must comply with those standards.

(6) The Agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0190

Compliance with Dose Limits for Individual Members of the Public

(1) The licensee or registrant must make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas and radioactive materials in effluents released to unrestricted and controlled areas to demonstrate compliance with the dose limits for individual members of the public in OAR 333-120-0180.

(2) A licensee or registrant must show compliance with the annual dose limit in OAR 333-120-0180 by:

(a) Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

(b) Demonstrating that:

(A) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in 10 CFR Part 20 Table 2 of Appendix B to 20.1001 to 20.2401; and

(B) If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.

(3) Upon approval from the Agency, the licensee or registrant may adjust the effluent concentration values in 10 CFR Part 20 Table 2 of Appendix B to 20.1001 to 20.2401 for members of the public, to take into account the actual physical and chemical characteristics of the effluents (e.g aerosol size distribution, solubility, density, radioactive decay equilibrium, chemical form).

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0200

General

(1) Each licensee or registrant must make or cause to be made, surveys that:

(a) Are necessary for the licensee or registrant to comply with the rules in this division; and

(b) Are reasonable under the circumstances to evaluate:

(A) The magnitude and extent of radiation levels; and

(B) The concentrations or quantities of radioactive material; and

(C) The potential radiological hazards that could be present.

(2) The licensee or registrant must ensure that instruments and equipment used for quantitative radiation measurements (e.g dose rate and effluent monitoring) are calibrated at intervals not to exceed 12 months for the radiation measured, except when a more frequent interval is specified in another applicable division or a license condition.

(3) All personnel dosimeters (except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to the extremities) that require processing to determine the radiation dose and that are used by licensees or registrants to comply with OAR 333-120-0100, with other applicable provisions of this division or with conditions specified in a license must be processed and evaluated by a dosimetry processor:

(a) Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and

(b) Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

(4) The licensee or registrant must ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0210

Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

Each licensee or registrant must monitor exposures to radiation and radioactive material at levels sufficient to demonstrate compliance with the occupational dose limits of this division. As a minimum:

(1) Each licensee or registrant must monitor occupational exposure to radiation and must supply and require the use of individual monitoring devices by:

(a) Adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of the limits in OAR 333-120-0100(1); and

(b) Minors likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of any of the applicable limits in division OAR 333-120-0160 or 333-120-0170; and

(c) Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem); and

(d) Individuals entering a high or very high radiation area.

(e) Individuals working with medical fluoroscopic equipment.

(A) An individual monitoring device used for the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), must be located under the protective apron at the waist.

(B) An individual monitoring device used for lens dose equivalent must be located at the neck, or an unshielded location closer to the lens, outside the protective apron.

(C) When only one individual monitoring device is used to determine the effective dose equivalent for external radiation pursuant to 333-120-0100(3)(b) it must be located at the neck outside the protective apron. When a second individual monitoring device is used, for the same purpose, it must be located under the protective apron at the waist. The second individual monitoring device is required for a declared pregnant woman.

(2) Each licensee or registrant must monitor (OAR 333-120-0130) the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

(a) Adults likely to receive, in 1 year, an intake in excess of 10 percent of the applicable ALI(s) in 10 CFR Part 20 Table 1, Columns 1 and 2, of Appendix B to 20.1001 to 20.2401; and

(b) Minors likely to receive, in 1 year, a committed effective dose equivalent in excess of 1 mSv (0.1 rem).

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0215

Location of Individual Monitoring Devices

Each licensee or registrant must ensure that individuals who are required to monitor occupational doses in accordance with 333-120-0210(1) wear individual monitoring devices as follows:

(1) An individual monitoring device used for monitoring the dose to the whole body must be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar);

(2) An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), must be located at the waist under any protective apron being worn by the woman;

(3) An individual monitoring device used for monitoring the lens dose equivalent, to demonstrate compliance with 333-120-0100(1)(b)(A), must be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye;

(4) An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with 333-120-0100(1)(b)(B), must be worn on the extremity likely to receive the highest exposure. Each individual monitoring device must be oriented to measure the highest dose to the extremity being monitored.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0220

Control of Access to High Radiation Areas

(1) The licensee or registrant must ensure that each entrance or access point to a high radiation area has one or more of the following features:

(a) A control device that, upon entry into the area, causes the level of radiation to be reduced below that level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates;

(b) A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or

(c) Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entry.

(2) In place of the controls required by 333-120-0220(1) of this rule for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.

(3) A licensee or registrant may apply to the Agency for approval of alternative methods for controlling access to high radiation areas.

(4) The licensee or registrant must establish the controls required by 333-120-0220(1) and 333-120-0220(3) of this rule in a way that does not prevent individuals from leaving a high radiation area.

(5) Control is not required for each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation (49 CFR) provided that:

(a) The packages do not remain in the area longer than 3 days; and

(b) The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.

(6) Control of entrance or access to rooms or other areas in hospitals is not required solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this division and to operate within the ALARA provisions of the licensee's or registrant's radiation protection program.

(7) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in this rule if the licensee or registrant has met all the specific requirements for access and control specified in other applicable divisions of chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0230

Control of Access to Very High Radiation Areas

(1) In addition to the requirements in OAR 333-120-0220, the licensee or registrant must institute additional measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 5 Gray (500 Rad) or more in 1 hour at 1 meter from a radiation source or any surface through which the radiation penetrates.

(2) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area as described in 333-120-0220 if the licensee or registrant has met all the specific requirements for access and control specified in other applicable divisions of chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0240

Control of Access to Very High Radiation Areas — Irradiators

This section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. It does not apply to sources of radiation that are used in teletherapy, in industrial radiography, or in completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.

(1) Each area in which there may exist radiation levels in excess of 5 Gray (500 rad) in 1 hour at 1 meter from a sealed radioactive source that is used to irradiate materials must meet the following requirements.

(a) Each entrance or access point must be equipped with entry control devices which:

(A) Function automatically to prevent any individual from inadvertently entering the area when very high radiation levels exist; and

(B) Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the sealed source, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(C) Prevent operation of the source if the source would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in 1 hour.

NOTE: This rule applies to radiation from accelerators, and byproduct, source, NARM, or special nuclear radioactive materials that are used in sealed sources in non-self-shielded irradiators. This rule does not apply to radioactive or x-ray sources that are used in teletherapy or medical accelerators, in radiography, or in completely

self-shielded irradiators in which the source is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual. This rule also does not apply to sources from which the radiation is incidental to some other use.

(b) Additional control devices must be provided so that, upon failure of the entry control devices to function as required by 333-120-0240(1)(a) of this rule:

(A) The radiation level within the area, from the sealed source, or radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(B) Conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard and at least one other authorized individual, who is physically present, familiar with the activity, and prepared to render or summon assistance, aware of the failure of the entry control devices.

(c) The licensee or registrant must provide control devices so that, upon failure or removal of physical radiation barriers other than the radiation source's shield or shielded storage container:

(A) The radiation level from the radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(B) Conspicuous visible and audible alarm signals are generated to make potentially affected individuals aware of the hazard and the licensee/registrant or at least one other individual, who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

(d) When the shield for the stored source is a liquid, the licensee or registrant must provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.

(e) Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of 333-120-0240(1)(c) and (d) of this rule.

(f) Each area must be equipped with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source can be put into operation and in sufficient time for any individual in the area to operate a clearly identified control device, which must be installed in the area and which can prevent the source from being put into operation.

(g) Each area must be controlled by use of such administrative procedures and such devices as are necessary to ensure that the area is cleared of personnel prior to each use of the radiation source.

(h) Each area must be checked by a radiation measurement to ensure that, prior to the first individual's entry into the area after any use of the source, the radiation level from the source in the area is below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour.

(i) The entry control devices required in 333-120-0240(1)(a) of this rule must have been tested for proper functioning. Records of required testing must be maintained in accordance with OAR 333-120-0680.

(A) Testing must be conducted prior to initial operation with the source of radiation on any day (unless operations were continued uninterrupted from the previous day); and

(B) Testing must be conducted prior to resumption of operation of the source of radiation after any unintended interruption; and

(C) The licensee or registrant must submit and adhere to a schedule for periodic tests of the entry control and warning systems.

(j) The licensee or registrant may not conduct operations, other than those necessary to place the source in safe condition or to effect repairs on controls, unless control devices are functioning properly.

(k) Entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by individuals, must be controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for processed materials must be equipped to detect and signal the presence of any loose radiation sources that are carried toward such an exit and to automatically prevent loose radiation sources from being carried out of the area.

(2) Persons holding licenses or registrations or applicants for licenses or registrations for radiation sources that are within the purview of 333-120-0240(1) of this rule and that will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of 333-120-0240(1) of this rule, such as those for the automatic control of radiation levels, may apply to the Agency for approval of the use of alternative safety measures. Any alternative safety measures must provide a degree of personnel protection at least equivalent to those specified in 333-120-0240(1) of this rule. At least one of the alternative measures must include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such radiation sources are used.

(3) The entry control devices required by 333-120-0240(1) and (2) of this rule must be established in such a way that no individual will be prevented from leaving the area.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0250
Security of Stored Material

(1) The licensee must secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

(2) The registrant must secure registered radiation machines from unauthorized removal.

(3) The registrant must use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0260
Control of Material Not in Storage

The licensee must control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0300
Use of Process or Other Engineering Controls

The licensee must use, to the extent practicable, process or other engineering controls (e.g., containment or ventilation) to control the concentrations of radioactive material in air.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0310
Use of Other Controls

(1) When it is not practicable to apply process or other engineering controls to control the concentrations of radioactive material in air to values below those that define an airborne radioactivity area, the licensee must, consistent with maintaining the total effective dose equivalent ALARA, increase monitoring and limit intakes by one or more of the following means:

(a) Control of access;

(b) Limitations of exposure times;

(c) Use of respiratory protection equipment; or

(d) Other controls.

(2) If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee should also consider the impact of respirator use on workers' industrial health and safety.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0320
Use of Individual Respiratory Protection Equipment

(1) If the licensee uses respiratory protection equipment to limit intakes pursuant to OAR 333-120-0310:

(a) The licensee must use only respiratory protection equipment that is tested and certified or had certification extended by the National Institute for Occupational Safety and Health/Mine Safety and Health Administration (NIOSH/MSHA).

(b) The licensee may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, the licensee must submit an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the

basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

(c) The licensee must implement and maintain a respiratory protection program that includes:

(A) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures; and

(B) Surveys and bioassays, as appropriate, to evaluate actual intakes; and

(C) Testing of respirators for operability immediately prior to each use; and

(D) Written procedures regarding:

(i) Monitoring, including air sampling and bioassays;

(ii) Supervision and training of respirator users;

(iii) Fit testing;

(iv) Respirator selection;

(v) Breathing air quality;

(vi) Inventory and control;

(vii) Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;

(viii) Recordkeeping; and

(ix) Limitations on periods of respirator use and relief from respirator use; and

(E) Determination by a physician prior to initial fitting and use of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment.

(F) Fit testing, with fit factor > 10 times the APF for negative pressure devices, and a fit factor > 500 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. Fit testing must be performed with the facepiece operating in the negative pressure mode.

(d) The licensee must issue a written policy statement on respirator usage covering:

(A) The use of process or other engineering controls, instead of respirators; and

(B) The routine, nonroutine, and emergency use of respirators; and

(C) The periods of respirator use and relief from respirator use.

(e) The licensee must advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(f) The licensee must use equipment within limitations for type and mode of use and must provide proper visual, communication, low temperature work environments, the concurrent use of safety or radiological protection equipment and other special capabilities (such as adequate skin protection) when needed. The licensee must ensure equipment is used in such a way as not to interfere with the proper operation of the respirator.

(2) In estimating exposure of individuals to airborne radioactive materials, the licensee or registrant may make allowance for respiratory protection equipment used to limit intakes pursuant to OAR 333-120-0310, provided that the following conditions, in addition to those in 333-120-0320(1) of this rule, are satisfied:

(a) The licensee selects respiratory protection equipment that provides a protection factor (10 CFR Part 20 Appendix A to 20.1001 to 20.2401) greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in 10 CFR Part 20 Table 1, Column 3 of Appendix B to 20.1001 to 20.2401. If the selection of a respiratory protection device with a protection factor greater than the peak concentration is inconsistent with the goal specified in OAR 333-120-0310 of keeping the total effective dose equivalent ALARA, the licensee or registrant may select respiratory protection equipment with a lower protection factor only if such a selection would result in keeping the total effective dose equivalent ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than estimated, the corrected value must be used; if the exposure is later found to be less than estimated, the corrected value may be used; and

(b) The licensee must obtain authorization from the Agency before assigning respiratory protection factors in excess of those specified in 10 CFR Part 20 Appendix A to 20.1001 to 20.2401. The Agency may authorize a licensee to use higher protection factors on receipt of an application that:

(A) Describes the situation for which a need exists for higher protection factors; and

(B) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

(3) The licensee must use as emergency devices only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH/MSHA.

(4) The licensee must notify the Agency, in writing, at least 30 days before the date that respiratory protection equipment is first used under the provisions of either 333-120-0320(1) or (2) of this rule.

(5) Standby rescue persons are required whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The standby persons must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards. The standby rescue persons must observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. A sufficient number of standby rescue persons must be immediately available to assist all users of this type of equipment and to provide effective emergency rescue if needed.

(6) Atmosphere-supplying respirators must be supplied with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997. Grade D quality air criteria include:

(a) Oxygen content (v/v) of 19.5-23.5%;

(b) Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;

(c) Carbon monoxide (CO) content of 10 ppm or less;

(d) Carbon dioxide content of 1,000 ppm or less; and

(e) Lack of noticable odor.

(7) The licensee must ensure that no objects, materials or substances, such as facial hair, or any conditions that interfere with the face facepiece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator facepiece.

(8) In estimating the dose to individuals from intake of airborne radioactive materials, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the corrected value must be used. If the dose is later found to be less than the estimated dose, the corrected value may be used.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0400

Caution Signs

(1) Standard radiation symbol: Unless otherwise authorized by the Agency, the symbol prescribed by this division must use the colors magenta, purple, or black on yellow background. The symbol prescribed by this division is the three-bladed design: [Symbol not included. See ED. NOTE.]

(a) Cross-hatched area is to be magenta, or purple, or black; and

(b) The background is to be yellow.

(2) Exception To Color Requirements For Standard Radiation Symbol. Notwithstanding the requirements of 333-120-0400(1) of this rule, licensees and registrants are authorized to label sources, source holders, or device components containing sources of licensed materials that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

(3) Additional Information On Signs and Labels. In addition to the contents of signs and labels prescribed in this division, the licensee may provide, on or near the required signs and labels, additional information, as appropriate, to make individuals aware of potential radiation exposures and to minimize the exposures.

[ED NOTE: Symbol referenced is available from the agency.]

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0410
Posting Requirements

(1) Posting of radiation areas: The licensee or registrant must post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, Radiation Area."

(2) Posting of high radiation areas: The licensee or registrant must post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, High Radiation Area" or "Danger, High Radiation Area."

(3) Posting of very high radiation areas: The licensee or registrant must post each very high radiation area with a conspicuous sign or signs bearing the radiation symbol and words "Grave Danger, Very High Radiation Area."

(4) Posting of airborne radioactivity areas: The licensee must post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, Airborne Radioactivity Area" or "Danger, Airborne Radioactivity Area."

(5) Posting of areas or rooms in which licensed material is used or stored: The licensee must post each area or room in which there is used or stored an amount of licensed material exceeding ten times the quantity of such material specified in 10 CFR, Part 20, Appendix C to 20.1001 to 20.2401 with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, Radioactive Material(s)" or "Danger, Radioactive Material(s)."

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0420
Exceptions to Posting Requirements

(1) A licensee is not required to post caution signs in areas or rooms containing radioactive materials for periods of less than 8 hours, if all of the following conditions are met:

(a) The materials are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to radiation or radioactive materials in excess of the limits established in this division; and

(b) The area or room is subject to the licensee's control.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to OAR 333-120-0410 provided that:

(a) A patient being treated with a permanent implant or therapeutic radiopharmaceutical could be released from confinement pursuant to 333-116-0260 and 333-116-0265 of this chapter; and

(b) There are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this division and to operate within the ALARA provisions of the licensee's radiation protection program.

(3) A caution sign is not required to be posted in a room or area containing a sealed source, provided the radiation level at 30 centimeters from the surface of the source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0430
Labeling Containers

(1) The licensee must ensure that each container of licensed material bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label must also provide sufficient information (such as the radionuclide(s) present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment) to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

(2) Each licensee must, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

(3) Each registrant must ensure that each radiation machine is labeled in a conspicuous manner which cautions individuals that radiation is produced when it is energized.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0450
Procedures for Receiving and Opening Packages

(1) Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 49 CFR 173.435 Table of A1 and A2 Values for Radionuclides, must make arrangements to receive:

(a) The package when the carrier offers it for delivery; or

(b) Notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

(2) Each licensee must:

(a) Monitor the external surfaces of a labeled package for radioactive contamination unless the package contains only radioactive material in the form of a gas or in special form as defined in 333-118-0020;

(b) Monitor the external surfaces of a labeled package for radiation levels; and

NOTE: Labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations, 49 CFR 172.403 and 172.436-440.

(c) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.

(3) The licensee must perform the monitoring required by 333-120-0450(2) of this rule as soon as practicable after receipt of the package, but not later than 3 hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than 3 hours from the beginning of the next working day if it is received after working hours.

(4) The licensee must immediately notify the final delivery carrier and the Agency, by telephone when:

(a) Removable radioactive surface contamination exceeds the limits of OAR 333-118-0150 Table 3;

(b) External radiation levels exceed the limits of OAR 333-118-0150(11).

(5) Each licensee must:

(a) Establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

(b) Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

(6) Licensees transferring special form sources in licensee-owned or licensee-operated vehicles to and from a work site are exempt from the contamination monitoring requirements of 333-120-0450(2) of this rule, but are not exempt from the survey requirement in 333-120-0450(2) of this rule for measuring radiation levels, which is required to ensure that the source is still properly lodged in its shield.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0460
Testing for Leakage or Contamination of Sealed Sources

(1) The licensee in possession of any sealed source must assure that:

(a) Each sealed source, except as specified in 333-120-0460(2) of this rule is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee; and

(b) Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(c) Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(d) For each sealed source that is required to be tested for leakage or contamination, at any other time there is reason to suspect that the sealed source might have been damaged or might be leaking, the licensee must assure that the sealed source is tested for leakage or contamination before further use; and

(e) Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium-226, must be capable of detecting

the presence of 185 Bq (0.005 uCi) of radioactive material on a test sample. Test samples must be taken from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which one might expect contamination to accumulate. For a sealed source contained in a device, test samples are obtained when the source is in the "off" position; and

(f) The test for leakage for brachytherapy sources manufactured to contain radium-226 must be capable of detecting an absolute leakage rate of 37 Bq (0.001 uCi) of radon-222 in a 24 hour period when the collection efficiency for radon-222 and its daughters has been determined with respect to collection method, volume and time; and

(g) Tests for contamination from radium-226 daughters must be taken on the interior surface of brachytherapy source storage containers and must be capable of detecting the presence of 185 Bq (0.005 uCi) of a radium daughter which has a half-life greater than 4 days.

(2) A licensee need not perform test for leakage or contamination on the following sealed sources:

(a) Sealed sources containing only radioactive material with a half-life of less than 30 days; or

(b) Sealed sources containing only radioactive material as a gas; or

(c) Sealed sources containing 3.7 MBq (100 uCi) or less of beta or photon-emitting material or 370 kBq (10 uCi) or less of alpha-emitting material; or

(d) Sealed sources containing only hydrogen-3; or

(e) Seeds of iridium-192 encased in nylon ribbon; or

(f) Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee must, however, test each such sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within 6 months before the date of use or transfer.

(3) Tests for leakage or contamination from sealed sources must be performed by persons specifically authorized by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission to perform such services.

(4) Test results must be kept in units of becquerel or microcurie and maintained for inspection by the Agency.

(5) The following must be considered evidence that a sealed source is leaking:

(a) The presence of 185 Bq (0.005 uCi) or more of removable contamination on any test sample; or

(b) Leakage of 37 Bq (0.001 uCi) of radon-222 per 24 hours for brachytherapy sources manufactured to contain radium-226; or

(c) The presence of removable contamination resulting from the decay of 185 Bq (0.005 uCi) or more of radium-226.

(6) The licensee must immediately withdraw a leaking sealed source from use and must take action to prevent the spread of contamination. The leaking sealed source must be repaired or disposed of in accordance with this division.

(7) Reports of test results for leaking or contaminated sealed sources must be made pursuant to OAR 333-120-0720(1)(e).

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0500
General Requirements

(1) A licensee must dispose of licensed radioactive material only:

(a) By transfer to an authorized recipient as provided in OAR 333-102-0330; or

(b) By decay in storage; or

(c) By release in effluents within the limits in OAR 333-120-0520; or

(d) As authorized under OAR 333-120-0520, 333-120-0530, 333-120-0540.

(2) A person must be specifically licensed to receive waste containing licensed material from other persons for:

(a) Treatment prior to disposal; or

(b) Treatment or disposal by incineration; or

(c) Decay in storage; or

(d) Disposal at a land disposal facility licensed under 10 CFR, Part 61 (U.S. Nuclear Regulatory Commission) or equivalent Agreement State regulations; or

(e) Storage until transferred to a storage or disposal facility authorized to receive the waste.

(3) As authorized under the provisions of Oregon Revised Statutes.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0510
Method for Obtaining Approval of Proposed Disposal Procedures

A licensee or applicant for a license may apply to the Agency for approval of proposed procedures, not otherwise authorized in the rules of this division, to dispose of licensed material generated in the licensee's activities. Each application must include:

(1) A description of the waste containing licensed material to be disposed of, including the physical and chemical properties important to risk evaluation, and the proposed manner and conditions of waste disposal; and

(2) An analysis and evaluation of pertinent information on the nature of the environment; and

(3) The nature and location of other potentially affected licensed and unlicensed facilities; and

(4) Analyses and procedures to ensure that doses are maintained ALARA and within the dose limits in this division.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0520
Disposal by Release into Sanitary Sewerage

(1) A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

(a) The material is readily soluble (or is readily dispersible biological material) in water; and

(b) The quantity of licensed or other radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(c) If more than one radionuclide is released, the following conditions also must be satisfied:

(A) The licensee must determine the fraction of the limit in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401 represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(B) The sum of the fractions for each radionuclide required by 333-120-0520(1)(c)(A) of this rule does not exceed unity; and

(d) The total quantity of licensed and other radioactive material that the licensee releases into the sanitary sewerage system in a year does not exceed 185 GBq (5 Curies) of hydrogen-3, 37 GBq (1 Curie) of carbon-14, and 37 GBq (1 Curie) of all other radioactive materials combined.

(2) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material is not subject to the limitations contained in 333-120-0520(1) of this rule.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0540
Disposal of Specific Wastes

(1) A licensee may dispose of the following licensed material as if it were not radioactive:

(a) 1.85 kBq (0.05 uCi), or less, of hydrogen-3 or carbon-14 per gram of medium used for liquid scintillation counting; and

(b) 1.85 kBq (0.05 uCi), or less, of hydrogen-3 or carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.

(2) A licensee may not dispose of tissue under 333-120-0540(1)(b) of this rule in a manner that would permit its use either as food for humans or as animal feed.

(3) The licensee must maintain records in accordance with OAR 333-120-0670.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0550
Transfer for Disposal and Manifests

(1) The requirements 333-120-0550 and 10 CFR Part 20 Appendix G to 20.1001 to 20.2401 are designed to control transfers of low-level radioactive waste intended for disposal at a land disposal facility (as defined in 10 CFR Part 61), establish a manifest tracking system, and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Each shipment of radioactive waste intended for disposal at a licensed land disposal facility must be accompanied by a shipment manifest as specified in 10 CFR Part 20 section I of Appendix G to 20.1001 to 20.2401.

(3) Each shipment manifest must include a certification by the waste generator as specified in 10 CFR Part 20 section II of Appendix G to 20.1001 to 20.2401.

(4) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, must comply with the requirements specified in 10 CFR Part 20 section III of Appendix G to 20.1001 to 20.2401.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0560
Compliance with Environmental and Health Protection Regulations

Nothing in chapter 333 divisions 100 through 123 relieves the licensee or registrant from complying with other applicable Federal, State, and local regulations or rules governing any other toxic or hazardous properties of materials that may be disposed of under division 333-120.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0600
General Provisions

(1) Each licensee must use the SI units Becquerel, Gray, Sievert and coulomb per kilogram, or the special units Curie, rad, rem, including multiples and subdivisions, and must clearly indicate the units of all quantities on records required by this division.

(2) The licensee must make a clear distinction among the quantities entered on the records required by this division (e.g total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0610
Records of Radiation Protection Programs

(1) Each licensee must maintain records of the radiation protection program, including:

(a) The provisions of the program; and

(b) Audits and other reviews of program content and implementation.

(2) The licensee must retain the records required by 333-120-0610(1)(a) of this rule until the Agency terminates each pertinent license or registration requiring the record. The licensee must retain the records required by 333-120-0610(1)(b) of this rule for five years or until inspected by the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0620
Records of Surveys and Leak Tests

(1) Each licensee or registrant must maintain records showing the results of surveys, sealed source leak tests, and calibrations required by OAR 333-120-0200, 333-120-0450(2) and 333-120-0460. The licensee or registrant must retain these records in accordance with 333-100-0057.

(2) The licensee or registrant must retain each of the following records until the Agency terminates each pertinent license or registration requiring the record:

(a) Records of the results of surveys to determine the dose from external sources and used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents. This includes records of survey results to determine the dose from external sources and used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents required under the standards for protection against radiation in effect prior to January 1, 1994; and

(b) Records of the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment for internal dose. This includes records documenting the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal dose required under the standards for protection against radiation in effect prior to January 1, 1994; and

(c) Records showing the results of air sampling, surveys, and bioassays required pursuant to OAR 333-120-0320(1)(c)(A) and (B). This includes records documenting the results of air sampling, surveys, and bioassays required under the standards for protection against radiation in effect prior to January 1, 1994; and

(d) Records of the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment. This includes records documenting the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment required under the standards for protection against radiation in effect prior to January 1, 1994.

(3) Records of Tests for Leakage or Contamination of Sealed Sources. Records of tests for leakage or contamination of sealed sources required by OAR 333-120-0460, must be kept in units of becquerels or microcuries and maintained for inspection by the Agency in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0630
Determination of Prior Occupational Dose

(1) For each individual likely to receive, in a year, an occupational dose requiring monitoring pursuant to OAR 333-120-0210, the licensee or registrant must:

(a) Determine the occupational radiation dose received during the current year; and

(b) Attempt to obtain the records of lifetime cumulative occupational radiation dose.

(2) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant must determine:

(a) The internal and external doses from all previous planned special exposures; and

(b) All doses in excess of the limits (including doses received during accidents and emergencies) received during the lifetime of the individual.

(3) In complying with the requirements of section (1) of this rule, a licensee or registrant may:

(a) Accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual may have received during the current year; or

(b) Accept, as the record of lifetime cumulative radiation dose, an up-to-date Agency Form Y, or equivalent, signed by the individual and counter-signed by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer (if the individual is not employed by the licensee or registrant); and

(c) Obtain reports of the individual's dose equivalent(s) from the most recent employer for work involving radiation exposure, or the individual's current employer (if the individual is not employed by the licensee or registrant) by telephone, telegram, electronic media, or letter. The licensee or registrant must request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(4) The licensee or registrant must record the exposure history, as required by section (1) of this rule, on Agency Form Y, or other clear and legible record, of all the information required on Form Y. The form or record must show each period in which the individual received occupational exposure to radiation or radioactive material and must be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant must use the dose shown in the report in preparing Agency Form Y. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant must place a notation on Agency Form Y indicating the periods of time for which data are not available.

NOTE: Licensees are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed under OAR 333-104 (repealed 1994). Further, occupational exposure histories

obtained and recorded on Agency Form Y before January 1, 1994, would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

(5) If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant must assume:

(a) In establishing administrative controls under OAR 333-120-0100(6) for the current year, that the allowable dose limit for the individual is reduced by 1.25 rem (12.5 mSv) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and

(b) That the individual is not available for planned special exposures.

(6) The licensee or registrant must retain the records on Agency Form Y or equivalent until the Agency terminates each pertinent license or registration requiring this record. The licensee or registrant must retain records used in preparing Agency Form Y in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0640
Records of Planned Special Exposures

(1) For each use of the provisions of OAR 333-120-0150 for planned special exposures, the licensee must maintain records that describe:

(a) The exceptional circumstances requiring the use of a planned special exposure; and

(b) The name of the management official who authorized the planned special exposure and a copy of the signed authorization; and

(c) What actions were necessary; and

(d) Why the actions were necessary; and

(e) How doses were maintained ALARA; and

(f) What individual and collective doses were expected to result, and the doses actually received in the planned special exposure.

(2) The licensee must retain the records until the Agency terminates each pertinent license or registration requiring these records.

(3) Upon termination of the license or registration, the licensee or registrant must permanently store records on Agency Form Y or equivalent, or must make provision with the Agency for transfer to the Agency.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0650
Records of Individual Monitoring Results

(1) Recordkeeping Requirement. Each licensee must maintain records of doses received by all individuals for whom monitoring was required pursuant to OAR 333-120-0210 and records of doses received during planned special exposures, accidents, and emergency conditions. These records must include, when applicable:

(a) The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities; and

(b) The estimated intake or body burden of radionuclides (OAR 333-120-0110); and

(c) The committed effective dose equivalent assigned to the intake or body burden of radionuclides; and

(d) The specific information used to calculate the committed effective dose equivalent pursuant to OAR 333-120-0130(3); and

(e) The total effective dose equivalent when required by OAR 333-120-0110; and

(f) The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose.

NOTE: Assessments of dose equivalent and records made using units in effect before the licensee's adoption of this division need not be changed.

(2) Recordkeeping Frequency: The licensee must make entries of the records specified in 333-120-0650(1) of this rule at least annually.

(3) Recordkeeping Format. The licensee must maintain the records specified in 333-120-0650(1) of this rule on Agency Form Z, in accordance with the instructions for Agency Form Z, or in clear and legible records containing all the information required by Agency Form Z.

(4) Privacy Protection. The records required under this rule are protected from public disclosure because of their personal privacy nature. These records are protected and if transferred to the Agency, are protected under ORS 192.

(5) The licensee must maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman, as defined in OAR 333-100-0005. The declaration of pregnancy must also be kept on file, but may be maintained separately from the dose records.

(6) The licensee must retain each required form or record until the Agency authorizes disposition.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type (Social Security Number (SSN), Passport Number (PPN), Canadian Social Insurance Number (CSI), Work Permit Number (WPN), INDEX Identification Number (IND), or Other (OTH)); sex; date of birth; monitoring period; licensee name; license or registration number; is dose is official record or estimate; if dose is routine or planned special exposure; intake, list radionuclide, class, mode, total intake (Ci); external dose(s), DDE (Deep Dose Equivalent in rems), LDE (Lens Dose Equivalent in rems), SDE(WB) (Shallow Dose Equivalent Whole Body in rems), SED(ME) (Shallow Dose Equivalent Maximum Extremity in rems), CEDE (Committed Effective Dose Equivalent in rems), CDE (Committed Dose Equivalent in rems), TEDE (Total Effective Dose Equivalent in rems) and TODE Total Organ Dose Equivalent in rems).
[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.635 & 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0660
Records of Dose to Individual Members of the Public

(1) Each licensee must maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public (OAR 333-120-0180).

(2) The licensee must retain the records required by 333-120-0660(1) of this rule until the Agency terminates each pertinent licensee requiring the record.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type of number, such as SSN; sex; date of birth; monitoring period; licensee name; license or registration number; if dose is official record or estimate; if dose is routine or planned special exposure; intakes, list radionuclide, class, mode, and total intake (Ci); external dose(s), DDE, LDE, SDE (WB), SDE(ME), CEDE, CDE, TEDE and TODE; signature of monitored individual and date signed; certifying organization and signature.
[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0670
Records of Waste Disposal

(1) Each licensee must maintain records of the disposal of licensed materials made under divisions OAR 333-120-0510, 333-120-0520, 333-120-0530, 333-120-0540, 10 CFR Part 61, and disposal by burial in soil, including burials authorized before January 28, 1981.

(2) The licensee must retain the records required by 333-120-0670(1) of this rule until the Agency terminates each pertinent license requiring the record.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0680
Records of Testing Entry Control Devices for Very High Radiation Areas

(1) Each licensee must maintain records of tests made under OAR 333-120-0240(1)(i) on entry control devices for very high radiation areas. These records must include the date, time, and results of each such test of function.

(2) The licensee must retain the records required by 333-120-0680(1) of this rule in accordance with 333-100-0057.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0690
Form of Records

Each record required by this division must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or regis-

trant must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0700
Reports of Theft or Loss of Licensed Material

(1) Telephone reports: Each licensee or registrant must report by telephone to the Agency as follows:

(a) Immediately after its occurrence becomes known to the licensee or registrant, any lost, stolen, or missing licensed or registered device, or licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401, under such circumstances that it appears to the licensee or registrant that an exposure could result to persons in unrestricted areas; or

(b) Within 30 days after the occurrence of any lost, stolen, or missing licensed or registered device, or licensed radioactive material, becomes known to the licensee or registrant, all licensed or registered material in a quantity greater than 10 times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401 that is still missing at this time.

(2) Written Reports: Each licensee or registrant required to make a report under 333-120-0700(1) of this rule must make a written report to the Agency, within 30 days after making the telephone report, setting forth the following information:

(a) A description of the device or licensed material involved, including kind, quantity, and chemical and physical form; and

(b) A description of the circumstances under which the loss or theft occurred; and

(c) A statement of disposition, or probable disposition, of the device or licensed material involved; and

(d) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(e) Actions that have been taken, or will be taken, to recover the material; and

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of a device or licensed material; and

(g) Subsequent to filing the written report, the licensee must also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

(3) The licensee must prepare any report filed with the Agency pursuant to this rule so that names of individuals who may have received exposure to radiation are stated in a separate and detachable part of the report.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0710
Notification of Incidents

(1) Immediate notification: Notwithstanding any other requirements for notification, each licensee must immediately report any event involving a device or licensed radioactive material possessed by the licensee that may have caused or threatens to cause any of the following conditions:

(a) An individual to receive:

(A) A total effective dose equivalent of 0.25 Sv (25 rem) or more; or

(B) A lens dose equivalent of 0.75 Sv (75 rem) or more; or

(C) A shallow-dose equivalent to the skin or extremities of 2.5 Gray (250 rad) or more; or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the occupational annual limit on intake (the provisions of this rule do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(2) Twenty-four hour notification: Each licensee or registrant must, within 24 hours of discovery of the event, report any event involving loss of control of a device or licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:

(a) An individual to receive in a period of 24 hours:

(A) A total effective dose equivalent exceeding 0.05 Sv (5 rem); or

(B) An lens dose equivalent exceeding 0.15 Sv (15 rem); or

(C) A shallow-dose equivalent to the skin or extremities exceeding 0.15 Sv (15 rem); or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit on intake (the provisions of this rule do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(3) The licensee must prepare any report filed with the Agency pursuant to this rule so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

(4) Reports made by licensees in response to the requirements of this rule must be made as follows:

(a) Licensees having an installed Emergency Notification System must make the reports required by (1)(a) and (b) of this rule to the NRC Operations Center in accordance with 10 CFR 50.72; and

(b) All other licensees must make the reports required by (1)(a) and (b) of this rule by telephone to the NRC Operations Center and by telegram, mail-gram, or facsimile to the Administrator of the appropriate NRC Regional Office listed in **appendix D** to part 20.1001-20.2401.

(5) The provisions of this rule do not include doses that result from planned special exposures, that are within the limits for planned special exposures, and that are reported under OAR 333-120-0730.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0720
Reports of Exposures, Radiation Levels, Leak Tests, and Concentrations of Radioactive Material Exceeding the Limits

(1) Reportable events: In addition to the notification required by OAR 333-120-0710, each licensee must submit a written report within 30 days after learning of any of the following occurrences:

(a) Any incident for which notification is required by OAR 333-120-0710; or

(b) Doses in excess of any of the following:

(A) The occupational dose limits for adults in OAR 333-120-0100; or

(B) The occupational dose limits for a minor in OAR 333-120-0160; or

(C) The limits for an embryo/fetus of a declared pregnant woman (as defined in OAR 333-100-0005) in OAR 333-120-0170; or

(D) The limits for an individual member of the public in OAR 333-120-0180; or

(E) Any applicable limit in the license; or

(F) The ALARA constraints for air emissions established under 333-120-0020(4); or

(c) Levels of radiation or concentrations of radioactive material in:

(A) A restricted area in excess of any applicable limit in the license; or

(B) An unrestricted area in excess of 10 times any applicable limit set forth in this division or in the license (whether or not involving exposure of any individual in excess of the limits in OAR 333-120-0180); or

(d) For licensee subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

(e) Leaking or contaminated sealed sources in excess of limits in OAR 333-120-0460, must be reported within five days to the Agency describing the equipment involved, the test results and the corrective action taken.

(f) Erroneous overexposure dosimetry reports that resulted from non-personnel exposures;

(2) Contents of reports: Each report required by 333-120-0720(1) of this rule must describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(a) Estimates of each individual's dose; and

(b) The levels of radiation and concentrations of radioactive material involved; and

(c) The cause of the elevated exposures, dose rates, or concentrations; and

(d) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license conditions; and

(e) For each individual exposed: the name, Social Security account number, and date of birth. The report must be prepared so that this information is stated in a separate and detachable part of the report.

Note: With respect to the limit for the embryo/fetus (OAR 333-120-0170) the identifiers should be those of the declared pregnant woman, as defined in OAR 333-100-0005.

(3) All licensees who make reports under 333-120-0720(1) this rule must submit the report in writing to the Agency.

(4) The Agency must prohibit the removal or expungement of any permanent dosimetry report submitted to the licensee or registrant. Evaluated erroneous personnel dose record changes to licensee or registrant records must be recorded only on Form Z and retained by the licensee or registrant.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0730

Reports of Planned Special Exposures and Individual Monitoring

(1) The licensee must submit a written report to the Agency within 30 days following any planned special exposure conducted in accordance with OAR 333-120-0150 informing the Agency that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by OAR 333-120-0640.

(2) The following licensees must submit a written report to the Agency on or before April 30 of each year, documenting results of individual monitoring carried out by the licensee for each individual for whom monitoring was required pursuant to OAR 333-120-0210 during that year.

(a) Licensees authorized to possess or use radioactive material for purposes of radiography pursuant to division 102 and 105 of these rules; or

(b) Licensees who receive radioactive waste from other persons for disposal pursuant to 10 CFR Part 61; or

(c) Licensees who possess or use at any time, for processing or manufacturing for distribution pursuant to division 102 or 116 of these rules, radioactive material in quantities exceeding any one of the following quantities:

Quantity of Radionuclide in Curies:

(A) Cesium-137 — 1;

(B) Cobalt-60 — 1;

(C) Gold-198 — 100;

(D) Iodine-131 — 1;

(E) Iridium-192 — 10;

(F) Krypton-85 — 1,000;

(G) Promethium-147 — 10;

(H) Technetium-99m — 1,000.

The Agency may require as a license condition, or by rule, regulation, or order pursuant to OAR 333-100-0030, reports from licensees who are licensed to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

NOTE: The licensee may include additional data for individuals for whom monitoring was provided but not required. The licensee shall use Oregon Form Z or electronic media containing all the information required by Oregon Form Z.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 12-2006, f. & cert. ef. 6-16-06

333-120-0740

Reports to Individuals Exceeding Dose Limits

When a licensee or registrant is required, pursuant to the provisions of 333-120-0720 or 333-120-0730, to report to the Agency any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee or registrant must also provide a copy of the report submitted to the Agency to the individual. This report must be transmitted at a time no later than the transmittal to the Agency.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-121-0020

Application for a Specific License

(1) Applications for specific licenses must be filed on a form prescribed by the Agency.

(2) The Agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application must be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

(4) An application for a license may include a request for a license authorizing one or more activities.

(5) In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Agency provided such references are clear and specific.

(6) Applications and documents submitted to the Agency may be made available for public inspection except that the Agency may withhold any document or part thereof from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.

Stat. Auth.: ORS 453.605 – 453.807

Stats. Implemented: ORS 453.605 – 453.807

Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0030

Specific Licenses for Irradiators

The Agency will approve an application for a specific license for the use of licensed material in an irradiator if the applicant meets the requirements contained in this section.

(1) The applicant must satisfy the general requirements specified in division 102 of these regulations and the requirements contained in this division.

(2) The application must describe the training provided to irradiator operators including:

(a) Classroom training;

(b) On-the-job or simulator training;

(c) Safety reviews;

(d) Means employed by the applicant to test each operator's understanding of the Agency's regulations and licensing requirements and the irradiator operating, safety, and emergency procedures; and

(e) Minimum training and experience of personnel who may provide training.

(3) The application must include an outline of the written operating and emergency procedures listed in OAR 333-121-0310 that describes the radiation safety aspects of the procedures.

(4) The application must describe the organizational structure for managing the irradiator, specifically the radiation safety responsibilities and authorities of the radiation safety officer and those management personnel who have radiation safety responsibilities or authorities. In particular, the application must specify who, within the management structure, has the authority to stop unsafe operations. The application must also describe the training and experience required for the position of radiation safety officer.

(5) The application must include a description of the access control systems required by OAR 333-121-0110 the radiation monitors required by OAR 333-121-0140 the method of detecting leaking sources required by OAR 333-121-0340 including the sensitivity of the method, and a diagram of the facility that shows the locations of all required interlocks and radiation monitors.

(6) If the applicant intends to perform leak testing, the applicant must establish procedures for performing leak testing of dry-source-storage sealed sources and submit a description of these procedures to the Agency. The description must include the:

(a) Methods of collecting the leak test samples;

(b) Qualifications of the individual who collects the samples;

(c) Instruments to be used; and

(d) Methods of analyzing the samples.

(7) If licensee personnel are to load or unload sources, the applicant must describe the qualifications and training of the personnel and the procedures to be used. If the applicant intends to contract for source loading or unloading at its facility, the loading or unloading must be done by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to load or unload irradiator sources.

(8) The applicant must describe the inspection and maintenance checks, including the frequency of the checks required by OAR 333-121-0350.

Stat. Auth.: ORS 453.605 – 453.807

Stats. Implemented: ORS 453.605 – 453.807

Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0100

Performance Criteria for Sealed Sources

(1) Requirements for sealed sources installed after September 1, 2002:

(a) Must have been evaluated in accordance with 10 CFR 32.210 or the equivalent state regulation;

(b) Must be doubly encapsulated;

(c) Must use radioactive material that is as nondispersible as practical and that is as insoluble as practical if the source is used in a wet-source-storage or wet-source-change irradiator;

(d) Must be encapsulated in a material resistant to general corrosion and to localized corrosion, such as 316L stainless steel or other material with equivalent resistance if the sources are for use in irradiator pools; and

(e) In prototype testing of the sealed source, must have been leak tested and found leak-free after each of the tests described in OAR 333-121-0100(2) through 333-121-0100(7) of this rule.

(2) Temperature. The test source must be held at -40oC for 20 minutes, 600oC for one hour, and then be subjected to thermal shock test with a temperature drop from 600 oC to 20 oC within 15 seconds.

(3) Pressure. The test source must be twice subjected for at least five minutes to an absolute external pressure of 2 million newtons per square meter.

(4) Impact. A 2 kilogram steel weight, 2.5 centimeters in diameter, must be dropped from a height of 1 meter onto the test source.

(5) Vibration. The test source must be subjected three times for ten minutes each to vibrations sweeping from 25 hertz to 500 hertz with a peak amplitude of five times the acceleration of gravity. In addition, each test source must be vibrated for 30 minutes at each resonant frequency found.

(6) Puncture. A 50 gram weight and pin, 0.3 centimeter pin diameter, must be dropped from a height of 1 meter onto the test source.

(7) Bend. If the length of the source is more than 15 times larger than the minimum cross-sectional dimension, the test source must be subjected to a force of 2000 newtons at its center equidistant from two support cylinders, the distance between which is ten times the minimum cross-sectional dimension of the source.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0110
Access Control

(1) Each entrance to a radiation room at a panoramic irradiator must have a door or other physical barrier to prevent inadvertent entry of personnel if the sources are not in the shielded position. Product conveyor systems may serve as barriers as long as they reliably and consistently function as a barrier. It must not be possible to move the sources out of their shielded position if the door or barrier is open. Opening the door or barrier while the sources are exposed must cause the sources to return promptly to the shielded position. The personnel entrance door or barrier must have a lock that is operated by the same key used to move the sources. The control panel lock must be designed so that the key cannot be removed unless the sources have been returned to the shielded position. The doors and barriers must not prevent any individual in the radiation room from leaving.

(2) In addition, each entrance to a radiation room at a panoramic irradiator must have an independent backup access control to detect personnel entry while the sources are exposed. Detection of entry while the sources are exposed must cause the sources to return to their fully shielded position and must also activate a visible and audible alarm to make the individual entering the room aware of the hazard. The alarm must also alert at least one other individual who is on-site of the entry. That individual must be trained on how to respond to the alarm and prepared to promptly render or summon assistance.

(3) A radiation monitor must be provided to detect the presence of high radiation levels in the radiation room of a panoramic irradiator before personnel entry. The monitor must be integrated with personnel access door locks to prevent room access when radiation levels are high. Attempted personnel entry while the monitor measures high radiation levels must activate the alarm described in OAR 333-121-0110(2) of this rule. The monitor may be located in the entrance, normally referred to as the maze, but not in the direct radiation beam.

(4) Before the sources move from their shielded position in a panoramic irradiator, the source control must automatically activate conspicuous visible and audible alarms to alert people in the radiation room that the sources will be moved from their shielded position. The alarms must give individuals enough time to leave the room before the sources leave the shielded position.

(5) Each radiation room at a panoramic irradiator must have a clearly visible and readily accessible control that would allow an individual in the room to make the sources return to their fully shielded position.

(6) Each radiation room of a panoramic irradiator must contain a control that prevents the sources from moving from the shielded position unless the control has been activated and the door or barrier to the radiation room has been closed within a preset time after activation of the control.

(7) Each entrance to the radiation room of a panoramic irradiator and each entrance to the area within the personnel access barrier of an underwater irradiator must have a sign bearing the radiation symbol and the words, "Caution (or danger) radioactive material." Panoramic irradiators must also have a sign stating "Grave danger, very high radiation area," but the sign may be removed, covered, or otherwise made inoperative when the sources are fully shielded.

(8) If the radiation room of a panoramic irradiator has roof plugs or other movable shielding, it must not be possible to operate the irradiator unless the shielding is in its proper location. The requirement may be met by interlocks that prevent operation if shielding is not placed properly or by an operating procedure requiring inspection of shielding before operating.

(9) Underwater irradiators must have a personnel access barrier around the pool which must be locked to prevent access when the irradiator is not attended. Only operators or facility management must have access to keys that operate the personnel access barrier. There must be an intrusion alarm to detect unauthorized entry when the personnel access barrier is locked. Activation of the intrusion alarm must alert an individual who is not necessarily on-site but who is prepared to respond or summon assistance.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0160
Irradiator Pools

(1) For licenses initially issued after April 11, 2005, irradiator pools must either:

(a) Have a water-tight stainless steel liner or a liner metallurgically compatible with other components in the pool; or

(b) Be constructed so that there is a low likelihood of substantial leakage and have a surface designed to facilitate decontamination. In either case, the licensee must have a method to safely store the sources during repairs of the pool.

(2) For licenses initially issued after April 11, 2005, irradiator pools must have no outlets more than 0.5 meter below the normal low water level that could allow water to drain out of the pool. Pipes that have intakes more than 0.5 meter below the normal low water level and that could act as siphons must have siphon breakers to prevent the siphoning of pool water.

(3) A means must be provided to replenish water losses from the pool.

(4) A visible indicator must be provided in a clearly observable location to indicate if the pool water level is below the normal low water level or above the normal high water level.

(5) Irradiator pools must be equipped with a purification system designed to be capable of maintaining the water during normal operation at a conductivity of 20 microsiemens per centimeter or less and with a clarity so that the sources can be seen clearly.

(6) A physical barrier, such as a railing or cover, must be used around or over irradiator pools during normal operation to prevent personnel from accidentally falling into the pool. The barrier may be removed during maintenance, inspection, and service operations.

(7) If long-handled tools or poles are used in irradiator pools, the radiation dose rate to the operator at the handling areas of the tools may not exceed 0.02 millisievert (2 mrem) per hour.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0190
Design Requirements

Irradiators whose construction begins after September 1, 2002, must meet the design requirements of this rule.

(1) Shielding. For panoramic irradiators, the licensee must design shielding walls to meet generally accepted building code requirements for reinforced concrete and design the walls, wall penetrations, and entranceways to meet the radiation shielding requirements of OAR 333-121-0120. If the irradiator will use more than 2 x 1017 becquerels (5 million Ci) of activity, the licensee must evaluate the effects of heating of the shielding walls by the irradiator sources.

(2) Foundations. For panoramic irradiators, the licensee must design the foundation, with consideration given to soil characteristics, to ensure it is adequate to support the weight of the facility shield walls.

(3) Pool integrity. For pool irradiators, the licensee must design the pool to assure that it is leak resistant, that it is strong enough to bear the weight of the pool water and shipping casks, that a dropped cask would not fall on sealed sources, that all outlets or pipes meet the requirements of OAR 333-121-0160(2) and that metal components are metallurgically compatible with other components in the pool.

(4) Water handling system. For pool irradiators, the licensee must verify that the design of the water purification system is adequate to meet the requirements of OAR 333-121-0160(5). The system must be designed so that water leaking from the system does not drain to unrestricted areas without being monitored.

(5) Radiation monitors. For all irradiators, the licensee must evaluate the location and sensitivity of the monitor to detect sources carried by the product conveyor system as required by OAR 333-121-0140(1). The licensee must verify that the product conveyor is designed to stop before a source on the product conveyor would cause a radiation overexposure to any person. For pool irradiators, if the licensee uses radiation monitors to detect contamination under OAR 333-121-0340(2), the licensee must verify that the design of radiation monitoring systems to detect pool contamination includes sensitive detectors located close to where contamination is likely to concentrate.

(6) Source rack. For pool irradiators, the licensee must verify that there are no crevices on the source or between the source and source holder that would promote corrosion on a critical area of the source. For panoramic irradiators, the licensee must determine that source rack drops due to loss of power will not damage the source rack and that source rack drops due to failure of cables, or alternate means of support, will not cause loss of integrity of sealed sources. For panoramic irradiators, the licensee must review the design of the mechanism that moves the sources to assure that the likelihood of a stuck source is low and that, if the rack sticks, a means exists to free it with minimal risk to personnel.

(7) Access control. For panoramic irradiators, the licensee must verify from the design and logic diagram that the access control system will meet the requirements of OAR 333-121-0110.

(8) Fire protection. For panoramic irradiators, the licensee must verify that the number, locations, and spacing of the smoke and heat detectors are appropriate to detect fires and that the detectors are protected from mechanical and radiation damage. The licensee must verify that the design of the fire extinguishing system provides the necessary discharge patterns, densities, and flow characteristics for complete coverage of the radiation room and that the system is protected from mechanical and radiation damage.

(9) Source return. For panoramic irradiators, the licensee must verify that the source rack will automatically return to the fully shielded position if power is lost for more than ten seconds.

(10) Seismic. For panoramic irradiators to be built in seismic areas, the licensee must design the reinforced concrete radiation shields to retain their integrity in the event of an earthquake by designing to the seismic requirements of an appropriate source such as the American Concrete Institute Standard ACI 318-89, "Building Code Requirements for Reinforced Concrete," Chapter 21, "Special Provisions for Seismic Design," or local building codes, if current.

(11) Wiring. For panoramic irradiators, the licensee must verify that electrical wiring and electrical equipment in the radiation room are selected to minimize failures due to prolonged exposure to radiation.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0200
Construction Monitoring and Acceptance Testing

The requirements of this section must be met for irradiators whose construction begins after September 1, 2002. The requirements must be met prior to loading sources.

(1) Shielding. For panoramic irradiators, the licensee must monitor the construction of the shielding to verify that its construction meets design specifications and generally accepted building code requirements for reinforced concrete.

(2) Foundations. For panoramic irradiators, the licensee must monitor the construction of the foundations to verify that their construction meets design specifications.

(3) Pool integrity. For pool irradiators, the licensee must verify that the pool meets design specifications and must test the integrity of the pool. The licensee must verify that outlets and pipes meet the requirements of OAR 333-121-0160(2).

(4) Water handling system. For pool irradiators, the licensee must verify that the water purification system, the conductivity meter, and the water level indicators operate properly.

(5) Radiation monitors. For all irradiators, the licensee must verify the proper operation of the monitor to detect sources carried on the product conveyor system and the related alarms and interlocks required by OAR 333-121-0140(1). For pool irradiators, the licensee must verify the proper operation of the radiation monitors and the related alarm if used to meet OAR 333-121-0340(2). For underwater irradiators, the licensee must verify the proper operation of the over-the-pool monitor, alarms, and interlocks required by OAR 333-121-0140(2).

(6) Source rack. For panoramic irradiators, the licensee must test the movement of the source racks for proper operation prior to source loading; testing must include source rack lowering due to simulated loss of power. For all irradiators with product conveyor systems, the licensee must observe and test the operation of the conveyor system to assure that the requirements in OAR 333-121-0170 are met for protection of the source rack and the mechanism that moves the rack; testing must include tests of any limit switches and interlocks used to protect the source rack and mechanism that moves that rack from moving product carriers.

(7) Access control. For panoramic irradiators, the licensee must test the completed access control system to assure that it functions as designed and that all alarms, controls, and interlocks work properly.

(8) Fire protection. For panoramic irradiators, the licensee must test the ability of the heat and smoke detectors to detect a fire, to activate alarms, and to cause the source rack to automatically become fully shielded. The licensee must test the operability of the fire extinguishing system.

(9) Source return. For panoramic irradiators, the licensee must demonstrate that the source racks can be returned to their fully shielded positions without power.

(10) Computer systems. For panoramic irradiators that use a computer system to control the access control system, the licensee must verify that the access control system will operate properly if power is lost and must verify that the computer has security features that prevent an irradiator operator from commanding the computer to override the access control system when the system is required to be operable.

(11) Wiring. For panoramic irradiators, the licensee must verify that the electrical wiring and electrical equipment that were installed meet the design specifications.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0300
Training

(1) Before an individual is permitted to act as an irradiator operator without a supervisor present, the individual must be instructed in:

(a) The fundamentals of radiation protection applied to irradiators. This must include the differences between external radiation and radioactive contamination, units of radiation dose, dose limits, why large radiation doses must be avoided, how shielding and access controls prevent large doses, how an irradiator is designed to prevent contamination, the proper use of survey meters and personnel dosimeters, other radiation safety features of an irradiator, and the basic function of the irradiator;

(b) The requirements of division 111 and division 121 of these regulations that are relevant to the irradiator;

(c) The operation of the irradiator;

(d) Those operating and emergency procedures listed in OAR 333-121-0310 that the individual is responsible for performing; and

(e) Case histories of accidents or problems involving irradiators.

(2) Before an individual is permitted to act as an irradiator operator without a supervisor present, the individual must pass a written test on the instruction received consisting primarily of questions based on the licensee's operating and emergency procedures that the individual is responsible for performing and other operations necessary to safely operate the irradiator without supervision.

(3) Before an individual is permitted to act as an irradiator operator without a supervisor present, the individual must have received on-the-job training or simulator training in the use of the irradiator as described in the license application. The individual must also demonstrate the ability to perform those portions of the operating and emergency procedures that he or she is to perform.

(4) The licensee must conduct safety reviews for irradiator operators at least annually. The licensee must give each operator a brief written test on the information. Each safety review must include, to the extent appropriate, each of the following:

(a) Changes in operating and emergency procedures since the last review, if any;

(b) Changes in regulations and license conditions since the last review, if any;

(c) Reports on recent accidents, mistakes, or problems that have occurred at irradiators, if any;

(d) Relevant results of inspections of operator safety performance;

(e) Relevant results of the facility's inspection and maintenance checks; and

(f) A drill to practice an emergency or abnormal event procedure.

(5) The licensee must evaluate the safety performance of each irradiator operator at least annually to ensure that regulations, license conditions, and operating, safety, and emergency procedures are followed. The licensee must discuss the results of the evaluation with the operator and must instruct the operator on how to correct any mistakes or deficiencies observed.

(6) Individuals who will be permitted unescorted access to the radiation room of the irradiator or the area around the pool of an underwater irradiator, but who have not received the training required for operators and the

radiation safety officer, must be instructed and tested in any precautions they should take to avoid radiation exposure, any procedures or parts of procedures listed in OAR 333-121-0310 that they are expected to perform or comply with, and their proper response to alarms required in this division. Tests may be oral.

(7) Individuals who must be prepared to respond to alarms required by OAR 333-121-0110(2), 333-121-0130(1), 333-121-0140(1) and 333-121-0340(2) must be trained and tested on how to respond. Each individual must be retested at least annually. Tests may be oral.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0310
Operating and Emergency Procedures

(1) The licensee must have and follow written operating procedures for:

(a) Operation of the irradiator, including entering and leaving the radiation room;

(b) Use of personnel dosimeters;

(c) Surveying the shielding of panoramic irradiators;

(d) Monitoring pool water for contamination while the water is in the pool and before release of pool water to unrestricted areas;

(e) Leak testing of sources;

(f) Inspection and maintenance checks required by OAR 333-121-0350;

(g) Loading, unloading, and repositioning sources, if the operations will be performed by the licensee; and

(h) Inspection of movable shielding required by OAR 333-121-0110(8), if applicable.

(2) The licensee must have and follow emergency or abnormal event procedures, appropriate for the irradiator type, for:

(a) Sources stuck in the unshielded position;

(b) Personnel overexposures;

(c) A radiation alarm from the product exit portal monitor or pool monitor;

(d) Detection of leaking sources, pool contamination, or alarm caused by contamination of pool water;

(e) A low or high water level indicator, an abnormal water loss, or leakage from the source storage pool;

(f) A prolonged loss of electrical power;

(g) A fire alarm or explosion in the radiation room;

(h) An alarm indicating unauthorized entry into the radiation room, area around pool, or another alarmed area;

(i) Natural phenomena, including an earthquake, a tornado, flooding, or other phenomena as appropriate for the geographical location of the facility; and

(j) The jamming of automatic conveyor systems.

(3) The licensee may revise operating and emergency procedures without Agency approval only if all of the following conditions are met:

(a) The revisions do not reduce the safety of the facility;

(b) The revisions are consistent with the outline or summary of procedures submitted with the license application;

(c) The revisions have been reviewed and approved by the radiation safety officer; and

(d) The users or operators are instructed and tested on the revised procedures before they are put into use.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0320
Personnel Monitoring

(1) Irradiator operators must wear a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor while operating a panoramic irradiator or while in the area around the pool of an underwater irradiator. The personnel dosimeter processor must be accredited by the National Voluntary Laboratory Accreditation Program for high energy photons in the normal and accident dose ranges, see 333-120-0200(3). Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be processed at least monthly, and other personnel dosimeters must be processed at least quarterly.

(2) Other individuals who enter the radiation room of a panoramic irradiator must wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only two people who enter the radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of the paragraph, a check of their response to radiation must be done at least annually. Acceptable dosimeters must read within ±20% of the true radiation dose.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0340
Detection of Leaking Sources

(1) Each dry-source-storage sealed source must be tested for leakage at intervals not to exceed six months using a leak test kit or method approved by the Agency, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State. In the absence of a certificate from a transferor that a test has been made within the six months before the transfer, the sealed source may not be used until tested. The test must be capable of detecting the presence of 200 becquerels (0.005 uCi) of radioactive material and must be performed by a person approved by the Agency, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State to perform the test.

(2) For pool irradiators, sources may not be put into the pool unless the licensee tests the sources for leaks or has a certificate from a transferor that leak test has been done within the six months before the transfer. Water from the pool must be checked for contamination each day the irradiator operates. The check may be done either by using a radiation monitor on a pool water circulating system or by analysis of a sample of pool water. If a check for contamination is done by analysis of a sample of pool water, the results of the analysis must be available within 24 hours. If the licensee uses a radiation monitor on a pool water circulating system, the detection of above normal radiation levels must activate an alarm. The alarm set-point must be set as low as practical, but high enough to avoid false alarms. The licensee may reset the alarm set-point to a higher level if necessary to operate the pool water purification system to clear up contamination in the pool if specifically provided for in written emergency procedures.

(3) If a leaking source is detected, the licensee must arrange to remove the leaking source from service and have it decontaminated, repaired, or disposed of by an Agency, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State licensee that is authorized to perform these functions. The licensee must promptly check its personnel, equipment, facilities, and irradiated product for radioactive contamination. No product may be shipped until the product has been checked and found free of contamination. If a product has been shipped that may have been inadvertently contaminated, the licensee must arrange to locate and survey that product for contamination. If any personnel are found to be contaminated, decontamination must be performed promptly. If contaminated equipment, facilities, or products are found, the licensee must arrange to have them decontaminated or disposed of by an Agency, the Nuclear Regulatory Commission, an Agreement State, or a Licensing State licensee that is authorized to perform these functions. If a pool is contaminated, the licensee must arrange to clean the pool until the contamination levels do not exceed the appropriate concentration in Table 2, Column 2, Appendix B of 10 CFR 20. See 333-120-0700 for reporting requirements.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0350
Inspection and Maintenance

(1) The licensee must perform inspection and maintenance checks that include, as a minimum, each of the following at the frequency specified in the license or license application:

(a) Operability of each aspect of the access control system required by OAR 333-121-0110.

(b) Functioning of the source position indicator required by OAR 333-121-0150(2).

(c) Operability of the radiation monitor for radioactive contamination in pool water required by OAR 333-121-0340(2) using a radiation check source, if applicable.

(d) Operability of the over-pool radiation monitor at underwater irradiators as required by OAR 333-121-0140(2).

(e) Operability of the product exit monitor required by OAR 333-121-0140(1).

(f) Operability of the emergency source return control required by OAR 333-121-0150(3).

(g) Visual inspection of leak-tightness of systems through which pool water circulates.

(h) Operability of the heat and smoke detectors and extinguisher system required by OAR 333-121-0130, without turning extinguishers on.

(i) Operability of the means of pool water replenishment required by OAR 333-121-0160(3).

(j) Operability of the indicators of high and low pool water levels required by OAR 333-121-0160(4).

(k) Operability of the intrusion alarm required by OAR 333-121-0110(9) if applicable.

(l) Functioning and wear of the system, mechanisms, and cables used to raise and lower sources.

(m) Condition of the barrier to prevent products from hitting the sources or source mechanism as required by OAR 333-121-0170.

(n) Amount of water added to the pool to determine if the pool is leaking.

(o) Electrical wiring on required safety systems for radiation damage.

(p) Pool water conductivity measurements and analysis as required by OAR 333-121-0360(2).

(2) Malfunctions and defects found during inspection and maintenance checks must be repaired within time frames specified in the license or license application.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0360
Pool Water Purity

(1) Pool water purification system must be run sufficiently to maintain the conductivity of the pool water below 20 microsiemens per centimeter under normal circumstances. If pool water conductivity rises above 20 microsiemens per centimeter, the licensee must take prompt actions to lower the pool water conductivity and must take corrective actions to prevent future recurrences.

(2) The licensee must measure the pool water conductivity frequently enough, but no less than weekly, to assure that the conductivity remains below 20 microsiemens per centimeter. Conductivity meters must be calibrated at least annually.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0370
Attendance During Operation

(1) Both an irradiator operator and at least one other individual, who is trained on how to respond and prepared to promptly render or summon assistance if the access control alarm sounds, must be present on site:

(a) Whenever the irradiator is operated using an automatic product conveyor system; and

(b) Whenever the product is moved into or out of the radiation room when the irradiator is operated in a batch mode.

(2) At a panoramic irradiator at which static irradiations with no movement of the product are occurring, a person who has received the training on how to respond to alarms described in OAR 333-121-0300(7) must be on site.

(3) At an underwater irradiator, an irradiator operator must be present at the facility whenever the product is moved into or out of the pool. Individuals who move the product into or out of the pool of an underwater irradiator need not be qualified as irradiator operators; however, they must have received the training described in OAR 333-121-0300(6) and 333-121-0300(7). Static irradiations may be performed without a person present at the facility.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0380
Entering and Leaving the Radiation Room

(1) Upon first entering the radiation room of a panoramic irradiator after an irradiation, the irradiator operator must use a survey meter to determine that the source has returned to its fully shielded position. The operator must check the functioning of the survey meter with a radiation check source prior to entry.

(2) Before exiting from and locking the door to the radiation room of a panoramic irradiator prior to a planned irradiation, the irradiator operator must:

(a) Visually inspect the entire radiation room to verify that no one else is in it; and

(b) Activate a control in the radiation room that permits the sources to be moved from the shielded position only if the door to the radiation room is locked within a preset time after setting the control.

(3) During a power failure, the area around the pool of an underwater irradiator may not be entered without using an operable and calibrated radiation survey meter unless the over-the-pool monitor required by OAR 333-121-0140(2) is operating with backup power.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0500
Records and Retention Periods

The licensee must maintain the following records at the irradiator for the periods specified.

(1) A copy of the license, the license conditions, documents incorporated into the license by reference, and amendments thereto until superseded by new documents or until the Agency terminates the license for documents not superseded.

(2) Records of each individual's training, tests, and safety reviews provided to meet the requirements of OAR 333-121-0300(1), 333-121-0300(2), 333-121-0300(3), 333-121-0300(4), 333-121-0300(6), and 333-121-0300(7) until three years after the individual terminates work.

(3) Records of the annual evaluations of the safety performance of irradiator operators required by 333-121-0300(5) for three years after the evaluation.

(4) A copy of the current operating and emergency procedures required by OAR 333-121-0310 until superseded or the Agency terminates the license. Records of the radiation safety officer's review and approval of changes in procedures as required by OAR 333-121-0310(3)(c) retained for three years from the date of the change.

(5) Film badge and other personnel dosimeters results required by OAR 333-121-0320 until the Agency terminates the license.

(6) Records of radiation surveys required by OAR 333-121-0330 for three years from the date of the survey.

(7) Records of radiation survey meter calibrations required by OAR 333-121-0330 and pool water conductivity meter calibrations required by OAR 333-121-0360(2) until three years from the date of calibration.

(8) Records of the results of leak tests required by OAR 333-121-0340(1) and the results of contamination checks required by OAR 333-121-0340(2) for three years from the date of each test.

(9) Records of inspection and maintenance checks required by OAR 333-121-0350 for three years.

(10) Records of major malfunctions, significant defects, operating difficulties or irregularities, and major operating problems that involve required radiation safety equipment for three years after repairs are completed.

(11) Records of the receipt, transfer and disposal, of all licensed sealed sources as required by 333-102-0330 of these rules.

(12) Records on the design checks required by OAR 333-121-0190 and the construction control checks as required by OAR 333-121-0200 until the license is terminated. The records must be signed and dated. The title or qualification of the person signing must be included.

(13) Records related to decommissioning of the irradiator as required by 333-102-0200(6).

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-121-0510
Reports

(1) In addition to the reporting requirements in other parts of these regulations, the licensee must report the following events if not reported under other parts of these regulations:

(a) Source stuck in an unshielded position.

(b) Any fire or explosion in a radiation room.

(c) Damage to the source racks.

(d) Failure of the cable or drive mechanism used to move the source racks.

(e) Inoperability of the access control system.

(f) Detection of radiation source by the product exit monitor.

(g) Detection of radioactive contamination attributable to licensed radioactive material.

(h) Structural damage to the pool liner or walls.

(i) Water loss or leakage from the source storage pool, greater than the irradiator pool design parameters submitted by the licensee or applicant.

(j) Pool water conductivity exceeding 100 microsiemens per centimeter.

(2) The report must include a telephone report within 24 hours as described in 333-120-0710(2), and a written report within 30 days as described in 333-120-0720.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06

333-122-0001
Purpose

This division prescribes requirements for the industrial use of x-ray machines and radiation safety requirements for persons using industrial x-ray equipment.

Stat. Auth.: ORS 453.605 – 453.807

Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0003
Scope

The provisions and requirements of this division are in addition to the general requirements of divisions 100, 101, 111 and 120.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0005
Definitions

As used in this division, the following definitions apply:

(1) "Annual refresher safety training" means a review conducted or provided by the registrant for its employees on radiation safety aspects of industrial x-ray. The review must include, as a minimum, a review of radiation safety aspects of industrial x-ray, any results of internal audits, Agency inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed. The review must also provide opportunities for employees to ask safety questions.

(2) "ANSI" means the American National Standards Institute.

(3) "Cabinet radiography" means industrial radiography conducted in an enclosure or cabinet so shielded that every location on the exterior meets the dose limits for individual members of the public as specified in OAR 333-120-0180.

(4) "Cabinet x-ray system" means an x-ray system with the x-ray tube installed in an enclosure, hereinafter termed a cabinet that is independent of existing architectural structures except the floor. The cabinet x-ray system is intended to contain at least that portion of a material being irradiated, provide radiation attenuation and exclude personnel from its interior during generation of radiation. This definition includes x-ray systems designed primarily for the inspection of carry-on baggage at airline, railroad and bus terminals and in similar facilities, and all x-ray systems designed primarily for the inspection of letters, periodicals and packages in mailrooms. An x-ray tube used within a shielded part of a building, or X-ray equipment that may temporarily or occasionally incorporate portable shielding, is not considered a cabinet x-ray system.

(5) "Certifiable cabinet x-ray system" means an existing uncertified x-ray system that has been modified to meet the certification requirements specified in 21 CFR 1020.40.

(6) "Certified cabinet x-ray system" means an x-ray system that has been certified in accordance with 21 CFR 1010.2 as being manufactured and assembled pursuant to the provisions of 21 CFR 1020.40.

(7) "Hands-on experience" means experience in all of those areas considered to be directly involved in the x-ray process, and includes taking radiographs, calibration of survey instruments, operational and performance testing of survey instruments and devices, film development, posting of radiation areas, set-up of x-ray equipment, radiation surveys, etc., as applicable. Trainees undergoing the "hands-on experience" must do so under the direct supervision of a qualified industrial x-ray machine operator.

(8) "Industrial x-ray" means a nondestructive examination of the structure of materials using an x-ray machine to make radiographic images.

(9) "Industrial x-ray instructor" means any industrial x-ray operator who has been authorized by the Agency to provide on-the-job training to industrial x-ray trainees in accordance with 333-122-0200 of these rules.

(10) "Industrial x-ray trainee" means any individual who, under the direct supervision of an industrial x-ray instructor, uses industrial x-ray machines, related handling tools or radiation survey instruments during the course of his instruction.

(11) "Industrial x-ray operations" means all activities performed with an industrial x-ray machine. Activities include using, setting up equipment, and any activity inside restricted area boundaries.

(12) "Industrial x-ray personnel" means any x-ray operator, x-ray instructor or x-ray trainee.

(13) "Permanent x-ray installation" means an enclosed shielded room, cell, or vault in which industrial x-ray is performed.

(14)"Personal supervision" means supervision in which the x-ray operator is physically present at the site where x-ray machines and associated equipment are being used, watching the performance of the x-ray operator's assistant and in such proximity that immediate assistance can be given if required.

(15) "Practical examination" means a demonstration through application of the safety rules and principles in industrial x-ray including use of all procedures and equipment to be used by industrial x-ray personnel.

(16) "Radiation safety officer for industrial x-ray" means an individual with the responsibility for the overall radiation safety program on behalf of the registrant and who meets the requirements of 333-122-0200 of these rules.

(17) "Shielded room x-ray using x-ray machines" means an enclosed room or vault in which industrial x-ray is performed the interior of which is not occupied during x-ray operations. The room must be so shielded that every location on the exterior meets conditions for an unrestricted area as specified in OAR 333-120-0180, and the only access is through openings that are interlocked so that the x-ray machine will not operate unless all openings are securely closed.

(18) "X-ray Operator" means any individual who handles, adjusts technique factors, activates the exposure switch/ or button on an industrial x-ray machine and is qualified under 333-122-0200 of these rules.

(19) "X-ray operator's assistant" means any individual who, under the direct supervision of a industrial x-ray operator, uses radiographic x-ray machines, related handling tools or radiation survey instruments in industrial x-ray.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0050
Exemptions

(1) Uses of certified and certifiable cabinet x-ray systems and x-ray systems designed primarily for the inspection of baggage, etc. are exempt from the requirements of this division except for the following:

(a) For certified and certifiable cabinet x-ray systems, including those designed to allow admittance of individuals:

(A) No registrant must permit any individual to operate a cabinet x-ray system until the individual has received a copy of and instruction in the operating procedures for the unit. Records that demonstrate compliance with this subparagraph must be maintained for Agency inspection until disposal is authorized by the Agency.

(B) Tests for proper operation of interlocks must be conducted and recorded:

(i) Every six months for those systems that are designed to allow the admittance of individuals; or

(ii) Annually for those systems that are not designed to allow the admittance of individuals.

(C) Records of these tests must be maintained for Agency inspection until disposal is authorized by the Agency.

(D) The registrant must perform an evaluation of the radiation dose limits to determine compliance with 333-120-0180, 333-120-0190 and 21 CFR 1020.40, Cabinet X-Ray Systems (39 Federal Register 12986, April 10, 1974), at intervals not to exceed one year. Records of these evaluations must be maintained for Agency inspection for two years after the evaluation.

(b) Certified cabinet x-ray systems must be maintained in compliance with 21 CFR 1020.40, Cabinet X-Ray Systems (39) Federal Register 12986, April 10, 1974), and no modification must be made to the system unless prior Agency approval has been granted.

(2) Industrial uses of hand-held light intensified imaging devices are exempt from the requirements of this division if the dose rate 18 inches from any area surrounding the source of radiation does not exceed two millirem per hour. Devices that exceed this limit must meet the applicable requirements of this division and the licensing or registration requirements of division 333-101.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0075
Registration Requirements for Industrial Radiographic X-Ray Machine Operations

The Agency will approve an application for a registration for use of radiation machines if the applicant meets the following requirements:

(1) The applicant satisfies the general requirements specified in 333-101-0005 for radiation machine facilities, and any special requirements contained in this division;

(2) The applicant submits an adequate program for training x-ray equipment operators that meets the requirements of 333-122-0200(6) of these rules;

(3) The applicant provides documentation indicating that all industrial x-ray operators have completed the training and hands-on experience required in 333-122-0200(1) of these rules. The training must include all of the subjects in 333-122-0200(6) of these rules;

(4) The applicant provides documentation verifying x-ray equipment operators are currently certified in industrial x-ray by a certifying entity;

(5) The applicant submits written operating and emergency procedures as described in 333-122-0225 of these rules;

(6) The applicant submits a description of a program for inspections of the job performance of each x-ray operator and x-ray operator's assistant

at intervals not to exceed six months as described in 333-122-0200(4)(a) of these rules;

(7) The applicant submits a description of the applicant's overall organizational structure as it applies to the radiation safety responsibilities in industrial x-ray, including specified delegation of authority and responsibility;

(8) The applicant submits the qualifications of the individual(s) designated as the radiation safety officer as described in 333-122-0175 of these rules;

(9) If the applicant intends to perform calibrations of survey instruments they must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in 333-122-0100 of these rules;

(10) The applicant identifies and describes the location(s) of all permanent x-ray installations;

(11) The applicant identifies the location(s) where all records required by this and other divisions of chapter 333 will be maintained; and

(12) A registration will be issued if 333-122-0075(1) through (11) of these rules are met.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0100
Radiation Survey Instruments

(1) The registrant must keep sufficient calibrated and operable radiation survey instruments at each location where industrial x-ray machines are present to make the radiation surveys required by this division and by division 120. Instrumentation required by this rule must be capable of measuring a range from 0.02 milliseiverts (2 mrem) per hour through 0.01 sievert (1 rem) per hour.

(2) The registrant must have each radiation survey instrument required under section (1) of this rule calibrated:

(a) At energies appropriate for use; and

(b) At intervals not to exceed one year or after instrument servicing, except for battery changes; and

(c) For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; and for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 milliseiverts (2 and 1000 mrem) per hour; and

(d) So that an accuracy within plus or minus 20 percent of the true radiation dose rate can be demonstrated at each point checked.

(3) The registrant must maintain records of the results of the instrument calibrations in accordance with 333-122-0375 of these rules.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0125
Inspection and Maintenance of Industrial X-ray Machines, Associated Equipment, and Survey Instruments

(1) The registrant must perform visual and operability checks on survey meters, radiation machines and associated equipment before each day's use, or work shift, to ensure that the equipment is in good working condition

(2) Survey instrument operability must be performed using check sources or other appropriate means.

(3) If equipment problems are found, the equipment must be removed from service until repaired.

(4) Each registrant must have written procedures for and perform inspection and routine maintenance of industrial x-ray machines, associated equipment, and survey instruments at intervals not to exceed three months or before the first use thereafter to ensure the proper functioning of components important to safety. If equipment problems are found, the equipment must be removed from service until repaired.

(5) Records of equipment problems and of any maintenance performed under this rule must be made in accordance with 333-122-0425.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0150
Permanent Radiographic Installations

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation must have either:

(a) An entrance control of the type described in OAR 333-120-0220 that causes the radiation level upon entry into the area to be reduced; and or

(b) Both conspicuous visible and audible warning signals to warn of the presence of radiation. The visible signal must be actuated by radiation whenever the machine is energized. The audible signal must be actuated when an attempt is made to enter the installation while the machine is energized.

(2) The alarm system must be tested for proper operation with an x-ray machine each day before the installation is used for industrial x-ray operations. The test must include a check of both the visible and audible signals. Entrance control devices that reduce the radiation level upon entry as designated in 333-122-0125(1)(a) of these rules must be tested monthly. If an entrance control device or an alarm is operating improperly, it must be immediately labeled as defective and repaired within seven calendar days. The x-ray machine may continue to be used during this seven-day period, provided the registrant implements the continuous surveillance requirements of 333-122-0300 of these rules and uses an alarming rate-meter. Test records for entrance controls and audible and visual alarms must be maintained in accordance with 333-122-0450 of these rules.

(3) Industrial x-ray machines must be physically secured to prevent tampering by unauthorized personnel.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0175
Radiation Safety Officer

The radiation safety officer of an industrial x-ray facility must ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the registrant's program.

(1) Minimum qualifications, training, and experience for radiation safety officers for industrial x-ray. A radiation safety officer must complete:

(a) The training and testing requirements of 333-122-0200(1) of these rules;

(b) 160 hours of hands-on experience as a qualified x-ray operator in industrial x-ray operations; and

(c) A minimum of eight hours of formal training in the establishment and maintenance of a radiation protection program.

(2) The Agency will consider alternative qualifications, training and experience for individuals who want to be a radiation safety officer in the industrial x-ray setting. However, the training and experience must be related to the field of ionizing radiation, and the establishment and maintenance of a radiation safety program.

(3) The specific duties and authorities of the radiation safety officer must include:

(a) Establishing and overseeing all operating, emergency, and ALARA procedures as required by division 333-120 and reviewing them regularly to ensure that they conform to Agency rules and to the registration conditions;

(b) Overseeing and approving the training program for industrial x-ray personnel to ensure that appropriate and effective radiation protection practices are taught;

(c) Ensuring that required radiation surveys are performed and documented in accordance with the rules, including any corrective measures when levels of radiation exceed established limits;

(d) Ensuring that personnel monitoring devices are calibrated, if applicable, and used properly and that records are kept of the monitoring results and that timely notifications are made as required by division 333-120; and

(e) Ensuring that operations are conducted safely and for implementing corrective actions including terminating operations.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0200
Training

(1) The registrant may not permit any individual to act as an industrial x-ray machine operator until the individual has received at least 40 hours of training in the subjects outlined in (6) of this rule, in addition to on the job training consisting of hands-on experience under the supervision of a qualified industrial x-ray machine operator. The on the job training must include a minimum of one month (160 hours) of active participation in the performance of industrial x-ray utilizing x-ray machines.

(2) The registrant may not permit any individual to act as an industrial x-ray machine operator until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this division, and applicable sections of divisions 333-120 and 333-111, in the registration under which the individ-

ual will perform industrial radiation machine operation, registrant's operating and emergency procedures;

(b) Has demonstrated an understanding of items in (2)(a) of this rule by successful completion of a written or oral examination;

(c) Has received training in the use of the registrant's radiation machines, associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in (2)(c) of this rule by successful completion of a practical examination.

(3) The registrant must provide annual refresher safety training, as defined in 333-122-0005 of these rules, for each radiation machine operator at intervals not to exceed 12 months.

(4) Except as provided in this rule, the radiation safety officer or designee must conduct an inspection program of the job performance of each industrial x-ray machine operator to ensure that the Agency's rules, registration requirements, and operating and emergency procedures are followed. The inspection program must:

(a) Include observation of the performance of each x-ray machine operator during an actual industrial radiographic x-ray machine operation, at intervals not to exceed six months.

(b) Provide that, if an industrial x-ray machine operator has not participated in an industrial x-ray machine operation for more than six months since the last inspection, the individual must demonstrate knowledge of the training requirements of this rule by a practical examination before these individuals can next participate in a radiation machine operation.

(c) The Agency may consider an alternate individual to conduct the inspection program and observation of the x-ray operator as required in (4)(a) and (b) of this rule, in those situations where the radiation machine operator is also the radiation safety officer.

(d) In those operations where a single individual serves as both x-ray operator and radiation safety officer, and performs all industrial x-ray machine operations, an inspection program is not required.

(5) The registrant must maintain training records including:

(a) Written, oral and practical examinations;

(b) Refresher safety training; and

(c) Inspections of job performance in accordance with 333-122-0475 of these rules.

(6) The training required in (1) of this rule must include the following subjects:

(a) Fundamentals of radiation safety including:

(A) Characteristics of x-radiation;

(B) Units of radiation dose;

(C) Hazards of exposure to radiation; and

(D) Methods of controlling radiation dose (time, distance, and shielding); and

(b) Radiation detection instruments including:

(A) Use, operation, calibration, and limitations of radiation survey instruments;

(B) Survey techniques; and

(C) Use of personnel monitoring equipment; and

(c) Equipment to be used including:

(A) Operation and control of radiation machines; and

(B) Inspection and maintenance of equipment; and

(d) The requirements of pertinent state and federal rules.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0225
Operating and Emergency Procedures

(1) Operating and emergency procedures must include, as a minimum, instructions in the following:

(a) Appropriate use of radiation machines so that no person is likely to be exposed to radiation doses in excess of the limits established in division 120 of these rules;

(b) Methods and occasions for conducting radiation surveys;

(c) Methods for posting and controlling access to radiation areas;

(d) Personnel monitoring and the use of personnel monitoring equipment;

(e) The inspection, maintenance, and operability checks of radiation machines, survey instruments;

(f) Steps that must be taken immediately by x-ray personnel in the event a pocket dosimeter is found to be off-scale;

(g) The procedure(s) for identifying and reporting defects and noncompliance, as required by 333-122-0425 of these rules;

(h) The procedure for notifying proper persons in the event of an accident or incident; and

(i) Maintenance of records.

(2) The registrant must maintain copies of current operating and emergency procedures in accordance with 333-122-0500 and 333-122-0575 of these rules.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0250
Personnel Monitoring

(1) The registrant may not permit any individual to act as a x-ray operator unless, at all times during radiographic operations, each x-ray operator wears, on the trunk of the body, a combination of direct reading dosimeter, and either a film badge or a TLD or other National Voluntary Laboratory Accreditation Program (NVLAP) approved technologies. X-ray operators who only operate cabinet x-ray machines are exempt from the requirement to wear a direct reading dosimeter.

(a) Pocket dosimeters must have a range from zero to 2 milliseiverts (200 mrem) and must be recharged at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(b) Each film badge and TLD must be assigned to and worn by only one individual.

(c) Film badges and TLD's must be exchanged at periods not to exceed quarterly.

(d) After replacement, each film badge or TLD must be returned to the supplier for processing within 14 calendar days of the end of the monitoring period, or as soon as practicable. In circumstances that make it impossible to return each film badge or TLD in 14 calendar days, such circumstances must be documented and available for review by the Agency.

(2) Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters, must be read and the exposures recorded at the beginning and end of each shift, and records must be maintained in accordance with 333-122-0525 of these rules.

(3) Pocket dosimeters, or electronic personal dosimeters, must be checked at periods not to exceed 12 months for correct response to radiation, and records must be maintained in accordance with 333-122-0525 of these rules. Acceptable dosimeters must read within plus or minus 20 percent of the true radiation exposure.

(4) If an individual's pocket dosimeter is found to be off-scale, or the electronic personal dosimeter reads greater than 2 milliseiverts (200 mrem), the individual's film badge or TLD must be sent for processing within 24 hours. In addition, the individual may not resume work associated with the use of sources of radiation until a determination of the individual's radiation exposure has been made. This determination must be made by the radiation safety officer or the radiation safety officer's designee. The results of this determination must be included in the records maintained in accordance with 333-122-0525 of these rules.

(5) If a film badge or TLD is lost or damaged, the worker must cease work immediately until a replacement film badge or TLD is provided and the exposure is calculated for the period from issuance to loss or damage of the film badge or TLD. The results of the calculated exposure and the period for which the film badge or TLD was lost or damaged must be included in the records maintained in accordance with 333-122-0525 of these rules.

(6) Reports received from the film badge or TLD processor must be retained in accordance with 333-122-0525 of these rules.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0275
Radiation Surveys

The licensee or registrant must conduct all surveys with a calibrated and operable radiation survey instrument that meets the requirements of 333-122-0100 of these rules.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0300
Surveillance

During each radiographic operation, the radiographer must ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area or a high radiation area, as defined in division 333-100, except at permanent radiographic installations where all entryways are locked and the requirements of 333-122-0150 of these rules are met.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0325
Posting

All areas in which industrial x-ray machines are operated must be conspicuously posted as required by 333-120-0410.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0350
Recordkeeping Requirements for Industrial X-Ray

Each registrant must maintain a copy of its registration, documents incorporated by reference, until the Agency terminates the registration.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0375
Records of Radiation Survey Instruments

Each registrant must maintain records of the calibrations of its radiation survey instruments that are required under 333-122-100 of these rules and retain each record for three years after it is made.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0400
Utilization Logs

(1) Each registrant must maintain utilization logs showing for each radiation machine the following information:

(a) A description, including the make, model, and serial number of the radiation machine;

(b) The identity and signature of the radiation machine operator; and

(c) For permanent radiographic installations, the dates each radiation machine is energized.

(2) The registrant must retain the utilization logs for three years.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0425
Records of Inspection and Maintenance of Radiation Machines, Associated Equipment, and Survey Instruments

(1) Each registrant must maintain records, specified in 333-122-0125 of these rules, of equipment problems found in daily checks and quarterly inspections of radiation machines, associated equipment, and survey instruments; and retain each record for three years after it is made.

(2) The record must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was performed.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0450
Records of Alarm System and Entrance Control Checks at Permanent Radiographic Installations

Each registrant must maintain records of alarm system and entrance control device tests required by 333-122-0150 of these rules and retain each record for three years after it is made.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0475
Records of Training and Certification

Each registrant must maintain the following records for three years after the individual terminates employment:

(1) Records of training of each x-ray machine operator. The record must include copies of written tests, dates of oral and practical examinations, the names of individuals conducting and receiving the oral and practical examinations, and a list of items tested and the results of the oral and practical examinations; and

(2) Records of annual refresher safety training and semi-annual inspections of job performance for each x-ray machine operator. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any noncompliance observed by the radiation safety officer or designee.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0500
Copies of Operating and Emergency Procedures

Each registrant must maintain a copy of current operating and emergency procedures until the Agency terminates the registration.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0525
Records of Personnel Monitoring

Each registrant must maintain the following exposure records specified in 333-122-0250 of these rules:

(1) Direct reading dosimeter readings and yearly operability checks required by 333-122-0250(2) and 0250(3) of these rules for three years after the record is made;

(2) Reports received from the film badge or TLD processor until the Agency terminates the license or registration; and

(3) Records of estimates of exposures because of off-scale personal direct reading dosimeters, or lost or damaged film badges or TLD's, until the Agency terminates the license or registration.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0550
Form of Records

Each record required by this division must be legible throughout the specified retention period. The record may be the original, a reproduced copy, or a microform if the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0575
Location of Documents and Records

Each registrant must also maintain current copies of the following documents and records sufficient to demonstrate compliance at each facility:

(1) A current radiation machine registration certificate;

(2) A copy of divisions 100, 101, 111 and 120 of this chapter;

(3) Records of equipment problems identified in daily checks of equipment as required by 333-122-0125 of these rules;

(4) Records of alarm system and entrance control checks required by 333-122-0450 of these rules, if applicable;

(5) Records of dosimeter readings as required by 333-122-0525 of these rules;

(6) Operating and emergency procedures as required by 333-122-0225 of these rules;

(7) Evidence of the latest calibration of the radiation survey instruments in use at the site, as required by 333-122-0100 of these rules;

(8) Evidence of the latest operability checks of dosimeters as required by 333-122-0525 of these rules; and

(9) Survey records as required by 333-122-0275 of these rules for the period of operation at the site.

Stat. Auth.: ORS 453.605 – 453.807
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06

333-122-0600
Notifications

(1) In addition to the reporting requirements specified in 10 CFR 30.50 and in division 120 of these rules, each registrant must provide a written report to the Agency within 30 days of the occurrence of any of the following incidents involving x-ray equipment:

(a) Failure of any component, which is critical to safe operation of the x-ray machine, to properly perform its intended function; and/or

(b) An indicator on an x-ray machine fails to show that radiation is being produced, an exposure switch fails to terminate production of radiation when turned to the off position, or a safety interlock fails to terminate x-ray production.

(2) The registrant must include the following information in each report submitted under this rule and in each report of overexposure

submitted under this division which involves failure of safety components of x-ray machines:

(a) Description of the equipment problem;

(b) Cause of each incident, if known;

(c) Name of the manufacturer and model number of equipment involved in the incident;

(d) Place, date, and time of the incident;

(e) Actions taken to establish normal operations;

(f) Corrective actions taken or planned to prevent recurrence; and

(g) Names and qualifications of personnel involved in the incident.

Stat. Auth.: ORS 453.605 – 453.807

Stats. Implemented: ORS 453.605 – 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06

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Rule Caption: Inclusion of mumps as a reportable disease.
Adm. Order No.: PH 13-2006(Temp)
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06 thru 12-27-06
Notice Publication Date:
Rules Amended: 333-018-0015
Subject: The Oregon Department of Human Services, Public Health Division is temporarily amending Oregon Administrative Rule, 333-018-0015, to include mumps as a reportable disease.
Rules Coordinator: Christina Hartman—(971) 673-1291

333-018-0015
What Is to Be Reported and When

(1) Health Care Providers shall report all cases or suspected cases of the diseases, infections, microorganisms, and conditions specified below. The timing of Health Care Provider reports is specified to reflect the severity of the illness or condition and the potential value of rapid intervention by public health agencies.

(2) When Local Public Health Authorities cannot be reached within the specified time limits, reports shall be made directly to DHS, which shall maintain an around-the-clock public health consultation service.

(3) Licensed Laboratories shall report all test results indicative of and specific for the diseases, infections, microorganisms, and conditions specified below. Such tests include but are not limited to: microbiological culture, isolation, or identification; assays for specific antibodies; and identification of specific antigens, toxins, or nucleic acid sequences.

(4) Reportable diseases, infections, microorganisms, and conditions, and the time frames within which they must be reported are as follows:

(a) Immediately, day or night: *Bacillus anthracis* (anthrax); *Clostridium botulinum* (botulism); *Corynebacterium diphtheriae* (diphtheria); *Severe Acute Respiratory Syndrome* (SARS) and infection by SARS-coronavirus; *Yersinia pestis* (plague); intoxication caused by marine microorganisms or their byproducts (for example, paralytic shellfish poisoning, domoic acid intoxication, *ciguatera*, scombroid); any known or suspected common-source Outbreaks; any Uncommon Illness of Potential Public Health Significance.

(b) Within 24 hours (including weekends and holidays): Haemophilus influenzae (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); measles (*rubeola*); *Neisseria meningitidis* (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); Pesticide Poisoning; *poliomyelitis*; rabies (human or animal); rubella; Vibrio (all species).

(c) Within one Local Public Health Authority working day: *Bordetella pertussis* (pertussis); *Borrelia* (relapsing fever, Lyme disease); *Brucella* (brucellosis); *Campylobacter* (campylobacteriosis); *Chlamydophila* (Chlamydia) *psittaci* (psittacosis); *Chlamydia trachomatis* (chlamydiosis; lymphogranuloma venereum); *Clostridium tetani* (tetanus); *Coxiella burnetii* (Q fever); Creutzfeldt-Jakob disease and other transmissible spongiform encephalopathies; *Cryptosporidium* (cryptosporidiosis); *Cyclospora cayetanensis* (cyclosporosis); *Escherichia coli* (Shiga-toxigenic, including E. coli O157 and other serogroups); *Francisella tularensis* (tularemia); *Giardia* (giardiasis); *Haemophilus ducreyi* (chancroid); *hantavirus*; hepatitis A; *hepatitis B* (acute or chronic infection); *hepatitis C*; *hepatitis D* (delta); *HIV infection* (does not apply to anonymous testing) and AIDS; *Legionella* (legionellosis); *Leptospira* (leptospirosis); *Listeria monocytogenes* (listeriosis); mumps; *Mycobacterium tuberculosis* and *M. bovis* (tuberculosis); *Neisseria gonorrhoeae* (gonococcal infections); *pelvic inflammatory disease* (acute, non-gonococcal); *Plasmodium* (malaria); *Rickettsia* (all species: Rocky Mountain spotted fever, typhus, others); *Salmonella* (salmonellosis, including typhoid); *Shigella* (shigellosis); *Taenia solium* (including cysticercosis and undifferentiated Taenia infections); *Treponema pallidum* (syphilis); *Trichinella* (trichinosis); *Yersinia* (other than pestis); any infection that is typically arthropod vector-borne (for example: Western equine encephalitis, Eastern equine encephalitis, St. Louis encephalitis, dengue, West Nile fever, yellow fever, California encephalitis, ehrlichiosis, babesiosis, Kyasanur Forest disease, Colorado tick fever, etc.); human bites by any other mammal; CD4 cell count < 200/µl (mm^3) or CD4 proportion of total lymphocytes < 14%; hemolytic uremic syndrome.

(d) Within 7 days: Suspected Lead Poisoning (for laboratories; this includes all blood lead tests performed on persons with suspected lead poisoning).

Stat. Auth.: ORS 433.004

Stats. Implemented: ORS 433.001, 433.004, 433.006, 433.012, 433.106, 433.110, 433.130, 433.235 - 433.284, 437, 616 & 624

Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; HD 20-1985(Temp), f. & ef. 9-30-85; HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 15-1988, f. 7-11-88, cert. ef. 9-1-88; HD 13-1990(Temp), f. 5-25-90, cert. ef. 8-1-90; HD 5-1991, f. 3-29-91, cert. ef. 4-1-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; OHD 22-2001, f. & cert. ef. 10-19-01; OHD 3-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 7-2006, f. & cert. ef. 4-17-06; PH 13-2006(Temp), f. 6-27-06, cert. ef. 7-1-06 thru 12-27-06

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Rule Caption: Amendments to the rules relating to food safety in food service establishments.
Adm. Order No.: PH 14-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 2-1-06
Rules Amended: 333-012-0053, 333-012-0061, 333-012-0070, 333-150-0000, 333-157-0000, 333-157-0010, 333-157-0027, 333-157-0030, 333-157-0045, 333-157-0070, 333-157-0080, 333-158-0000, 333-158-0010, 333-160-0000, 333-162-0020, 333-162-0030, 333-162-0040, 333-162-0280, 333-162-0680, 333-162-0880, 333-162-0890, 333-162-0910, 333-162-0920, 333-162-0940, 333-162-0950, 333-162-1005, 333-170-0060, 333-175-0011, 333-175-0021, 333-175-0031, 333-175-0041, 333-175-0051, 333-175-0061, 333-175-0071, 333-175-0081, 333-175-0091, 333-175-0101
Rules Repealed: 333-162-0000, 333-162-0010, 333-162-0060, 333-162-0070, 333-162-0080, 333-162-0090, 333-162-0100, 333-162-0110, 333-162-0120, 333-162-0130, 333-162-0140, 333-162-0150, 333-162-0160, 333-160-0170, 333-162-0180, 333-162-0190, 333-162-0200, 333-162-0210, 333-162-0220, 333-162-0230, 333-162-0240, 333-162-0250, 333-162-0260, 333-162-0270, 333-162-0290, 333-162-0300, 333-162-0310, 333-162-0320, 333-162-0330, 333-162-0340, 333-162-0350, 333-162-0360, 333-162-0370, 333-162-0380, 333-162-0390, 333-162-0400, 333-162-0410, 333-162-0420, 333-162-0430, 333-162-0440, 333-162-0450, 333-162-0460, 333-162-0480, 333-162-0490, 333-162-0500, 333-162-0510, 333-162-0520, 333-162-0530, 333-162-0540, 333-162-0550, 333-162-0560, 333-162-0570, 333-162-0580, 333-162-0590, 333-162-0600, 333-162-0610, 333-162-0620, 333-162-0630, 333-162-0640, 333-162-0650, 333-162-0660, 333-162-0670, 333-162-0690, 333-162-0700, 333-162-0710, 333-162-0720, 333-162-0730, 333-162-0740, 333-162-0750, 333-162-0760, 333-162-0770, 333-162-0780, 333-162-0790, 333-162-0800, 333-162-0810, 333-162-0820, 333-162-0830, 333-162-0840, 333-162-0850, 333-162-0860, 333-162-0870, 333-162-0960, 333-162-0970, 333-162-0980, 333-162-0990, 333-162-1000, 333-162-1010, 333-162-1020
Subject: The Department of Human Services (DHS), Foodborne Illness Prevention Program is permanently amending rules relating to food safety in food service establishments.
Rules Coordinator: Christina Hartman—(971) 673-1291

333-012-0053
Licensing and Fees

(1) License applications and licenses issued must be on forms provided or approved by the Department.

(2) The Local Public Health Authority must establish a single license fee per establishment or facility type. There may not be added fees based on local determination of unique features of an establishment or facility.

(3) Licensing categories must be based upon those specified in ORS 446.310, 448.035 and 624.490. The Local Public Health Authority may not create additional licensing categories.

(4)(a) Annual work hours available for a dedicated full time equivalent (FTE) for field staff in the food service program based on a 40-hour week is 1640 hours, of which 25% is allocated for office and administrative duties and consultation, and 75% is for field inspection activities;

(b) Standards for complete inspection functions, on average, including travel time, relative to facility size are as follows:

(A) 0-15 seats, one and one half hours;

(B) 16-50 seats, one and three quarter hours;

(C) 51-150 seats, two hours;

(D) Over 150 seats, two and one half hours.

(c) An average recheck inspection rate of 40% with an average critical item recheck inspection taking 45 minutes including travel.

(5) The following standards are established to reflect the levels of effort and resources needed to carry out the delegated functions and provisions of ORS 624:

(a) Workload indicators established in section (4) of this rule must be used to determine staffing levels budgeted for field inspection activities;

(b) Administrative costs must be limited to 15% of direct costs;

(c) A ratio of up to .35 FTE for clerical support and up to .25 FTE for supervision to field staff FTE respectively, must be observed;

(d) Charges for services and supplies may not exceed a ratio of .25 of personnel salary for direct program costs;

(e) In lieu of the administrative standards outlined in this rule, the Local Public Health Authority may determine staffing standards and actual costs of providing program services. The Local Public Health Authority must document and report to the Department actual time spent and expenses incurred and may be subject to a fiscal audit as specified in OAR 333-012-0070(3).

(6) The Local Public Health Authority may adopt a fee schedule for facilities that require more than two recheck inspections per year.

(7) The Local Public Health Authority may set a fee for costs associated with plan review conducted under guidelines established by the Department.

(8) The Local Public Health Authority may set a reinstatement fee for late license reinstatement.

(9) The Local Public Health Authority may recover the cost of the extra inspections required under OAR 333-157-0027, Increased Inspection Schedule, by charging a fee of up to one-half of the annual licensing fee otherwise assessable to the restaurant for each additional inspection.

(10) A license may be issued only after the Local Public Health Authority has received the fee and determined that the facility meets the requirements of the statutes and rules.

(11) The Local Public Health Authority may pro-rate fees for partial year operation as follows: From January 1 through September 30, a full license fee is required. From October 1 through December 31, half the annual fee must be assessed.

(12) If license fees assessed by the Local Public Health Authority are more than 20% above or below the fees established in ORS 624.490, the Local Public Health Authority must document and report to the Department actual time spent and expenses incurred on program services and may be subject to a fiscal audit as specified in OAR 333-012-0070(3).

(13) All license fees collected by the Local Public Health Authority pursuant to ORS 446.425, 448.100 and 624.510 must be paid into the county treasury and placed in a special revenue fund or the general fund of the county treasury and placed to the credit of the Local Public Health Authority. Such monies must be used only for program services pursuant to ORS 446.425, 448.100 and 624.510. The Local Public Health Authority must assure on an annual basis that all fees collected are used solely for the purposes of administering the programs as described in this section.

(14) If the Local Public Health Authority requests a fiscal audit required in OAR 333-012-0070(3) be conducted by a private auditing agency, the Local Public Health Authority must pay the costs and a copy of audit report must be provided to the Department.

Stat. Auth.: ORS 446.425, 448.100 & 624.510
Stats. Implemented: ORS 446.425, 448.100 & 624.510
Hist.: PH 13-2004, f. & cert. ef. 4-9-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-012-0061
Food Handler Training

The Local Public Health Authority must assure the provision of a food handler training program using minimum criteria developed by the Department. The Local Public Health Authority must secure Department approval before deviating from the criteria of the training program for food handlers, and must document in a manner satisfactory to the Department the training methods used for food handler training.

Stat. Auth.: ORS 446.425, 448.100 & 624.510
Stats. Implemented: ORS 446.425, 448.100 & 624.510
Hist.: PH 13-2004, f. & cert. ef. 4-9-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-012-0070
Minimum Standards, Program Review and Penalties

(1)(a) The Local Public Health Authority may request approval to implement alternative inspection or enforcement procedures. The Local Public Health Authority must submit a plan that includes expected performance measures and outcomes and the procedure must be included in the annual Intergovernmental Agreement.

(b) The Local Public Health Authority may adopt ordinances on applicable matters provided they are not less stringent than the Oregon Administrative Rules adopted pursuant to ORS Chapters 183, 446, 448 and 624. Any ordinance proposed for adoption on matters applicable to food service operators more stringent than those set forth in ORS 624 and rules adopted thereunder must be approved by the Department and the cost of implementing any ordinance so adopted may not be charged to license fees adopted pursuant to ORS 624.510(2). Notwithstanding the provisions of this subsection, when an emergency exists and delay will result in an immediate danger to public health, Local Public Health Authorities may adopt ordinances without prior Department approval. This subsection does not affect ordinances that are required to be adopted as specified in these rules.

(2) The Local Public Health Authority must be subject to a performance review of both office and field activities to determine compliance with these rules. A review of each Local Public Health Authority will be conducted at least once every three years. The Department will submit the results of the review to the Local Public Health Authority. The field review will be conducted using an inspection protocol approved by the Department. The Department may waive the requirement for a field review.

(3) The Local Public Health Authority will be subject to a triennial fiscal audit conducted by the Department. The Local Public Health Authority may also be subject to additional fiscal audits if deemed necessary by the Department.

(4) The Local Public Health Authority will be surveyed at least annually to determine accomplishments and needs. This knowledge will guide the Department in providing assistance, guidance, training, consultation and support as needed.

(5) If a review reveals that the Local Public Health Authority is not complying with the provisions of these rules or the Intergovernmental Agreement, the Local Public Health Authority will be notified. The Local Public Health Authority must correct the deficiencies within the time frames required and report the corrections to the Department.

(a) If the Department determines that the deficiencies result in a serious human health hazard, compliance will be required immediately. If the Department determines that the deficiencies do not result in a serious human health hazard, a longer period of time may be allowed for compliance. However, the maximum time allowed for compliance, after notice is issued by the Department, is as follows:

(A) Up to 90 days to correct administrative deficiencies such as, but not limited to, accounting reports and records;

(B) Up to 180 days to correct program deficiencies such as, but not limited to, inadequate frequency of inspections, scoring, staffing and lack of enforcement action.

(b) Notwithstanding subsection 5(a) of this rule, the Department may allow a longer time frame for compliance if deemed necessary;

(c) If the Department determines that the Local Public Health Authority did not use the proper cost elements in determining the fee or that the amount of the fee is not justified, the Department may order the Local Public Health Authority to adjust any fee, as soon as is possible, to a level supported by the Department's analysis of the fee.

(6) When a Local Public Health Authority has been notified of an emergency health hazard and is either unwilling or unable to administer or enforce delegated standards, the Department may, pursuant to ORS 431.170, immediately take responsibility of the functions and collect the monies necessary to protect public health. When the health hazard has been resolved or is no longer an emergency, the Department may return authority to the Local Public Health Authority and may initiate a review to determine if delegation is to be continued.

(7) The Department may deny or revoke the delegation of a program if the Local Public Health Authority:

(a) Does not have sufficient qualified personnel to conduct the program;

(b) Has failed to perform its delegated duties satisfactorily;

(c) Has engaged in deceit or fraud in the conduct of the program or maintenance of its associated records.

(8) Suspension or rescission of a delegation must be in accordance with ORS Chapter 183 relating to contested cases.

(9) The Department will immediately respond to a request by the Local Public Health Authority for personnel or equipment during an emergency. If the Department is unable to assist as requested, the Department will immediately notify the Local Public Health Authority and provide any possible assistance.

Stat. Auth.: ORS 446.425, 448.100 & 624.510
Stats. Implemented: ORS 446.425, 448.100 & 624.510
Hist.: HD 105, f. & ef. 2-5-76; HD 1-1979, f. & ef. 1-18-79; HD 9-1994, f. & cert. ef. 4-1-94; PH 13-2004, f. & cert. ef. 4-9-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-150-0000
Food Sanitation Rule

(1) Authority and Purpose.

(a) This rule is authorized by ORS 624.100.

(b) This rule establishes definitions, sets standards for management and personnel, food protection, and equipment and facilities, water supply, sewage disposal, provides for food establishment plan review, and employee restriction to safeguard public health and provide consumers food that is safe, unadulterated, and honestly presented.

(2) Incorporation by Reference. The requirements as found in the U.S. Public Health Service, Food and Drug Administration, Food Code 1999, Chapters 1 through 8 is adopted and incorporated by reference.

(3) Deletions. The following sections, paragraphs or subparagraphs of the 1999 FDA Food Code are deleted in their entirety: 1-201.10(B)(36), 2-103.11(H), 2-201.11, 2-201.12(B), (C) and D), 2-201.13(C) and (D), 3-201.16, 3-301.11(C), 3-401.11(D)(3), 4-301.12(C)(5), (D) and (E), 4-501.115, 4-603.16(B) and (C), 8-302.11, 8-302.14(E), 8-401.10(B), 8-401.20, 8-402.20(A)(3), 8-402.40, 8-406.11, 8-501.40 and Annex 1 through 8.

(4) Additions and Amendments.

(a) Amend subparagraph 1-201.10(B)(1)(a) to read: "Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals or approved by the Department of Human Services.

(b) Add a new subparagraph 1-201.10(B)(1.1) to read: "Actively cooled" means once the temperature of a potentially hazardous food has fallen below 60 degrees C (140 degrees F), it is placed in cooling or cold holding equipment and cooled according to sections 3-501.14 and 3-501.15.

(c) Add a new subparagraph 1-201.10(B)(4.1) to read: "Assembly" means the act of putting together foods that do not require further preparation. This includes, but is not limited to, placing a hot dog on a bun, or placing beans, lettuce and cheese on a tortilla.

(d) Add a new subparagraph 1-201.10(B)(5.1) to read: "Base of Operation" means the licensed restaurant, commissary or warehouse that services a mobile unit or vending operation.

(e) Add a new subparagraph 1-201.10(B)(7.1) to read: "Catering" means the preparation of food in an approved food establishment and the transportation of such food for service and consumption at some other site.

(f) Add a new subparagraph 1-201.10(B)(9.1) to read: "Close" means to summarily stop the operation of a food establishment pursuant to ORS 624.085 and ORS 624.370.

(g) Add a new subparagraph 1-201.10(B)(10.1) to read: "Code" shall have the same meaning as rule.

(h) Add a new subparagraph 1-201.10(B)(11.1) to read: "Combination Food Service Establishment" means any food establishment located within a single structure or at a single site, but which is engaged in activities which are subject to licensing or inspecting requirements of both the Department of Human Services and the Oregon Department of Agriculture, and the regulated activities are common to the same operator.

(i) Add a new subparagraph 1-201.10(B)(11.2) to read: "Commercial warewashing machine" means a warewashing machine designed and manufactured specifically for use in a food service establishment such as a restaurant and not for domestic or light-commercial purposes.

(j) Add a new subparagraph 1-201.10(B)(12.1) to read: "Commissary" means a commissary catering establishment, restaurant, or any other place in which, food, beverage, ingredients, containers, or supplies are kept, handled, packaged, prepared or stored, and from which vending machines or mobile units are serviced.

(k) Add a new subparagraph 1-201.10(B)(12.2) to read: "Complete Inspection" means any inspection conducted at the election of the licensing agency evaluating for all items on the inspection form.

(l) Add a new subparagraph 1-201.10(B)(12.3) to read: "Condiments" means garnishes, toppings, or seasonings that are added to a food to enhance or compliment the flavor, such as diced onions, dice tomatoes, hot sauce, ketchup, mayonnaise, mustard, relish, salt, shredded cheese and sugar.

(m) Add a new subparagraph 1-201.10(B)(18.1) to read: "Critical violations" means those items weighted zero (0), four (4) or (5) points on the Inspection Report or the Inspectional Guide.

(n) Add a new subparagraph 1-201.10(B)(18.2) to read: "Critical violations creating an imminent danger to public health" means those critical violations in which at least one of the following conditions exists:

(a) Food and drink is spoiled, unwholesome, or contaminated with pathogenic or fecal organisms, toxic chemicals, insect or rodent parts or excreta, or other harmful substances or articles;

(b) Potentially hazardous foods have been kept at temperatures above 45 degrees F. and below 140 degrees F. for four (4) hours or more;

(c) Food employee has a reportable disease or medical condition under section 2-201.11.

(o) Add a new subparagraph 1-201.10(B)(18.3) to read: "Critical violations creating a potential danger to public health" means all critical violations other than those that create an imminent danger to public health.

(p) Add a new subparagraph 1-201.10(B)(18.4) to read: "Critical violations creating a significantly increased risk for foodborne illness" include:

(a) Potentially hazardous foods at improper temperatures.

(b) Cross contamination of raw to ready to eat foods.

(c) Poor personal hygiene and handwashing.

(q) Add a new subparagraph 1-201.10(B)(18.5) to read: "Danger to public health" is a condition which is conducive to propagation or transmission of pathogenic organisms or, a chemical or physical hazard which presents a reasonably clear possibility that the public is exposed to physical suffering or illness.

(r) Add a new subparagraph 1-201.10(B)(18.6) to read: "Department" means the Department of Human Services.

(s) Add a new subparagraph 1-201.10(B)(18.7) to read: "Director" means the Director of the Department of Human Services or authorized representative.

(t) Amend subparagraph 1-201.10(B)(25)(a) to read: "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, meat tenderizer, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

(u) Amend subparagraph 1-201.10(B)(31) to read: Food Establishment

(a) "Food establishment" means an operation that prepares, assembles, packages, serves, stores, vends, or otherwise provides food for human consumption.

(b) "Food establishment" includes but is not limited to:

(i) Bars, bed and breakfast facilities, cafeterias if open to the public, catered feeding locations, caterers, coffee shops, commissaries, conveyance used to transport people, hospitals if open to the public, hotels, microbreweries, motels, private clubs if open to the public, restaurants, satellite sites, senior citizen centers, snack bars, taverns, vending locations, warehouses, or similar food facilities;

(ii) An operation that is conducted in a mobile food unit, temporary food establishments, or permanent facility or location; where consumption is on or off premises; and regardless of whether there is a charge for the food.

(iii) The premises of a fraternal, social, or religious organization where food is prepared for the public.

(iv) Except as specified in 1-201.10(B)(31)(c)(xiv), school food service that is provided by a private person, business, or organization; and that serve persons other than enrolled students, invited guests or staff.

(v) That relinquishes possession of food to a consumer directly through a restaurant takeout order.

(c) "Food establishment" does not include:

(i) An establishment that offers only prepackaged foods that are not potentially hazardous;

(ii) A produce stand that offers only whole, uncut fresh fruits and vegetables;

(iii) A food processing plant;

(iv) A private home where food is prepared or served for family and guests, and where the public is not invited.

(v) A private home that receives catered or home-delivered food.

(vi) An establishment licensed and inspected by the Oregon Department of Agriculture.

(vii) An establishment or organization that prepares or sells the following food items shall be exempt from licensure and the provisions of ORS 624.010 to 624.120, and 624.310 to 430:

(A) Candy, candied apples, cookies and non-potentially hazardous confections;

(B) Commercially prepackaged ice cream and frozen desserts;

(C) Commercially pickled products, commercially processed jerky, nuts, nutmeats, popcorn, and prepackaged foods such as potato chips, pretzels, and crackers;

(D) Unopened bottled and canned non-potentially hazardous beverages to include alcoholic beverages;

(E) Coffee and tea, with non-potentially hazardous ingredients;

(F) Hot beverages prepared by the customer from individually packaged powdered mixes and water; and

(G) Other food items as determined by the Department of Human Services.

(viii) Private vehicles used for home deliveries.

(ix) Personal chef who prepares food for an individual or private party. The personal chef may purchase food from a grocery store, but shall not store food or prepare food in advance. The personal chef may use his or her own equipment, utensils and spices.

(x) Continental breakfast served by a traveler's accommodation licensed under ORS 446 and that is limited to the following: individual or bulk dispensed containers of commercially prepared juices; commercially prepared non-potentially hazardous pastries; whole uncut fresh fruit with peel, coffee and tea with non-potentially hazardous ingredients.

(xi) Except as specified in 1-201.10(B)(31)(b)(i), mobile food units that are operated by a market, are located on the property of the market and are under the jurisdiction of the Oregon Department of Agriculture.

(xii) Except as specified in 1-201.10(B)(31)(b)(i), outdoor barbecues operated by a market that are located on the property of the market and are under the jurisdiction of the Oregon Department of Agriculture.

(xiii) Food service that is provided by a state, county, or other governmental entity.

(xiv) Except as specified in 1-201.10(B)(31)(b)(iv), school food service that is provided by a state, county, or other governmental entity; or is providing food to students, teachers, other school staff, and invited guests.

(xv) Any person holding a "one-day, special retail beer or special retail wine license" for a private residence; or anyone who possesses a "temporary" license from the Oregon Liquor Control Commission who serves alcoholic beverages to the public, but serves only foods exempted under 1-201.10(B)(31)(c)(vii) and uses single-service articles.

(xvi) A bed and breakfast facility with two or less rooms for rent on a daily basis.

(xvii) A home processor licensed by the Oregon Department of Agriculture that serves only prewrapped, non-potentially hazardous food at a farmer's market.

(v) Amend subparagraph 1-201.10(B)(32)(a) to read: "Food processing plant" means a commercial operation or a domestic kitchen licensed by the Oregon Department of Agriculture that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.

(w) Amend subparagraph 1-201.10(B)(41) to read: "Imminent health hazard" means the same as 1-201.10(B)(18.1).

(x) Add subparagraph 1-201.10(B)(42.1) to read: "Integral" means that all equipment associated with a mobile unit must be rigidly and physically attached to the unit without restricting the mobility of the unit while in transit. This does not preclude the use of a barbecue unit in conjunction with a Class IV mobile food unit.

(y) Add subparagraph 1-201.10(B)(45.1) to read: "License" means the same as permit for the purposes of this rule.

(z) Add subparagraph 1-201.10(B)(45.2) to read: "License holder" means the same as permit holder for the purposes of this rule.

(aa) Add subparagraph 1-201.10(B)(46.1) to read: "Maximum Contaminant Level (MCL)" means the maximum allowable level of a contaminant in water for consumption delivered to the users of a system, except in the case of turbidity where the maximum allowable level is measured at the point of entry to the distribution system.

(bb) Add subparagraph 1-201.10(B)(48.1) to read: "Mobile Food Unit" means any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

(cc) Add subparagraph 1-201.10(B)(49.1) to read: "Outdoor Barbecue" means an open-air preparation by a restaurant of food by cooking over an open fire utilizing either a permanent or portable grill, where the purpose of barbecuing is to impart a unique flavor to the food.

(dd) Add subparagraph 1-201.10(B)(63.1) to read: "Preparation" means the process whereby food is transformed into a consumable form. This includes, but is not limited to, slicing or dicing vegetables, grating cheese, portioning foods, slicing sandwiches, blending foods, or cooking or reheating foods.

(ee) Add subparagraph 1-201.10(B)(65.1) to read: "Quarterly Sampling" means a sample is taken and submitted according to the following schedule: 1st Quarter is January 1 through March 31, 2nd Quarter is April 1 through June 30, 3rd Quarter is July 1 through September 30 and the 4th Quarter is October 1 through December 31.

(ff) Add subparagraph 1-201.10(B)(65.2) to read: "Raw-to-Finish" means cooking foods that are potentially hazardous when in a raw state to a finished, edible state. This practice includes, but is not limited to, cooking raw hamburgers or barbecuing raw meats.

(gg) Add subparagraph 1-201.10(B)(66.1) to read: "Recheck Inspection" means:

(a) An inspection to determine whether specified corrections have been made or alternative procedures maintained for violations identified in previous inspections; or

(b) An inspection to determine whether specific corrections have been maintained for critical violations creating a significantly increased risk for foodborne illness. Recheck inspections may be conducted either on pre-announced dates or unannounced.

(hh) Add subparagraph 1-201.10(B)(69.1) to read: "Repeat violation" means a violation of a rule which is the same specific problem or process as indicated on the Food Service Inspection Report occurring in two consecutive semi-annual inspections.

(ii) Add subparagraph 1-201.10(B)(71.1) to read: "Sample" as it relates to ORS 624.010 means no more than a two to three ounce portion of a food or beverage.

(jj) Add subparagraph 1-201.10(B)(73.1) to read: "Semi-annual inspection" means an unannounced complete inspection conducted twice during the calendar year; one in each half of the year, but not less than 90 days or more than 270 days apart.

(kk) Amend subparagraph 1-201.10(B)(87) to read: "Temporary food establishment" means the same as ORS 624.010(6).

(ll) Add subparagraph 1-201.10(B)(87.1) to read "Transport Vehicle" means a vehicle used to transport foods or utensils from the base of operation to a mobile food unit.

(mm) Amend subparagraph 1-201.10(B)(89) to read: "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; food temperature measuring devices; trays used with high-chairs; and probe-type price or identification tags used in contact with food.

(nn) Add subparagraph 1-201.10(B)(90.1) to read: "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and includes vehicles that are propelled or powered by any means. This definition includes watercraft.

(oo) Add subparagraph 1-201.10(B)(92.1) to read: "Violation" means any condition which fails to meet a requirement of ORS Chapters 624 or this rule.

(pp) Add subparagraph 1-201.10(B)(92.2) to read: "Warehouse" means any place where food, utensils, single-service articles, cleaning or servicing supplies for vending machines, mobile units, or commissaries are stored.

(qq) Amend section 2-102.11 to read: Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this Code. The person in charge shall demonstrate this knowledge by compliance with this Code, by being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program, a corporate training program approved by the Department of Human Services, or by responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

(rr) Adopt paragraphs 2-102.11(A) through (O) without changes.

(ss) Amend paragraphs 2-201.12(A) and (B) to read: The person in charge shall:

(A) Exclude a food employee from a food establishment if the food employee is diagnosed with an illness listed in OAR 333-019-0010.

(B) Restrict a food employee that has a symptoms caused by illness, infection, or other source that is:

(1) Associated with an acute gastrointestinal illness such as:

(a) Diarrhea,

(b) Fever,

(c) Vomiting,

(d) Jaundice, or

(e) Sore throat with fever, or

(2) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(a) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover,

(b) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or

(c) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(3) The food employee is jaundiced.

(tt) Amend paragraphs 2-201.13 (A) and (B) to read: (A) The person in charge may remove an exclusion specified under paragraph 2-201.12(A) if:

(1) The person in charge obtains approval from the local public health authority; and

(2) The person excluded as specified under paragraph 2-201.12(A) provides to the person in charge written documentation that specifies that the excluded person may work in an unrestricted capacity in a food establishment because the person is free of the infectious agent of concern as specified in section 8-501.40.

(B) The person in charge may remove a restriction specified under:

(1) Subparagraph 2-201.12(B)(1) if the restricted person:

(a) Is free of the symptoms specified under paragraph 2-201.11(B).

(uu) Amend section 2-201.14(A) and (B) to read: A food employee shall:

(A) Report to the person in charge if they have been diagnosed with an illness or are experiencing symptoms specified under section 2-201.12; and

(B) Comply with exclusions and restrictions specified under paragraphs 2-201.12.

(vv) Amend section 2-201.15 to read: The person in charge shall notify the regulatory authority that a food employee is diagnosed with an illness listed in OAR 333-019-0010.

(ww) Amend paragraph 2-301.12(A) to read: Except as specified in paragraph (B) of this section and section 2-301.13, food employees shall clean their hands in a lavatory that is equipped as specified under section 5-202.12 by using a cleaning procedure of approximately 20 seconds that includes:

(1) Vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands and arms for at least 10 to 15 seconds, followed by;

(2) Thorough rinsing under clean, running water.

(xx) Amend section 2-301.13 to read:

(A) After defecating, contacting body fluids and discharges, or handling waste containing fecal matter, body fluids, or body discharges, and before beginning or returning to work, food employees shall wash their hands twice using the cleaning procedure specified in section 2-301.12.

(B) Except when one handwashing lavatory is allowed under paragraph 5-203.11(A), after using the toilet facility food employees shall wash their hands twice, first at a handwashing lavatory in the toilet facility and again at a handwashing lavatory in the food preparation area.

(yy) Amend section 2-301.16 to read:

(A) A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall be used according to labeled directions and be applied to hands that are cleaned as specified under section 2-301.12.

(B) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

(zz) Amend paragraph 2-402.11(A) to read: Employees shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

(aaa) Amend paragraph 3-201.11(B) to read: Except as specified in paragraphs (I) and (J) of this section, food prepared in a private home may not be used or offered for human consumption in a food establishment.

(bbb) Add paragraph 3-201.11(G) to read: Game meat which has been donated to a charitable organization and has been inspected and processed as provided in ORS 619.095 may be served for human consumption by that charitable organization.

(ccc) Add paragraph 3-201.11(H) to read: Except as required in 3-201.11(A) through (G) of this section and in accordance with ORS 624.035, any person, business or volunteer group may donate food to a benevolent organization that meets the requirements in ORS 624.015. The Internal Revenue Service (IRS) will issue a "letter of determination" that should be used as the basis for assessing compliance with benevolent status of ORS 624.015. The person, business or volunteer group making the donation shall inspect the food to ensure its fitness for human consumption and discard all food that is unwholesome. The following donated food items are approved for use by benevolent organizations:

(A) Commercially prepared foods, canned goods, and milk products, marine and freshwater fishery products or meat animals; i.e., cattle, sheep, goats, equine, swine, poultry or rabbits obtained from facilities licensed by the Oregon Department of Agriculture or the Department of Human Services according to ORS Chapters 603, 616, 621, 622, 624, 625 and 635;

(B) Home baked bread, rolls, pies, cakes, doughnuts or pastries not having perishable fillings, icings, toppings or glazes;

(C) Fresh fruit and produce from private gardens or commercial growers;

(D) Salvageable food which has lost the label or which has been subjected to possible damage due to accident, fire, flood, adverse weather or similar cause. Reconditioning of salvageable food shall be conducted according to the 1984 Model Food Salvage Code recommended by the Association of Food and Drug Officials and U.S. Department of Health and Human Services;

(E) Other food as may be approved by the Department of Human Services upon prior notification by the donator or benevolent organization;

(F) Unless alternative language has been approved by the regulatory authority, a notice shall be posted in public view that says: "NOTICE: Food served at this location may not have been inspected by the health department."

(ddd) Add paragraph 3-201.11(I) to read: Privately donated breads, rolls, pies, cakes, doughnuts or other pastries not having perishable fillings, icings, toppings or glazes may be used in temporary food establishments operated by benevolent organizations for fund-raising events, provided they meet the requirements under 3-201.11(H)(6).

(eee) Add paragraph 3-201.11(J) to read: Food prepared in a private home that is licensed as a home processor by the Oregon Department of Agriculture.

(fff) Add subparagraph 3-201.17(A)(5) to read: Except as specified in (A)(1) through (4) of this section,

(a) Game meat donated to a charitable organization shall be inspected by employees of the Oregon Department of Agriculture, Department of Fish and Wildlife, or State Police as provided for in ORS 619.095 may be served for human consumption by that charitable organization.

(b) As used in subparagraph (a) of this section:

(i) Charitable organization means the State Office for Children, Adults and Families, Youth Authority, Department of Corrections institutions, low-income nutritional centers, public school nutritional centers, senior nutritional centers, state hospitals and other charitable organizations or public institutions approved by the Department of Fish and Wildlife.

(ii) Game meat includes antelope, bighorn sheep, deer, elk, moose and mountain goat.

(ggg) Add section 3-201.18 to read: Outdoor Barbecuing.*

(A) Outdoor barbecuing by a food establishment shall be allowed as a part of the operation when conducted on the premise or in the immediate vicinity of the food establishment.

(B) Enclosure of an outdoor barbecue shall not be required unless necessary to protect food from contamination.

(C) If a handwashing sink is not adjacent to the outdoor barbeque, a handwashing system that meets the requirements of section 5-203.11(C)(1)-(6) must be provided next to the outdoor barbecue.

(hhh) Amend section 3-301.11 to read:

(A) Food employees shall wash their hands as specified under sections 2-301.12 and 2-301.13.

(B) Food employees shall minimize bare hand contact with food and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.S

(iii) Amend paragraph 3-302.11(A) to read: Food shall be protected from cross contamination by:

(1) Separating raw animal foods during storage, preparation, holding, and display from:

(a) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables,

(b) Cooked ready-to-eat food, and

(c) Raw ready-to-eat food shall be stored separately from ready-to-eat food;

(2) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

(a) Using separate equipment for each type, or

(b) Arranging each type of food in equipment so that cross contamination of one type with another is prevented, and

(c) Preparing each type of food at different times or in separate areas;

(d) If stored vertically, raw animal foods must be stored in ascending order of cooking temperature as specified in section 3-401.11, with the highest required cooking temperature stored at the lowest level;

(jjj) Amend paragraph 3-304.12(F) to read: In a container of water if the container is cleaned at a frequency specified under subparagraph 4-602.11(D)(7); and

(A) The water is maintained at a temperature of 60 degrees C (140 degrees F) or above; or

(B) At 5 degrees C (41 degrees F) or less.

(kkk) Add paragraph 3-304.15(E) to read: Effective March 1, 2003, the use of latex gloves in food service establishments is prohibited.

(lll) Add section 3-306.15 to read: Outdoor Barbecue, Serving Consumers.

(A) Consumers may not serve themselves from an outdoor barbecue.

(B) The food employee may serve:

(i) An employee who brings a container or plate from the food establishment to the barbecue and who returns the food to the food establishment for further processing or service; or

(ii) The consumer directly.

(C) Except for non-potentially hazardous condiments, such as hot sauces, ketchup, mayonnaise, mustard, pepper, relish, salt, and sugar, no other food may be served outside of the food establishment.

(mmm) Add section 3-307.12 to read: Protection from Contamination, Use of Private Vehicles for Food Deliveries.

(A) Private vehicles may be used for food deliveries if the food is packaged so that it is protected from contamination under Part 3-3, and adequate means are provided for maintaining proper food temperatures under section 3-501.16.

(B) Private vehicles shall not be used in any activity that is incompatible with safe and sanitary transportation of food.

(nnn) Amend subparagraph 3-401.11(D)(2) to read: The consumer requests that the food be prepared in a raw, rare, or undercooked state.

(ooo) Amend paragraph 3-402.11(B) to read: If the fish are tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern), or are listed in the FDA Fish and Fisheries Products Hazards and Control Guidance, Potential Species-Related & Process Related Hazards and parasites are not a hazard, the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under paragraph (A) of this section.

(ppp) Amend section 3-402.12 to read: (A) Except as specified in paragraphs 3-402.11(B) and (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall identify each batch by name and date, measure the freezing temperature once per day, and record the temperature and time to which the fish are subjected and shall retain the records at the food establishment in chronological order for 90 calendar days beyond the time of service or sale of the fish.

(B) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under section 3-402.11 may substitute for the records specified under paragraph (A) of this section.

(1) Each invoice received from the supplier shall state the specific fish by species that have been frozen to meet the requirements for parasite destruction specified under section 3-402.11.

(2) The written agreement or statement from the supplier must be updated at least once per year.

(qqq) Amend paragraph 3-501.14(A) to read: Cooked potentially hazardous food shall be actively cooled:

(1) Within 2 hours, from 60 degrees C (140 degrees F) to 21 degrees C (70 degrees F); and

(2) Within 4 hours, from 21 degrees C (70 degrees F) to 5 degrees C (41 degrees F) or less, or to 7 degrees C (45 degrees F) as specified under paragraph 3-501.16(C).

(rrr) Amend subparagraph 3-501.16(C)(2) to read: No later than January 1, 2007, the equipment is upgraded or replaced to maintain food at a temperature of 5 degrees C (41 degrees F) or less.

(sss) Add subparagraph 3-501.16(C)(3) to read: (3) Mobile food units must upgrade or replace equipment to maintain food at a temperature of 5 degrees C (41 degrees F) or less no later than January 1, 2008.

(ttt) Amend subparagraph 3-501.17(A) to read: (A) Except as specified in paragraph (E) of this section, refrigerated, ready-to-eat, potentially hazardous food prepared and held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation with the preparation date or the date by which the food shall be consumed which is, including the day of preparation:

(1) 7 calendar days or less from the day that the food is prepared, if the food is maintained at 5 degrees C (41 degrees F) or less; or

(2) 4 calendar days or less from the day the food is prepared, if the food is maintained at 7 degrees C (45 degrees F) or less as specified under paragraph 3-501.16(C).

(uuu) Amend paragraph 3-501.17(F) to read: Paragraphs (C) and (D) of this section do not apply to:

(A) Whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing;

(B) Hard cheeses that are manufactured with a moisture content not exceeding 39 percent as specified under 21 CFR 133.150 and meets the temperature requirements specified under paragraph 3-501.16(B). Examples include Asiago medium, Asiago old, Cheddar, Gruyere, Parmesan, Reggiano, Romano, and Sap sago.

(C) Semisoft cheeses containing more than 39 percent but less than 50 percent moisture as specified in 21 CFR 133.187 and meets the temperature requirements specified under paragraph 3-501.16(B). Examples include Asiago fresh and Soft, Blue, Brick, Caciocavallo Siciliano, Colby with not more than 40 percent moisture, Edam, Gorgonzola, Gouda, Limburger, Monterey, Monterey Jack, Muenster, Pasteurized process cheese, Provolone, Swiss and Emmentaler.

(D) Pasteurized process cheese manufactured according to 21 CFR 133.169, labeled as containing an acidifying agent and meets the temperature requirements specified under paragraph 3-501.16(B).

(E) Cheeses that are not exempt for date marking include soft cheeses. Examples include Brie, Camembert, Cottage, Ricotta, and Teleme.

(vvv) Add section 3-502.11 to read: A food establishment shall obtain a variance from the regulatory authority as specified in section 8-103.10 and under section 8-103.11 before smoking food as a method of food preservation rather than as a method of flavor enhancement; curing food; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; packaging food using a reduced oxygen packaging method except if required under section 3-502.12; custom processing animals that are for personal use as food and not for sale or service in a food establishment; or preparing food by another method that is determined by the regulatory authority to require a variance.

(www) Amend section 3-502.12 to read: (A) A food establishment that packages food using a reduced oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under paragraph 8-201.14(D) and that:

(1) Limits the food packaged to a food that does not support the growth of Clostridium botulinum because it complies with one of the following:

(a) Has a water activity of 0.91 or less,

(b) Has a pH of 4.6 or less,

(c) Is a meat or poultry product cured at a food processing plant regulated by the U.S.D.A. using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package, or

(d) Is a food with a high level of competing organisms such as raw meat or raw poultry;

(e) Is a food that has been subjected to a process or control that can be supported by scientific data and is approved the Department of Human Services.

(2) Specifies methods for maintaining food at 5 degrees C (41 degrees F) or below;

(3) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(a) Maintain the food at 5 degrees C (41 degrees F) or below, and

(b) Discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

(5) Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

(B) Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

(C) The Department of Human Services may require the permit holder to obtain a variance as specified in section 8-103.10 and under section 8-103.11 to produce products with reduced oxygen packaging.

(xxx) Amend section 3-603.11 to read: Except as specified in paragraphs 3-401.11(C) and 3-801.11(D), the food establishment may offer or a consumer may request an animal food such as beef, eggs, fish, lamb or shellfish to be served in a ready-to-eat form that is raw, undercooked, or not otherwise processed to eliminate pathogens; or as a raw ingredient in another ready-to-eat food.

(yyy) Amend paragraph 4-101.19(A) to read: (A) Except as specified in paragraphs (B), (C), (D) and (E) of this section, wood and wood wicker may not be used as a food-contact surface.

(zzz) Add paragraph 4-101.19(E) to read: Untreated wood planks, such as cedar, may be used as a cooking surface for grilling or baking.

(aaaa) Amend paragraph 4-301.12 (A) to read: Except as specified in paragraphs (C) and (F) of this section, a sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

(bbbb) Add paragraphs 4-301.12 (F) and (G) to read: (F) A commercial warewashing machine is allowed in lieu of a manual warewashing sink as required in this section.

(G) For mobile food units:

(1) Class I, II and III mobile food units are not required to provide warewashing facilities on the unit, if adequate facilities exist at the commissary.

(2) Multiple or disposable utensils may be used for food handling on the unit. There shall be at the beginning of each day's business a sufficient supply of clean utensils necessary to properly prepare, assemble, or dispense the food. For mobile food units that do not have a warewashing sink on the unit, this supply shall consist of at least one of each type of utensil for every two hours of operation. If the unit operates less than four hours in a day, the unit shall provide a minimum of two sets of each type of utensil. Utensils shall not be used if they become contaminated.

(3) Class IV mobile food units must provide a sink with at least three compartments.

(cccc) Amend section 4-302.12 to read: Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Chapter 3. At a minimum, a metal-stemmed temperature measuring device with a range of 0-220 degrees F shall be provided to take internal food temperatures.

(dddd) Amend paragraph 4-501.16(B) to read:

(B) If a warewashing sink is used to launder wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under section 4-501.14.

(1) If wiping cloths are washed at the warewashing sink, they shall be washed in the wash compartment, and

(2) Sinks used to wash or thaw food shall be washed, rinsed, and sanitized both before and after use.

(eeee) Amend subparagraph 4-602.11(D)(7) to read: The utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues and in-use utensils are intermittently stored in a container of water in which the water is maintained at:

(a) 60 degrees C (140 degrees F) or more, or

(b) 5 degrees C (41 degrees F) or less.

(ffff) Amend section 5-102.11 to read:

(A) Except as specified under section 5-102.12, water from a public water system shall meet 40 CFR 141-National Primary Drinking Water Regulations and OAR 333-061.

(B) The following drinking water standards apply to licensed food establishments that are not regulated under OAR 333-061:

(1) Sampling frequency:

(a) For seasonal facilities, a coliform sample must be taken prior to operational period and each quarterly sampling period while open to public. A minimum of two samples will be required for coliform, regardless of length of operation.

(b) For year round facilities:

(i) Coliform: Monthly for surface water. Quarterly for populations under 1000 on ground water.

(ii) Inorganic Samples: One time sampling required for new facilities before beginning operation.

(2) Maximum Contaminant Level (MCL) Violations: An item is not considered a violation until confirmed by second sample taken within 24 hours. Four repeat samples must be taken within 24 hours of the original positive sample for a sample result above the MCL.

(a) Total coliform: Report positive total coliform samples to the Department within 24 hours of being notified of the positive sample.

(b) Fecal coliform: Any positive fecal coliform sample must be reported to the Department within 24 hours.

(i) Public notification for this potential acute health risk is required.

(ii) An alternative procedure approved by the Department must be in place before serving public.

(c) Inorganic Samples: One time sampling required for new facilities. Not required for facilities that were previously regulated under OAR 333-061 and have tested prior to January 1, 2003. Inorganics include: antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium and thallium.

(d) Nitrate: Sample annually

(i) Any samples exceeding the MCL for nitrate shall be reported to the Department within at least 24 hours.

(ii) Public notification is required.

(iii) Bottled water must be provided to public upon request.

(e) The Department may require more frequent monitoring than specified or may require confirmation samples for positive and negative results. It is the responsibility of the operator to correct any problems and get a laboratory test result that is less than the MCL.

(3) Sample collection methods:

(a) For the purpose of determining compliance with the MCL and the sampling requirements of these rules, sampling results may be considered only if they have been analyzed by a laboratory certified by the State Drinking Water Program.

(b) Samples submitted to laboratories for analysis shall be clearly identified with the name of the water system, facility license number, sampling date, time, sample location identifying the sample tap, the name of the person collecting the sample and whether it is a routine or a repeat sample.

(i) Routine: These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are also used to calculate compliance with maximum contaminant levels for inorganics prescribed in OAR 333-061-0030(Table 1);

(ii) Repeat: These are samples collected as a follow-up to a routine sample that has exceeded a MCL;

(iii) Test results: Sample results must be submitted to the Local Regulatory Authority by the 10th of the month following the sampling period.

(c) The Department may take additional samples to determine compliance with applicable requirements of these rules.

(4) Public Notice: All public notification must be posted conspicuously on site and must include:

(a) A description of the violation or situation of concern;

(b) Corrective actions taken to improve water quality;

(c) Any potential adverse health effects;

(d) The population at risk;

(e) The alternative measures in place to provide safe drinking water.

(5) Surface Water Sources: New facilities with surface water sources not regulated under OAR 333-061 will not be licensable after January 1, 2005. Facilities existing prior to January 1, 2005 in compliance with OAR 333-061-0032 may continue to operate.

(6) Plan Review: All new facilities that are not regulated by OAR 333-061 must submit plans to the Department for review prior to construction or major modification of system. Systems regulated prior to January 1, 2003 by OAR 333-061 are not required to re-submit plans. Plan review must be conducted in accordance with the procedures outlined in OAR 333-061-0060.

(gggg) Amend paragraph 5-103.11(B) to read: Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. Hot and cold or tempered water must be provided at all handwashing sinks in the establishment.

(hhhh) Amend section 5-104.12 to read:

(A) Water meeting the requirements specified under Subparts 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

(i) A supply of containers of commercially bottled drinking water;

(ii) One or more closed portable water containers;

(iii) An enclosed vehicular water tank;

(vi) An on-premises water storage tank; or

(v) Piping, tubing, or hoses connected to an adjacent approved source.

(B) The regulatory authority may grant a temporary variance from requirements of Subparts 5-101, 5-102, and 5-103 by continuing or re-issuing previously issued permits where:

(i) Failure to comply with the code requirements is due to a failure of a community, municipal or public utility water supply system to meet the regulatory authority's requirements;

(ii) The regulatory authority is satisfied that necessary remedial action is ongoing or reasonably imminent in connection with such water supply system; and

(iii) Continuance or re-issuance of the permit is conditional upon the carrying out of such remedial action and the provision of such other measures by the certificate or license holder which will in the judgment of the regulatory authority afford reasonable interim protection to the public health including, but not limited to, adequate warnings to public and personnel as to the safety of the water delivered to the premises from the distribution system and notice of measures to avoid use or consumption of such water or to render it safe for consumption; adequate warnings as to the need for supervision of children and others needing supervision against use of such water; provision of alternative potable water and adequate notification as to its availability; and measures to avoid the use and the availability of water on the premises.

(iiii) Amend paragraph 5-203.11(A) to read: Except as specified in (B) and (C) of this section, at least one handwashing lavatory or the number of handwashing lavatories necessary for their convenient use by employees in areas specified under section 5-204.11 shall be provided. Food establishments opened prior to July 1, 1965 are exempt from this

requirement provided that employees can meet the requirements under sections 2-301.12 and 2-301.13.

(jjjj) Amend paragraph 5-203.11(C) to read: An adequate number of handwashing stations shall be provided for each temporary food establishment to include:

(A) A minimum of one enclosed container that has a minimum water capacity of five gallons;

(B) A spigot that can be opened to provide a constant flow of water;

(C) Soap;

(D) Water;

(E) Paper towels; and

(F) A collection container for wastewater with a minimum capacity of five gallons.

(kkkk) Add paragraph 5-203.11(D) and (E) to read: (D) For mobile food units:

(1) Class II, III and IV mobile food units must provide hot and cold running water for handwashing tempered by means of a mixing valve;

(2) Notwithstanding subparagraph (1) of this paragraph, Class II and III mobile food units may provide a handwashing system as described in (C)(1)-(6) of this section. There must be a minimum initial volume of five gallons of water available for handwashing at the beginning of the work day.

(E) For outdoor barbecues, if a handwashing sink is not adjacent to the barbecue, a handwashing system that meets the requirements of (C)(1)-(6) of this section must be provided next to the outdoor barbecue.

(llll) Amend section 5-203.12 to read:

(A) Except as specified in (B) of this section, toilet facilities shall be installed according to ORS 455.010 through 455.895 (1998 Oregon Structure Specialty Code, 2000 Amendments) for the number of toilets.

(B) Food establishments with occupancy of 15 or less to include both employees and patrons may have only one toilet fixture and adjacent lavatory on the premises.

(C) Mobile food units shall provide toilet facilities as provided for in § 6-402.11.

(mmmm) Amend section 5-203.13 to read: (A) At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) For mobile food units, if wet mopping is used as a method for cleaning the floor, then a separate sink must be provided in the unit for cleaning mops and cleaning tools and for the disposal of mop water or similar liquid wastes.

(nnnn) Amend section 5-205.11 to read: Using a Handwashing Facility.*

(A) A handwashing facility shall be maintained so that it is accessible at all times for employee use.S

(B) A handwashing facility may not be used for purposes other than handwashing. N

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.N

(oooo) Amend section 5-302.16 to read: A food grade hose shall be used for conveying drinking water from a water tank and shall be:

(pppp) Adopt paragraphs 5-302.16(A) through (E) as written.

(qqqq) Add section 5-305.11 to read: Water System Requirements

(A) A Class IV mobile food unit must have a potable water system under pressure. The system must be of sufficient capacity to furnish enough hot and cold water for food prepara-tion, warewashing, and handwashing, and the requirements of these rules. This supply must consist of a minimum of five gallons of water for handwashing and 30 gallons of water for warewashing.

(B) Class II and III mobile food units must have a water supply that provides sufficient water for food preparation, handwashing, warewashing or any other requirements as set forth in these rules. If warewashing is conducted on the unit, a minimum of 30 gallons of water must be dedicated for this purpose. A minimum of five gallons of water must be provided for handwashing.

(C) Except relating to handwashing as provided for in subparagragh 5-203.11(D)(2), all mobile food units must be designed with integral potable and waste water tanks on board the unit. A mobile unit may connect to water and sewer if it is available at the operating location, however, the tanks must remain on the unit at all times.

(rrrr) Amend paragraph 5-401.11(A) to read: Sized 10 to 15 percent larger in capacity than the water supply tank; and

(ssss) Add paragraph 5-401.11(C) to read: For a mobile food unit selling only beverages, such as coffee, espresso, or soda, and where most of the potable water supply is used in the product, the waste water retention tank may be at least one half the volume of the potable water storage tank. This determination must be made by the regulatory authority.

(tttt) Amend section 5-402.13 to read: (A) Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

(B) For mobile food units:

(1) Mobile food units that generate only gray water liquid wastes may hand-carry those wastes to a specific disposal location approved by the regulatory authority.

(2) The waste transport container must be designed and intended to hold and transport gray water without leaks or spills. The container must have a capacity no greater than 20 gallons.

(uuuu) Amend section 6-202.19 to read: Exterior walking and driving surfaces shall be graded to drain if required by law and shall be maintained to prevent the accumulation of water.

(vvvv) Amend section 6-202.110 to read: Outdoor Refuse Areas, Drainage.

Outdoor refuse areas shall be constructed in accordance with law and shall be designed and maintained to prevent the accumulation of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

(wwww) Amend section 6-301.11 to read: Handwashing Cleanser, Availability.*

Each handwashing lavatory or group of two adjacent lavatories shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

(xxxx) Amend section 6-301.12 to read: Hand Drying Provision.* Each handwashing lavatory or group of adjacent lavatories shall be provided with:

(A) Individual, disposable towels;

(B) A continuous towel system that supplies the user with a clean towel; or

(C) A heated-air hand drying device.

(yyyy) Amend section 6-402.11 to read:

(A) Except for paragraphs (B), (C) (D) and (E) of this section, toilet rooms shall be conveniently located and accessible to employees during all hours of operation and shall be an integral part of the building.

(B) A food service establishment may be approved without an integral toilet room under the following conditions:

(1) An integral toilet room is not required by law; and

(2) A toilet room is located within 500 feet of the food establishment; and

(3) A written agreement is in place that allows the use of the toilet room; or

(4) The food service establishment is located in an outdoor mall or shopping center.

(C) Toilet facilities for the customer are required only in establishments constructed or extensively remodeled after May 11, 1974.

(D) Food establishments limited to drive-in or handout service are not required to provide toilet rooms facilities for the customer.

(E) For mobile food units:

(1) On board toilet facilities are not applicable to most mobile food units. If the unit is not so equipped, then the mobile food unit must operate within one-quarter mile or a five-minute walk of an accessible restroom facility. Mobile food units that operate on a designated route, and which do not stop at a fixed location for more than two hours during the workday, shall be exempt from this rule.

(2) Mobile food units that do not provide on board restroom facilities under subparagraph (1) of this rule must have restroom facilities that will be accessible to employees during all hours of operation. The restroom facilities must have a handwashing system that provides potable hot and cold running water and meets the requirements of OAR 333-150-0000 sections 6-301.11, 6-301.12, 6-301.20 and 6-302.11. Employees may use a restroom located in a private home or a portable toilet to satisfy this requirement.

(zzzz) Add paragraph 8-101.10(C) to read: Plans submitted shall be reviewed and commented on by a sanitarian registered in accordance with ORS 700.

(aaaaa) Amend section 8-103.10 to read:

(A) The Department may grant a variance from requirements of this Code as follows:

(i) Where it is demonstrated to the satisfaction of the Department that strict compliance with the rule would be highly burdensome or impractical due to special condition or cause;

(ii) Where the public or private interest in the granting of the variance is found by the Department to clearly outweigh the interest of the application of uniform rules; and

(iii) Where such alternative measures are provided which in the opinion of the Department will provide adequate public health and safety protection.

(B) Such variance authority is not conferred upon any Local Public Health Authority notwithstanding contractual authority in administration and enforcement of the food service statutes and rules;

(C) The applicant must include all necessary information to support the variance request, which may include, but is not limited to, required testing, challenge data and research results;

(D) If a variance is granted, the regulatory authority shall retain the information specified under section 8-103.11 in its records for the food establishment;

(E) The Department will review variances at least triennially;

(F) Revocation or denial of the variance request shall be subject to the appeal process provided under ORS 183.

(bbbbb) Amend subparagraph 8-201.13(A)(2) to read: A variance is required as specified under section 3-502.11, paragraph 4-204.110(B), or subparagraph 3-203.12(B)(2)(b); or

(ccccc) Amend paragraph 8-302.14(A) to read: The name, mailing address, telephone, number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment;

(ddddd) Amend paragraph 8-303.30(C) to read: Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided under ORS 183.

(eeeee) Amend subparagraph 8-304.11(G)(2) to read: The regulatory authority directs the replacement to meet current code requirements after the food establishment has been closed for a minimum of 12 consecutive months; or

(fffff) Amend paragraph 8-304.11(H) to read: Upgrade or replace refrigeration equipment if the circumstances under subparagraphs (G)(1)-(3) of this section occurs first, or by no later than the time specified under paragraph 3-501.16(C);

(ggggg) Amend paragraph 8-304.11(J) to read: Accept notices issued and served by the regulatory authority as may be authorized under ORS 183 and 624; and

(hhhhh) Amend paragraph 8-304.11(K) to read: Be subject to the administrative, civil, injunctive, and criminal remedies as may be authorized under ORS 183 and 624.

(iiiii) Amend paragraph 8-401.10(C) to read: For temporary food establishments:

(A) Except for Subparagraph (C)(2) of this section, the regulatory authority shall inspect at least once during the operation of a temporary food establishment.

(B) For benevolent temporary food establishments, the regulatory authority shall either:

(AA) Inspect; or

(BB) Provide a consultation.

(jjjjj) Amend paragraph 8-403.10(A) to read: (A) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under 8-302.14(C), inspection date, and employee food safety cards; and

(kkkkk) Amend section 8-403.20 to read: The regulatory authority shall specify on the inspection report form the time frame for correction of the violations as specified under sections 8-404.11, and 8-405.11.

(lllll) Amend paragraph 8-405.11(B) to read: Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame, not to exceed 14 calendar days after the inspection, for the permit holder to correct critical Code violations or HACCP plan deviations.

(mmmmm) Amend paragraph 8-501.20(C) to read: (C) Closing the food establishment by summarily suspending a permit to operate as may be provided under ORS 624.

(nnnnn) Amend paragraph 8-501.30(C) to read: (C) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request as provided under ORS 183.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; HD 6-1989, f. 9-6-89, cert. ef. 9-7-89; HD 10-1992, f. 10-2-92, cert. ef. 10-5-92; HD 19-1994, f. & cert. ef. 7-1-94; HD 16-1995, f. 12-28-95, cert. ef. 1-1-96; OHD 24-2001, f. 10-31-01, cert. ef. 1-1-02; OHD 11-2002, f. & cert. ef. 8-7-02; PH 5-2004(Temp), f. & cert. ef. 2-13-04 thru 7-30-04; PH 15-2004, f. & cert. ef. 4-9-04; PH 1-2005, f. & cert. ef. 1-14-05; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-157-0000
Inspection Form Procedures

(1)(a) Violations which are observed during any sanitation inspection shall be described in the space provided on a form approved by the Department by: Citing the number of the related item on the Inspection Form, point value associated with the item including penalty additions, Oregon Administrative Rule/Oregon Revised Statute number violated; and by giving a brief statement of the specific problem and required corrections;

(b) One (1) point items shall be given an additional one (1) point weight when a Repeat Violation is observed. Two (2) point items shall be given an additional two (2) point weight when a Repeat Violation is observed. Four (4) point items shall be given an additional four (4) point weight when a Repeat Violation is observed. Five (5) point items shall be given an additional five (5) point weight when a Repeat Violation is observed. Additional points shall accumulate and be added to the value of uncorrected items which are repeat violations. Each one (1) point item can accumulate to two (2) points. Each two (2) point item can accumulate to four (4) points. Each four (4) point item can accumulate to eight (8) points. Each five (5) point item can accumulate to ten (10) points.

(2) Critical Violations Creating a Potential Danger to Public Health shall be recorded as in section (1) of this rule and shall specify:

(a) Any alternative procedure as may be approved, the time limit for its use, and that the alternative procedure must be implemented immediately; and

(b) The corrections to be made and the time limit by which the corrections shall be made. In the case where an alternative procedure has not been approved, the time limit by which the correction must be made shall be within but not to exceed 14 days.

(3) Critical Violations Creating an Imminent or Present Danger to Public Health shall be recorded as required in sections (1) and (2) of this rule except when no alternative procedure is approved, the correction shall be required immediately.

(4) If a restaurant obtains a sanitation score of less than 70 upon an unannounced Complete Inspection, the operator or person in charge shall be notified by a statement on the Inspection Form that the restaurant will be closed, if the score of another Complete Inspection conducted within 30 days is not 70 or above.

(5) Critical Violations Creating a Significantly Increased Risk for Food Borne Illness shall require a Recheck Inspection if found on consecutive Complete Inspections, and for the purposes of enforcement shall be considered uncorrected.

(6) If a restaurant is ordered Closed, the Closure Order as designated by the Department shall be attached to the Inspection Form and delivered to the operator or person in charge.

Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; HD 19-1994, f. & cert. ef. 7-1-94; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-157-0010
Approved Alternative Procedures

(1) An alternative procedure may be approved on a temporary basis for a designated time period, if in the judgment of the Environmental Health Specialist the procedure provides interim health and safety protection equal to that provided by the rule. The Environmental Health Specialist may extend the designated time period if justified by unforeseen circumstances. Such an alternative procedure shall not authorize or condone any Critical Violation.

(2) All alternative procedures which have been approved shall be implemented immediately.

Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-157-0027
Increased Inspection Schedule

(1) Any restaurant that fails to obtain a minimum acceptable sanitation score of 70 or more for two consecutive, unannounced semi-annual inspections shall be subject to an increased inspection schedule.

(2) Except as provided in section (4) of this rule, this schedule will consist of one complete unannounced inspection a quarter (three month period) as well as any re-check inspections required. This inspection schedule shall begin in the quarter immediately following the second consecutive score of less than 70.

(3) The increased inspection schedule will revert to semi-annual inspections after the facility has obtained four (4) consecutive scores of 70 or above.

(4) At the Assistant Director's option, one of the four required inspections may be an inspection using Hazard Analysis and Critical Control Point (HACCP) principles, as defined in these rules. HACCP based inspections may be announced. Participation by a restaurant in a HACCP-based inspection shall be the equivalent of a score of 70 or above for the purposes of this rule.

(5) The inspecting agency may assess a fee for each quarterly inspection required under this rule of up to one-half of the annual licensing fee otherwise assessable to the restaurant.

Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130
Hist.: HD 14-1995, f. 12-28-95, cert. ef. 1-1-96; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-157-0030
Closure of Restaurants

(1) If the Assistant Director closes a restaurant, a statement by the Department ordering Closure and specifying the reasons therefore, and signed by the Assistant Director, shall be attached to the Inspection Form and delivered to the operator or person in charge:

(a) When a restaurant is Closed, the Assistant Director shall post the notice of Closure at a customary entrance;

(b) No person except the Assistant Director shall remove or alter this notice;

(c) No person shall operate a restaurant which has been Closed.

(2) If a Critical Violation Which Creates an Imminent or Present Danger to Public Health is not corrected immediately or an approved alternative procedure is not initiated immediately by the operator, the restaurant shall be closed.

(3) If a Critical Violation Which Creates a Potential Danger to Public Health has not been corrected within the designated time limit, the restaurant shall be Closed.

(4) When a restaurant has been Closed because a Critical Violation(s) has not been corrected, it may be reopened after 24 hours if:

(a) A Recheck Inspection by the Assistant Director confirms that all Critical Violations have been corrected; and

(b) A Closure dismissal order designated by the Department is delivered to the operator or person in charge; and

(c) The Closed sign previously posted is removed by the Assistant Director;

(d) A restaurant may be reopened earlier than 24 hours following a voluntary meeting attended by the restaurant operator or person in charge, the Assistant Director, and the inspecting Environmental Health Specialist, at which the provisions of subsections 4(a) through (c) of this rule are demonstrated to be met;

(e) A restaurant Closed and reopened as described in this subsection will be assigned a notice of restaurant sanitation based on the sanitation score of the unannounced Complete Inspection which identified the Critical Violations causing the Closure.

(5) If a restaurant has obtained a sanitation score of less than 70 on two consecutive Complete Inspections conducted within 30 days as described in OAR 333-157-0000(4), it shall be Closed.

(6) When a restaurant has been Closed for failure to obtain a minimum acceptable sanitation score of 70 or more, it may be reopened after 24 hours if:

(a) The operator submits a written plan of correction, specifying the corrections to be made and time limits for their completion, which would achieve a sanitation score of 80 points by the next Semi-Annual Inspection; and

(b) The plan of correction is approved by the Assistant Director; and

(c) A Complete Inspection after the restaurant has been Closed produces a sanitation score of 70 or more.

(d) A Closure dismissal order designated by the Department is delivered to the operator or person in charge; and

(e) The Closed sign previously posted is removed by the Assistant Director;

(f) A restaurant may be reopened earlier than 24 hours following a voluntary meeting attended by the restaurant operator or person in charge, the Assistant Director, and the inspecting Environmental Health Specialist, at which the provision of subsections 6(a) through (e) of this rule are demonstrated to be met;

(g) A restaurant Closed and reopened as described in this subsection shall be assigned a notice of restaurant sanitation based on the sanitation score of the Complete Inspection performed while the restaurant was Closed.

(7) Appeals of Closures are contested cases pursuant to ORS Chapter 183.

(8) Operators whose facilities have been closed for failure to obtain a minimum acceptable sanitation score of 70 or more, or for failure to correct repeat Critical Violations must agree in writing, as part of reopening the restaurant, to:

(a) Enroll in and successfully complete an approved food manager training course; or

(b) In the event that an extraordinary situation exists whereby an approved food manager training course is not available to the operator, the Assistant Director shall make provision for an alternative type of food manager training using criteria approved by the Department.

Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; HD 19-1994, f. & cert. ef. 7-1-94; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-157-0045
Civil Penalties

(1) The Department or a Local Public Health Authority may impose civil penalties on any person for the following willful violations:

(a) Operation of a restaurant, bed and breakfast facility or vending machine without a current license to do so from the Department or the Local Public Health Authority;

(b) Failure to cease operation of a restaurant, bed and breakfast facility or vending machine that has been closed due to uncorrected critical violations. This authority shall be limited to those critical violations identified as creating an imminent or present danger to public health and defined in OAR 333-150-0000 Section 1-201.10(18.2).

(2) For the purposes of section (1) of this rule, the term 'willful' means intentional or deliberate.

(3) The maximum civil penalty for each of the violations listed in section (1) of this rule is $500 per day of violation.

(4) Civil penalties shall be imposed in the manner provided by ORS Chapter 183 or the equivalent.

Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130
Hist.: HD 15-1995, f. 12-28-95, cert. ef. 1-1-96; OHD 18-2002, f. 12-4-02, cert. ef. 1-1-03; PH 5-2004(Temp), f. & cert. ef. 2-13-04 thru 7-30-04; PH 15-2004, f. & cert. ef. 4-9-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-157-0070
Licensing

Any license issued by the Department pursuant to ORS 624 shall expire and may be reinstated on December 31 of each year; except for temporary restaurant licenses issued pursuant to ORS 624.025.

Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-157-0080
Fees

Fees for eating and drinking establishments and other food service activities subject to ORS Chapter 624 shall be as specified in ORS Chapter 624 and as follows: Any restaurant providing food or beverage solely to children, elderly persons, indigent or other needy populations shall not be required to pay a restaurant license fee to the Department if such restaurant is:

(1) Operated by a benevolent organization as defined in ORS 624.015; and

(2) The patrons or recipients are not required to pay the full cost of the food or beverage. Such restaurants must obtain restaurant licenses and must comply with OAR 333-150-0000.

Stat. Auth.: ORS 624.100
Stats. Implemented: ORS 624.100 – 624.130
Hist.: HD 20-1986, f. 12-22-87, ef. 2-2-87; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-158-0000
Licensing and Inspections

The licensing of combination facilities shall be the responsibility of either the Department of Human Services or the Oregon Department of Agriculture in accordance with the following criteria:

(1) The establishments subject to these rules are those combination facilities as defined in OAR 333-150-0000 1-201.10(B)(11.1).

(2) A determination shall be made for each firm covered in OAR 333-150-0000 1-201.10(B)(11.1) as to which agency shall inspect and license. The determination shall be based upon which agency has statutory responsibility and authority for the predominant activities of the firm.

(3) In those instances where it is determined that either a full or limited service restaurant and/or other activity for which the Department of Human Services has authority, is predominant, the Department of Human Services shall perform the inspectional and licensing responsibilities to the exclusion of the Oregon Department of Agriculture.

(4) In those instances where it is determined that the bakery, retail grocery, food processing and/or other activities for which the Oregon Department of Agriculture has authority, is predominant, the Oregon Department of Agriculture shall perform the inspectional and licensing responsibilities to the exclusion of the Department of Human Services.

(5) The determination of the predominant activity at any combination facility subject to this agreement shall be made first by the field Environmental Health Specialists. If agreement is not reached, then it shall be referred to program supervisors of the Local Public Health Authority and the Oregon Department of Agriculture for a determination of predominant activity. If an agreement is not reached among the Local Public Health Authority and the Oregon Department of Agriculture, or if a licensed facility disagrees with the determination, the matter may be appealed to an arbitration panel composed of the Administrator of the Food and Dairy Division (or appointee), the Administrator of the Office of Environmental Public Health (or appointee), and one representative each from the Conference of Local Health Officials, an association representing the restaurant industry and an association representing the retail grocery industry. The decision of this panel shall be final except as provided in section (6) of this rule.

(6) Any licensee wishing to contest the determination of predominance by agencies may produce records of gross annual sales to support the protest and be heard by the Local Public Health Authority in accordance with ORS Chapter 183.

Stat. Auth.: ORS 624
Stats. Implemented: ORS 624.530
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-158-0010
Applicability of Rules

(1) Any facility licensed and inspected by the Department of Human Services, pursuant to OAR 333-158-0000 through 333-158-0030, shall be subject to the applicable rules under OAR Chapter 333 of the Department of Human Services for all activities subject to ORS Chapter 624. The facility shall also be subject to the applicable statutes and rules under ORS 616 and 625, and OAR 603-021-0010, 603-021-0015, 603-021-0021, 603-021-0022, 603-021-0025, 603-021-0612, 603-025-0010 through 603-025-0040, 603-025-0080 through 603-025-0190 and 603-025-0220 of the Oregon Department of Agriculture, which are hereby adopted by reference.

(2) Any facility licensed and inspected by the Oregon Department of Agriculture, pursuant to OAR 333-158-0000 through 333-158-0030, shall be subject to the applicable rules under OAR Chapter 603 of the Oregon Department of Agriculture for all activities subject to statutes administered by the Oregon Department of Agriculture and ORS Chapter 624.

Stat. Auth.: ORS 624
Stats. Implemented: ORS 624.530
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; HD 2-1997, f. & cert. ef. 1-23-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-160-0000
Destruction and Embargo of Mishandled, Adulterated or Spoiled Food and Beverage

Whenever the Department finds food or beverage for which there is probable cause to believe is adulterated, mishandled, spoiled, or otherwise potentially dangerous to health, the Department shall immediately notify the person in charge that the product is hazardous; and shall request immediate destruction of the product. If the person in charge agrees, the food or beverage shall be destroyed or removed in a manner specified by the Department:

(1) If the person in charge will not agree to destruction, an embargo order shall be placed on the food or beverage. The order shall include:

(a) A statement of the reasons for the embargo;

(b) A description of the products, their location and the amount of product embargoed;

(c) The date and time of day when the order is issued, and the signature of the inspecting Environmental Health Specialist.

(2) The product shall be marked, sealed, isolated, and otherwise identified as required by the Department to ensure that it remains off sale and is not moved prior to final disposition of the embargo.

(3) After placement of an embargo order, samples may be taken for testing by the Department.

(4) If the order of embargo does not include a notice of hearing; within 48 hours of the placement of an embargo, the person in charge shall be notified in writing that a hearing on the embargo order will be held if requested in writing within ten (10) days of the delivery of the notice.

(5) If a hearing is requested, it shall be held in accordance with ORS 183 and the model rules of the Attorney General for contested cases.

(6) If no hearing is requested as provided in section (4) of this rule, a default order for destruction shall be issued to the person in charge.

(7) Destruction or removal of embargoed product shall be done only under the direct supervision of the Department. Denaturation may be required where it is necessary to render the product unpalatable or to identify it as unfit for human consumption.

(8) Violation of any embargo or destruction order or removal of any product under embargo is grounds for closure of the facility, revocation or denial of license or criminal penalties provided under ORS 624.990.

Stat. Auth.: ORS 624
Stats. Implemented: ORS 624
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0020
Mobile Food Units, General Requirements

(1) Mobile food units shall comply with the applicable requirements in OAR 333-150-0000 and these rules. The Department of Human Services may impose additional requirements to protect against health hazards related to the conduct of the mobile food unit operation and may prohibit the sale of potentially hazardous food.

(2) There are four types of mobile food units:

(a) Class I. These mobile food units can serve only intact, packaged foods and non-potentially hazardous drinks. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed;

(b) Class II. These mobile food units may serve foods allowed under Class I and provide hot and cold holding display areas from which unpackaged foods are displayed. Self-service by customers of unpackaged foods is not allowed. Preparation, assembly or cooking of foods is not allowed on the unit;

(c) Class III. These mobile food units may serve any food item allowed under Class I and II mobile food units, and may cook, prepare and assemble food items on the unit. However, cooking of raw animal foods on the unit is not allowed;

(d) Class IV. These mobile food units may serve a full menu.

(3) All operations and/or equipment shall be an integral part of the mobile food unit. This does not preclude the use of a barbecue unit used in conjunction with a Class IV mobile food unit. The barbecue, however, may only be used under the following conditions:

(a) It must be used in close proximity to the mobile food unit;

(b) Food shall only be cooked on the barbecue. Processing, portioning, preparation, or assembly of food must be conducted from inside the mobile food unit; and

(c) A handwashing system shall be provided adjacent to the barbecue as specified in 333-150-0000 section 5-203.11(C)(1)-(6).

(4) Mobile food unit operators may provide seating for customers if a readily accessible restroom is provided. The restroom must have a handwashing facility which provides hot and cold running water and meets the requirements of OAR 333-150-0000 sections 6-301.11, 6-301.12, 6-301.20 and 6-302.11.

(5) Auxiliary storage may be provided if it is limited to impervious, nonabsorbent, covered containers stored in such a manner as to preclude contamination or infestation. Auxiliary storage shall be limited to items necessary for that day's operation. No self-service, assembly or preparation activities may occur from auxiliary storage containers.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
HD 7-1994, f. & cert. ef. 2-24-94; HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0030
Mobile Unit Operation, General

Mobile food units shall remain mobile at all times during operation. The wheels of the unit shall not be removed from the unit at the operating location. A removable tongue may be allowed if the tongue can be removed with the use of only simple tools and the tools are available on the unit at all times.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
HD 7-1994, f. & cert. ef. 2-24-94; HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0040
Base of Operation

(1) Mobile food units shall operate from a licensed restaurant, commissary or warehouse.

(2) If only prepackaged goods are sold, a warehouse may be accepted in lieu of a commissary.

(3) Notwithstanding section (1) of this rule, self-contained mobile food units may not be required to have a base of operation if the unit contains all the equipment and utensils necessary to assure the following:

(a) Maintaining proper hot and cold food temperatures during storage and transit;

(b) Providing adequate facilities for cooling and reheating of foods;

(c) Providing adequate handwashing facilities;

(d) Providing adequate warewashing facilities and assuring proper cleaning and sanitizing of the unit;

(e) Obtaining food and water from approved sources;

(f) Sanitary removal of waste water and garbage at approved locations.

(4) The ability to operate without a base of operation shall be determined by the regulatory authority.

(5) A mobile food unit may not serve as a commissary for another mobile food unit or as the base of operation for a caterer.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 20-1986, f. 12-22-86, ef. 2-2-87; HD 17-1993, f. & cert. ef. 10-14-93; HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0280
Food Transportation, General

(1) During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package is sealed.

(2) Food shall be maintained at required temperatures at all times during transport. Mobile food units that do not maintain food at temperatures required in OAR 333-150-0000 section 3-501.16 may be required to provide an on board power source, such as a battery or generator, to assure maintenance of food at proper temperatures during transit.

(3) Transport vehicles shall not be used in activities incompatible with safe and sanitary food service operations.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0680
Overhead Protection

Overhead protection shall be provided for mobile food units that are operated outdoors and where food is not covered at all times. The overhead protection shall consist of, but not be limited to, roofing, ceilings, awnings, or umbrellas. Overhead protection is not required for barbecue units that have a lid or covering that will protect foods from contamination. The overhead protection must be easily cleanable.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0880
Licensing Procedure

(1) All procedures shall be in accordance with ORS Chapter 624 in the licensure of mobile food units, commissaries and warehouses. Any license issued by the Department of Human Services pursuant to ORS 624.320 shall expire and may be reinstated on December 31 of each year.

(2) A permanent license number shall be assigned each operator of mobile food units by the regulatory authority.

(3) Each mobile food unit shall be clearly marked with the licensee's name or a distinctive identifying symbol. The lettering shall be at least two inches in height and of a color contrasting with the back-ground color. If a symbol is used, it shall be at least 12 inches in diameter or of an equivalent size. An accurate scale drawing or photograph of the symbol shall be filed with the regulatory authority.

(4) Each mobile food unit shall be clearly marked with a number for purposes of identifying each unit on inspection reports and other communications.

(5) Stored units are not subject to licensure.

(6) All vehicles used as mobile food units shall be kept in good repair and in a sanitary condition while in use.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0890
Inspection Form Procedures

(1) Violations which are observed during any sanitation inspec-tion shall be described in the space provided on a form approved by the Department of Human Services by citing the Oregon Revised Statute/Oregon Administrative Rule number violated, and by giving a brief statement of the specific problem and required corrections.

(2) Critical Violations shall result in closure of a mobile food unit, commissary or warehouse if the Assistant Director determines that an imminent danger to public health exists, and that the violation cannot be corrected immediately or an approved alternative procedure has not been implemented. For Critical Violations not resulting in closure, the time limit by which the correction must be made shall be within but not to exceed 14 days.

(3) Violations other than those specified in section (2) of this rule shall be corrected by the next Semi-annual Inspection.

(4) If a mobile food unit, commissary or warehouse is ordered Closed, the reason for closure shall be stated on the Inspection Form and signed by the Assistant Director.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0910
Closure of Mobile Food Units, Commissaries or Warehouses

(1) If the Assistant Director closes a mobile food unit, commissary or warehouse, a statement by the Department of Human Services shall be made on the Inspection Form specifying the reasons for closure. The Inspection Form must be signed and delivered to the operator or person in charge within 24 hours.

(2) When a mobile food unit is Closed, the Assistant Director shall post the inspection report on the unit. When a commissary or warehouse is Closed, the Assistant Director shall post the inspection report inside the facility. No person except the Assistant Director shall remove or alter this inspection report, or operate a mobile food unit that has been Closed.

(3) If a Critical Violation presenting an imminent danger to public health is not corrected immediately or an approved alternative procedure has not been implemented, the mobile food unit, commissary or warehouse shall be Closed.

(4) If a Critical Violation that does not result in immediate closure at the time of the Semi-annual Inspection has not been corrected within the designated time limit, the mobile food unit, commissary or warehouse shall be Closed.

(5) When a mobile food unit, commissary or warehouse has been Closed because a Critical Violation has not been corrected, it may be reopened if a Recheck Inspection by the Assistant Director confirms that all Critical Violations have been corrected.

(6) The Assistant Director shall, if requested, hold a hearing in accordance with ORS 183.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0920
Plan Review

(1) Newly constructed or extensively remodeled mobile food units, commissaries and warehouses must undergo plan review and a pre-operational inspection. Mobile food units having the sanitary approval of a recognized qualified, independent testing laboratory, or approved by the Department of Human Services will be accepted without the submission of plans.

(2) Approval from the Assistant Director to operate after the plan review process does not preclude obtaining required permits or approvals from other agencies or jurisdictions of concern.

(3) Mobile food unit operators must obtain approval from the Assistant Director to add to or change menu items served from the mobile food unit;

(4) Mobile food units that operate on a fixed route must provide an itinerary to the regulatory authority prior to licensure and at the beginning of each licensing period. Mobile food units operating at a specific or multiple locations shall provide a list of all locations to the regulatory authority.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0940
Warehouses

(1) If only prepackaged goods are sold, a warehouse may be accepted in lieu of a commissary.

(2) Warehouses shall be required to meet only those rules necessary to prevent the contamination of stored foods, single-service articles, utensils and equipment. In general, warehouses shall be exempt from the rules relating to finished walls, ceilings or storage bases, light colored surfaces, restrooms, lavatories and utility facilities, provided foods are protected from contamination from dust, insects, rodents, flooding, drainage, or other contaminants.

(3) Handling of unpackaged foods, dishwashing and ice making are prohibited in a warehouse.

(4) The Assistant Director may impose additional requirements as deemed necessary to prevent the contamination of stored foods, single-service articles, utensils, and equipment.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-0950
Memorandum of Commissary or Warehouse Usage/Verification

A Memorandum of Commissary or Warehouse Usage/Verification shall be on file with the Assistant Director for mobile units using a licensed food service facility as a commissary or warehouse. This memorandum shall be on a form approved by the Department of Human Services, and be updated at least once per year.

Stat. Auth.: ORS 624.390
Stats. Implemented: ORS 624.390
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-162-1005
Civil Penalties

(1) The Department of Human Services or a local public health authority may impose civil penalties on any person for the following willful violations:

(a) Operation of a mobile food unit, commissary, or warehouse without a current license to do so from the Department or local public health authority;

(b) Failure to cease operation of a mobile food unit, commissary, or warehouse that has been closed due to uncorrected critical violations. This authority shall be limited to those critical violations identified as creating an imminent or present danger to public health and defined in OAR 333-150-0000 Section 1-201.10(B)(18.2).

(2) For the purposes of section (1) of this rule, the term 'willful' means intentional or deliberate.

(3) The maximum civil penalty for each of the violations listed in section (1) of this rule is $500 per day of violation.

(4) Civil penalties shall be imposed in the manner provided by ORS 183 or the equivalent.

Stat. Auth.: ORS 624.992
Stats. Implemented: ORS 624.992
Hist.: HD 10-1997, f. & cert. ef. 7-8-97; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-170-0060
Plumbing

Notwithstanding provisions of OAR 333-150-0000 sections 5-202.11 and 5-402.11, existing food preparation sinks and mechanical dishwashers in Bed and Breakfast Facilities are not required to have indirect sewer connections. However, any new food preparation sinks or dishwashers installed after the effective date of these rules or existing installations in which backflow has been demonstrated may be required to comply with the Oregon State Plumbing Specialty Code. In existing food preparation sinks which are directly plumbed and where food is placed in the sink below the rim then food must be placed in a container where the rim is above the flood rim of the sink. Bed and Breakfast Facilities shall meet OAR 333-150-0000 section 5-203.14, in preventing contamination of the potable water system. New plumbing in a Bed and Breakfast Facility shall be installed and maintained in accordance with the Oregon State Plumbing Specialty Code.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 624
Stats. Implemented: ORS 624.100
Hist.: HD 6-1988, f. & cert. ef. 4-4-88; OHD 11-2002, f. & cert. ef. 8-7-02; 5-2004(Temp), f. & cert. ef. 2-13-04 thru 7-30-04; PH 15-2004, f. & cert. ef. 4-9-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0011
Program Description — General

The program is a Department-approved food handler training program provided through mechanisms such as self-training, computer-based training, or instructor-led training. The goal of the food handler training program is to provide food handlers with a basic understanding of food safety that will assist the manager or person in charge to direct the food handler in preparing and serving food safely. A certificate of program completion confirms that the food handler met the learning objectives.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0021
Definitions

(1) "Approved" means approved by the Oregon Department of Human Services.

(2) "Assessment" means to determine whether the food worker understood the concepts represented by the learning objectives. The assessment used by the program providers must be provided or approved by the Department.

(3) "Certificate of Program Completion" confirms that a person has successfully completed the food handler training program.

(4) "Certified Food Manager" means that a manager has successfully completed a Department-approved food manager program.

(5) "Computer-Based Training" means self-training through the use of a computer program or the Internet.

(6) "Designated Agent" means an individual or organization who/that has been authorized by the Department or Local Public Health Authority to provide a food handler training program and issue certificates of program completion.

(7) "Department" means the Oregon Department of Human Services Foodborne Illness Prevention Program.

(8) "Food Handler" means those persons involved in the supervision or preparation or service of food in a restaurant or food service facility licensed under ORS 624.020 or 624.320. This includes, but is not limited to, managers, cooks, wait staff, dishwashers, bartenders and bus persons.

(9) "Local Public Health Authority" means those counties to which the Department has entered into an Intergovernmental Agreement under ORS 624.510.

(10) "Program" means Department-approved food handler training program.

(11) "Program Provider" means the Department of Human Services, Local Public Health Authority or a Designated Agent.

(12) "Self-Training" means a training process wherein the individual learns without the presence or intervention of a trainer or instructor.

(13) "Trainer" means the person actively delivering food handler training to learners.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0031
Food Handler Training

(1) All food handlers employed in a restaurant, bed and breakfast, mobile unit, commissary, warehouse or vending operation must obtain a certificate of program completion from the Department, Local Public Health Authority or a Designated Agent within 30 days after the date of hire. A food handler must maintain a current certificate of program completion as long as they are employed as a food handler.

(2) A food handler certificate of program completion expires three years after the date of issuance. When a food handler's certificate of program completion expires, the food handler must successfully complete the program and pay the appropriate fee.

(3) The Department and Local Public Health Authority may provide food handler training themselves, through a Designated Agent or both.

(4) At least one person involved in the preparation or service of food in a temporary restaurant who has a valid certificate of program completion must be present at all times during the operation of the facility.

(5) A facility listed in section (1) of this rule that is operated by a benevolent organization must have at least one person with a valid food handler certificate of program completion present at all times during the preparation and service of food. This person is responsible for supervising and educating all workers in the sanitary practices used in food service.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0041
Minimum Standards for Program Providers

(1) In order for the Department or Local Public Health Authority to appoint a Designated Agent, the individual or organization must demonstrate that they have sufficient experience in food safety, food science or food service to be knowledgeable in all areas of the food handler training curriculum, and at a minimum are a certified food manager or registered environmental health specialist as defined by ORS 700. This staff member must be reasonably involved in the operation or administration of the training program delivery.

(2) Program providers must also have:

(a) The ability to provide training and an assessment; and

(b) The ability to safeguard the training and assessment materials.

(3) The Local Public Health Authority exercising duties pursuant to ORS 624.510 shall ensure that food handler training programs are provided within their jurisdiction. The Local Public Health Authority or Department who authorized a Designated Agent is responsible for the proper program administration and delivery.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0051
Content of Food Handler Training Programs

The concept of foodborne illness will be introduced. The training will address personal hygiene, contamination, and temperature control to reinforce the notion that the food handler's behaviors can prevent foodborne illness. The following learning objectives must be included in the food handler training program:

(1) Foodborne Illness.

(a) The food handler will be able to describe foodborne illness as an illness resulting from eating contaminated food.

(b) The food handler will know food contaminated with organisms (known to cause illness) does not look, smell or taste different from food not contaminated.

(c) The food handler will know that symptoms vary and may include diarrhea, vomiting, fever, cramping and nausea.

(d) The food handler will know that depending on the cause, symptoms may develop in a few minutes to several days. Symptoms may last several days and can result in death.

(e) The food handler will know that foodborne illness is caused by organisms known to cause illness, or is caused by chemicals.

(2) The Role of the Food Handler in Foodborne Illness.

(a) The food handler will be able to describe the five major mistakes that cause foodborne illness. The five major mistakes are:

(A) Inadequate handwashing;

(B) Employees working while ill;

(C) Cross contamination;

(D) Inadequate final cooking temperatures; and

(E) Inadequate temperature control (allowing foods to be in the danger zone).

(b) The food handler will be able to describe the activities performed by food handlers that prevent foodborne illness from happening. The activities that prevent foodborne illness are:

(A) Proper handwashing every time hands may have become contaminated

(B) Food handlers working only when healthy;

(C) Storing and handling of foods in a manner to prevent contamination;

(D) Cook each animal product to its required final cooking temperature; and

(E) Maintaining hot and cold temperatures (keeping foods out of the danger zone).

(3) The Role of Management.

(a) The food handler will know that the manager sets the tone of what food safety activities occur or don't occur within the facility.

(b) The food handler will know that the food service management is responsible for training and ensuring that food handlers practice the activities that prevent foodborne illness.

(4) Handwashing

(a) The food handler will be able to identify the following as the correct technique for handwashing:

(A) Use warm water and soap;

(B) Scrub hands thoroughly (approximately 15-20 seconds); and

(C) Dry hands with single-use towel, cloth towel roll or air dryer.

(b) The food handler will be able to identify the following situations for when food handlers must wash their hands:

(A) After handling raw food;

(B) After smoking, eating, or drinking;

(C) After handling dirty dishes or garbage;

(D) After cleaning or using other toxic materials; and

(E) Before putting on gloves.

(c) The food handler will be able to identify the following situations for when food handlers must wash their hands twice:

(A) After using the toilet and again when entering the work area (double handwash);

(B) After blowing nose, sneezing, coughing, or touching eyes, nose or mouth (double handwash);

(C) Before starting work (double handwash); and

(D) Anytime hands come into contact with bodily fluids including cuts and burns (double handwash).

(d) The food handler will know that food service gloves are capable of spreading germs and do not substitute for proper handwashing.

(e) The food handler will know that smoking, eating, and chewing tobacco is prohibited in food preparation and food and utensil storage areas.

(5) Employee Illness.

(a) The food handler will know to call the person in charge at the food service facility when ill with diarrhea, vomiting, fever, jaundice or sore throat with fever.

(b) The food handler will know to not work in the food service facility while ill with these symptoms.

(c) The food handler will know to not handle food with an infected cut or infected burn on the hands and wrists, unless an impermeable cover protects the lesion and a single-use glove is worn over the impermeable cover.

(6) Contamination and Cross Contamination.

(a) The food handler will be able to define and identify physical contamination as foreign objects accidentally introduced into food. Food items may arrive already contaminated with dirt, and pebbles.

(b) The food handler will be able to define and identify cross contamination as happening when microorganisms are transferred from one food or surface to another food.

(c) The food handler will be able to identify methods to prevent cross contamination such as wash, rinse, and sanitize utensils, work surfaces and equipment between uses.

(d) The food handler will be able to identify the following storage conditions that will minimize the potential for cross contamination:

(A) Store raw meats below and completely separate from ready-to-eat food in refrigeration units;

(B) Store chemicals, cleansers and pesticides completely separate from food, utensils, and single service items; and

(C) Properly label all chemicals, cleansers and pesticides.

(7) Final Cooking Temperature. The food handler will be able to identify that cooking to the recommended temperature will kill disease-causing germs.

(8) Temperature Control.

(a) The food handler will be able to identify that potentially hazardous food will support bacterial growth when held at temperatures between 41 degrees F and 140 degrees F. The danger zone is any temperature between 41 degrees F and 140 degrees F.

(b) The food handler will be able to identify that food being cooled or heated must move through the danger zone as rapidly as possible.

(c) The food handler will be able to identify 140 degrees F as the proper temperature for hot holding potentially hazardous food.

(d) The food handler will be able to identify 41 degrees F as the proper temperature for cold holding.

(e) The food handler will know that you cannot make food safe to eat when food has been in the danger zone for four hours or more.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0061
Administration of Food Handler Training Program

(1) Program providers may provide the food handler training program through a trainer-led class and assessment, self-training materials and assessment or other method approved by the Department.

(2) The Department must provide or approve all food handler training program materials, including instructional delivery methods, materials and assessment tools based on criteria established by the Department.

(3) Each food handler training assessment must determine that the food worker met the learning objectives stated in OAR 333-175-0051.

(4) When being assessed, food handlers may refer to the training manual or printed text. Food handlers may also refer to handwritten notes developed onsite during training.

(5) Upon successful completion of the program, the food handler must be allowed to keep the food handler training materials distributed.

(6) Workers with special needs may be allowed the option to take the assessment orally on specific job duties or to receive assistance in reading the assessment.

(7) A restricted certificate of program completion may be issued according to Department guidelines.

(a) The certificate must identify the specific duties that may be performed by this individual;

(b) Removal of the restrictions can be accomplished by successfully completing the food handler training program. The food handler will then be issued a new certificate of program completion.

(8) Program providers, if requested, must provide food handlers specific feedback on the assessment questions missed.

(9) Program providers will ensure that a knowledgeable person is available to answer questions about the assessment and program content. It

is not necessary that the knowledgeable person be present at all times to answer questions.

(10) Program providers will rotate the written assessment versions at least quarterly.

(11) At least triennially or when deemed necessary, the Department or Local Public Health Authority that approved the Designated Agent will perform an onsite review of the training programs. The review will examine:

(a) Written assessment security, including rotation, physical security, and compliance with availability of reference materials during assessment;

(b) Instructor qualification and availability of qualified assistance for individuals with questions on the training materials.

(12) Annually, program providers will submit information to the Department on the number of assessments taken for the year and the number of assessments passed by assessment type (e.g., language, written, oral, and online).

(13) Failure to follow rules may result in the removal of the ability of a program provider to provide food worker training:

(a) Upon failure to follow rules, unless immediately correctable, the program provider will develop a remediation plan. The Local Public Health Authority or the Department that approved the training will follow up within 90 days to ensure that the program provider is in compliance with training requirements. The Local Public Health Authority or the Department may allow for additional time to achieve compliance with the training requirements;

(b) Continued failure to achieve compliance with the training requirements will result in the termination of the program provider's training approval.

(14) Program provider shall take reasonable measures to ensure identity of food worker being assessed.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0071
Requirements for Food Handler Training Program Qualifications

(1) Any trainer providing food handler training must either be a Registered Environmental Health Specialist, Registered Environmental Health Specialist Trainee or have a current certificate of completion from an approved food manager training course or the equivalent as determined by the Department.

(2) Trainer requirements do not apply when food handlers are trained using self-training materials.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0081
Successful Completion of Food Handler Training Program

(1) In order to receive a certificate of program completion, a food handler must pass the written assessment with a minimum score of 75%.

(2) If a person successfully completes a food handler training program and pays the appropriate fee, the program provider shall issue a certificate of program completion.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0091
Reciprocity and Equivalency

(1) A food handler certificate of program completion is valid statewide.

(2) Any person who has a current certification from a Department-approved food manager training program need not obtain a food handler certificate of program completion.

(3) To be accepted in lieu of a food handler certificate of program completion, a food manager certification must be renewed every five years.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

333-175-0101
Fees

(1) Program providers may charge a fee up to a maximum of $10 per person for the administration of the program and the issuance of a certificate of program completion.

(2) Program providers shall not require a fee of any food handler listed in OAR 333-175-0091.

(3) Program providers may charge a fee for food handler materials and deduct the cost from the food handler training and certificate of program completion as long as the total cost does not exceed $10 to each individual.

(4) Notwithstanding sections (1) and (3) of this rule, program providers may assess a new program fee each time a participant takes or retakes all or part of a program or certification assessment.

(5) Program providers may charge a fee not to exceed $5 for duplicate certificates of program completion.

Stat. Auth.: ORS 624.570
Stats. Implemented: ORS 624.570
Hist.: PH 21-2004, f. & cert. ef. 6-18-04; PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

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Rule Caption: Department of Human Services revisions to the Oregon Administrative Rules for Birthing Centers.
Adm. Order No.: PH 15-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 6-27-06
Notice Publication Date: 5-1-06
Rules Amended: 333-076-0450, 333-076-0470, 333-076-0490, 333-076-0510, 333-076-0530, 333-076-0550, 333-076-0560, 333-076-0570, 333-076-0590, 333-076-0610, 333-076-0650, 333-076-0670, 333-076-0690, 333-076-0710
Subject: The Oregon Department of Human Services (DHS), Public Health Division is permanently amending their Oregon Administrative Rules relating to Birthing Centers.
Rules Coordinator: Christina Hartman—(971) 673-1291

333-076-0450
Definitions

(1) "Free Standing Birth Center" ("Birthing Center" or "Center") means any health care facility (HCF), licensed for the primary purpose of performing low risk deliveries that is not a hospital, or in a hospital, and where births are planned to occur away from the mother's usual residence following normal, uncomplicated pregnancy.

(2) "Division" means the Oregon Department of Human Services, Public Health Division.

(3) "Low Risk Pregnancy" means a normal, uncomplicated prenatal course as determined by documentation of adequate prenatal care, and anticipation of a normal uncomplicated labor and birth, as defined by reasonable and generally accepted criteria of maternal and fetal health.

(4) "Absolute risk factors" are those conditions that, if present, prohibit care in a birthing center.

(5) "Patient audit" means review of the clinical record and/or physical inspection of a client.

(6) "Reasonable and generally accepted criteria" means criteria or standards of care adopted by professional groups for maternal, fetal and neonatal health care, and generally accepted and followed by the care providers to whom they apply, and accepted by the Division as reasonable.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 26-1985, f. & ef. 10-28-85; HD 2-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0400; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0470
Licensing

(1) Application for a license to operate a Birthing Center must be in writing on a form provided by the Division, including demographic, ownership and administrative information. The form must specify such information required by the Division.

(2) No health care facility licensed pursuant to the provisions of ORS Chapter 441, may in any manner or by any means assert, represent, offer, provide or imply that such facility is or may render care or services other than that which is permitted by or that is within the scope of the license issued to such facility by the Division nor may any service be offered or provided that is not authorized within the scope of the license issued to such facility or licensed practitioner providing services in the facility.

(3) The Birthing Center license must be conspicuously posted in the area where clients are admitted.

(4) A license that has been suspended or revoked may be reissued after the Division determines that compliance with Health Care Facility laws has been achieved satisfactorily.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0490
Submission of Plans

(1) Any party proposing to make certain alterations or additions to an existing health care facility or to construct new facilities must, before commencing such alteration, addition or new construction, submit plans and specifications to the Division for preliminary inspection and approval of recommendations with respect to compliance with Division rules.

Submissions shall be in accord with, OAR 333-675-0000. Plans should also be submitted to the local building division having authority for review and approval in accordance with state building codes.

(2) Centers must keep the Division informed of any changes in ownership, organizational structure, procedures performed and privileges permitted and any information requested on the application form, in writing within 30 days of the change. Failure to notify the Division may result in revocation of license.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0510
Expiration and Renewal of License

Each license to operate a Birthing Center will expire on December 31 following the date of issue, and if a renewal is desired, the licensee must make application at least 30 days prior to the expiration date upon a form prescribed by the Division as described in OAR 333-076-0470.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0530
Denial or Revocation of a License

(1) A license for any Birthing Center may be denied, suspended or revoked by the Division when the Division finds that there has been a substantial failure to comply with the provisions of Health Care Facility licensing law.

(2) A person or persons in charge of a Birthing Center must not permit, aid or abet any illegal act affecting the welfare of the license.

(3) A license will be denied, suspended or revoked in any case where the State Fire Marshal certifies that there was failure to comply with all applicable laws, lawful ordinances and rules relating to safety from fire.

(4) A license may be suspended or revoked for failure to comply with a Division order arising from a Center's substantial lack of compliance with the rules or statutes.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0550
Return of Facility License

Each license certificate in the licensee's possession must be returned to the Division immediately on the suspension or revocation of the license, failure to renew the license by December 31, or if operation is discontinued by the voluntary action of the licensee.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0560
Classification

(1) Health care facilities licensed by the Division may neither assume a descriptive title or be held out under any descriptive title other than the classification title established by the Division and under which the facility is licensed.

(2) No change in the licensed classification of any health care facility, as set out in this rule, may be allowed by the Division unless such facility files a new application, accompanied by the required license fee, with the Division. If the Division finds that the applicant and facility comply with Health Care Facility laws and the regulations of the Division relating to the new classification for which application for licensure is made, the Division may issue a license for such classification.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0570
Hearings

Upon written notification by the Division of revocation, suspension or denial to issue or renew a license; a written request by the Center for a hearing in accordance with ORS 183.310 to 183.500 may be granted by the Division.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0590
Adoption by Reference

All rules, standards and publications referred to in this division are made a part thereof. Copies are available for inspection at the Division during office hours. Where publications are in conflict with the rules, the rules govern.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0610
Division Procedures

Inspections and investigations:

(1) Complaints:

(a) Any person may make a complaint to the Division regarding violation of health care facility laws or regulations. A complaint investigation will be carried out as soon as practicable and may include but not be limited to, as applicable to facts alleged:

(A) Interviews of the complainant, client(s), witnesses, and Center management and staff;

(B) Observations of the client(s), staff performance, client environment and physical environment; and

(C) Review of documents and records.

(b) Copies of all complaint investigations will be available from the Division provided that the identity of any complainant and any client referred to in an investigation will not be disclosed without legal authorization.

(2) Inspections:

(a) The Division may, in addition to any inspections conducted pursuant to complaint investigations, conduct at least one general inspection of each Center to determine compliance with Health Care Facility laws during each calendar year and at such other times as the Division deems necessary;

(b) Inspections may include but not be limited to those procedures stated in subsection (1)(a) of this rule;

(c) The inspection may include a client audit;

(d) When documents and records are requested under sections (1) or (2) of this rule, the Center must make the requested materials available to the investigator for review and copying.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 2-1990, f. 1-8-90, cert. ef. 1-15-90; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0630
Administration

Each Center must have a governing body or person clearly identified as being legally responsible for setting of policies and procedures, and assuring that they are implemented.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 26-1985, f. & ef. 10-28-85; HD 2-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0410; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0650
Service Restrictions

(1) Procedures permitted, including surgical procedures, must be limited to those directly pertaining to pregnancy, labor and delivery care of women experiencing low risk pregnancy. Procedures performed will be consistent with the individual practitioner's licensure and/or scope of practice. Tubal ligation and abortion must not be performed. Table I outlines absolute risk factors that, if present on admission to the birthing center for labor and delivery, would prohibit admission to the birthing center. Table II outlines absolute risk factors that, if they develop during labor and delivery, require transfer of the client to a higher level of care. Table III outlines absolute risk factors that, if they develop during the postpartum period in the mother or infant, would require transfer to a higher level of care.

(2) General, spinal, caudal, and/or epidural anesthesia must not be administered in the Center.

(3) Labor shall not be induced, stimulated, or augmented with chemical agents during the first or second stages of labor.

(4) Chemical agents may be administered within the individual practitioner's scope of practice to inhibit labor, as a temporary measure, until referral/transfer of the client is complete.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 26-1985, f. & ef. 10-28-85; HD 2-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0415; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0670
Policies and Procedures

Each Center must have a detailed Policies and Procedures Manual in easily accessible form, that has been approved by the governing body or person. In order to be approved by the Division for licensing purposes, these policies and procedures must meet North American Registry of Midwives (NARM) standards. All the above noted policies must be made available to representatives of the Division on request, and subject to their

approval. Failure of approval will be adequate reason for the finding of deficiencies that must be corrected for continuation of licensure. The policies must be implemented as applicable, and there must be documented evidence of implementation of the above noted policies. The policies and procedures that will be developed as applicable and implemented include:

(1) A detailed organizational chart that shows the governing body or person, and clearly delineates lines of authority, responsibility and accountability for each position included in the organization, including volunteers.

(2) Staffing — The governing body or person must ensure, through the policies and procedures, that there are adequate numbers of qualified and, where required, licensed or registered personnel on duty and immediately available to provide services intended for mothers and families, and to provide for safe maintenance of the Center.

(3) Detail of procedures to be permitted, and by whom, and method of determining the qualifications and privileges of all personnel. Staff will be required to provide documented evidence of such qualifications. Such evidence must be maintained by the Center.

(4) System for ensuring 24-hour coverage of the Center, including constant attendance by qualified attendants while a client is in the Center.

(5) System for training and for continuing education for all personnel according to their assigned duties and evaluation of skills consistent with the individual practitioners' scopes of practice. All personnel providing direct client care must be trained in cardiopulmonary resuscitation (CPR) and there must be a record of current CPR certification. In addition there must be present at each birth one practitioner trained in care and resuscitation of the newborn.

(6) System delineating how and when the Center will seek consultation with clinical specialists in obstetrics and pediatrics in order to ensure that all services, policies, and procedures meet North American Registry of Midwives (NARM) standards.

(7) Protocol for referral or transfer to appropriate health care facilities all clients whose risk status exceeds that for "low risk pregnancy."

(8) Procedures by which risk status will be assessed during the antepartal, intrapartal, and post partum period, and the identification of medical and social factors which exclude women, fetuses and newborns from the low-risk group; and for the annual review of these methods. Documentation of such assessments must be maintained in client's clinical records. Only those clients for whom prenatal and intrapartum history, physical examination, and laboratory screening procedures have demonstrated a low risk pregnancy and labor will be accepted into the Center for childbirth.

(9) System by which the Center will ensure the presence and continuing maintenance, as recommended by the manufacturer(s), of equipment needed to provide low risk maternity care, and to initiate emergency procedures in life-threatening events to the mother or baby.

(10) Plan and protocols for ensuring that emergency situations in either the mother or newborn are recognized in a timely fashion, and care is provided within the limits of the practitioner's scope of practice.

(11) System delineating how emergency transportation will be promptly available for transport of the mother and/or newborn to a health care facility with the capacity for emergency care of women, in all the stages of labor, and newborns. The written policy must include a listing of situations for the mother and/or newborn that would have the potential to necessitate emergency transfer. The policy must also include the requirement that a transfer plan for each patient be developed.

(12) Systems for ensuring the orientation and education of women and families registering for care at the Center so that they will be informed as to the benefits and risks of the services available to them at the Center and the qualifications and licensure status of practitioners at the Center. They must be fully informed of the risk criteria as defined in OAR 333-076-0650 and provide written consent. The client, as a part of the informed consent, must also agree in advance to transfer to another clinician or appropriate health care facility, should the need occur due to the development of unexpected risk factors after admission to the Center. The client must be informed of the benefits and risks of such a transfer.

(13) System for the sterilization of equipment and supplies, unless only pre-packaged and pre-sterilized items are used.

(14) System to ensure the performance of appropriate laboratory studies and to ensure that the results are available in a timely manner.

(15) System for the storage and administration of drugs. All medications must be prescribed and/or administered within the individual practitioner's licensure and/or scope of practice.

(16) System to ensure the timely administration of Rh immune globulin to the mother, where applicable.

(17) System to ensure the timely appropriate administration of Vitamin K to the newborn, according to rules of the Division.

(a) The purpose of ORS 433.303 to 433.314 is to protect newborn infants against hemorrhagic disease of the newborn.

(b) The Vitamin K forms suitable for use are forms of Vitamin K1 (Phytonadione), available in injectable or oral forms: as Mephyton for oral use, or as aquamephyton or konakion for injectable use. The Vitamin K dose is to be administered within the first 24 hours of delivery. Menadione (Vitamin K3) is not recommended for prophylaxis and treatment of hemorrhagic disease of the newborn.

(c) The dose of any of the Vitamin K1 forms to be administered is one dose of 0.5 to 1.0 mg., if given by injection, or one dose of 1.0 to 2.0 mg. if given orally.

(d) A parent may, after being provided a full and clear explanation, decline to permit the administration of Vitamin K based on religious tenets and practices. In this event, the parent must sign a form acknowledging his/her understanding of the reason for administration of Vitamin K and possible adverse consequences in the presence of a person who witnessed the instruction of the parent, and who must also sign the form. The form must become a part of the clinical record of the newborn infant.

(18) System to ensure the timely and appropriate collection of blood from the newborn for testing by the State Laboratory, Newborn Screening Program, for the Metabolic Diseases listed in 333-024-0210.

(19) Protocol delineating the steps to ensure the prompt and safe evacuation of the Center in the event of emergency situations, such as fire. The Center must ensure the evaluation of staff in managing such situations by periodic drills for fire, and/or other emergencies. Such drills must be documented.

(20) System of infection control to address the prevention and early recognition of the possibility of infection, and timely and acceptable methods of control. This includes written documentation of the problem, and measures taken for control, and must at least meet the requirements of the rules of the Division. Documentation must also include methods for the control and prevention of cross-infection between clients and services in accordance with 2003 Center for Disease Control and Prevention "Guidelines for Environmental Infection Control in Health-Care Facilities."

(21) System to be used for the prevention of Ophthalmia Neonatorum in the newborn OAR 333-019-0036(2). Prophylaxis for Gonococcal Ophthalmia Neonatorum:

(a) The practitioner attending the birth of an infant must, after evaluating the infant as being at risk and within two hours of delivery, instill appropriate prophylactic antibiotic ointment from single patient use applicators into each eye of the newborn infant;

(b) Parent(s) refusing to allow prophylaxis for their infant(s) must be informed, by the attending Health Care Provider, of the risks attendant to such action and must sign a witnessed affidavit to testify that they have been so informed and nonetheless refuse to allow prophylaxis.

(c) If Vitamin K and/or Gonococcal Ophthalmia Neonatorum Prophylaxis cannot be administered by the individual delivering the newborn, methods must be described to ensure that these services are arranged by referral.

(22) System to ensure that appropriate vital records are filed according to the rules of the Division.

(23) System for a semi-annual clinical record audit to evaluate the care process and outcome.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 26-1985, f. & ef. 10-28-85; HD 2-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0420; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0690
Health and Medical Records

Health and Clinical Records must be developed according to procedures outlined in the Policy and Procedures Manual as a legal record and an instrument for the continuity of care and must include:

(1) Contents — The records of each client must contain:

(a) Demographic data, initial prenatal physical examination, laboratory tests and evaluation of risk status;

(b) Continuous periodic prenatal examination and evaluation of risk status;

(c) A signed informed consent (refer also to OAR 333-076-0670(12));

(d) History, physical examination and risk assessment on admission to the Center in labor (including assessment of mother and fetus);

(e) Continuous assessment of the mother and fetus during labor and delivery;

(f) Labor summary;

(g) The emergency transport plan for the client;

(h) Physical assessment of newborn, including Apgar scores and vital signs;

(i) Post partum evaluation of the mother;

(j) Discharge summary for mother and newborn;

(k) Documentation of consultation, referral, and/or transfer;

(l) Signed documents as may be required by law; and

(m) Records of newborn and stillborn infants must include, in addition to the requirement for medical records, the following information:

(A) Date and hour of birth, birth weight and length of infant, period of gestation, sex, and condition of infant on delivery;

(B) Mother's name;

(C) Record of ophthalmic prophylaxis and Vitamin K administration or refusal of same; and

(D) Progress notes including:

(i) Temperature, weight and feeding data;

(ii) Number, consistency and color of stools;

(iii) Urinary output;

(iv) Condition of eyes and umbilical cord;

(v) Condition and color of skin; and

(vi) Motor behavior.

(2) All entries in a client's labor record must be dated, timed, and authenticated. Verification of an entry requires use of a unique identifier, i.e., signature, code, thumbprint, voice print or other means, that allows identification of the individual responsible for the entry.

(3) A single signature or authentication of the responsible practitioner on the clinical record does not suffice to cover the entire content of the record.

(4) The completion of the clinical record must be the responsibility of the attending practitioner.

(5) The Center will ensure that the prenatal and intrapartal records are available at the time of admission and in the event of transfer to the care of another clinician or health care facility.

(6) Storage — The records will be stored in such a way as to minimize the chance of their destruction by fire or other source of loss or damage and to ensure prevention of access by unauthorized persons.

(7) Records are the property of the Center, and will be kept confidential unless released by the permission of the client. An exception is that they may be reviewed by representatives of the Division, and will be provided in copy form to such representatives on request.

(8) All clinical records must be kept for a period of at least twenty-one years after the date of last discharge. Original clinical records may be retained on paper, microfilm, electronic or other media.

(9) If a Center changes ownership all clinical records in original, electronic, or microfilm form must remain in the Center, and it must be the responsibility of the new owner to protect and maintain these records.

(10) If a Birthing Center must be closed, its clinical records may be delivered and turned over to any other health care facility in the vicinity willing to accept and maintain the same as provided in section (8) of this rule.

(11) If a qualified clinical record practitioner, RHIA (Registered Health Information Administrator) or RHIT (Registered Health Information Technician) is not the Director of the Clinical Records Department, the Division may require the Center to obtain periodic and at least annual consultation from a qualified clinical records consultant, RHIA/RHIT. The visits of the clinical records consultant must be of sufficient duration and frequency to review clinical record systems and assure quality records of the clients. Contract for such services must be available to the Division.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 26-1985, f. & ef. 10-28-85; HD 2-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0425; PH 15-2006, f. & cert. ef. 6-27-06

333-076-0710
Physical Facility

(1) Design — The Center may be an adaptation of a house. It must include birthing rooms of adequate size to meet the needs to accomplish the procedures specified in the Policies and Procedures and must meet applicable codes for ordinary construction and for water supply and sewage disposal. The building and equipment must be kept clean and in good repair. The Center must include:

(a) Toilet facilities for staff, mothers and families;

(b) Bath facilities;

(c) Hand washing facilities and single use towel dispensers adjacent or closely available to all examining or birth rooms;

(d) Examination areas;

(e) Laundry facilities (unless laundry is done elsewhere);

(f) Kitchen facilities;

(g) Adequate storage areas for emergency equipment;

(h) Separate storage for clean/sterile supplies and equipment;

(i) Storage areas for laboratory equipment and sterilizing, if applicable;

(j) Space for resuscitation of the newborn; and

(k) Reception and family facilities.

(2) Client Environment:

(a) There must be provided for each client a good bed, mattress and pillow with protective coverage, and necessary bed coverings;

(b) No towels, wash cloths, bath blankets, or other linen which comes directly in contact with the client will be interchangeable from one client to another unless it is first laundered;

(c) The use of torn or unclean bed linen is prohibited; and

(d) After the discharge of any client, the bed, bed furnishings, bedside furniture and equipment must be thoroughly cleaned and disinfected prior to reuse. Mattresses must be professionally renovated when necessary.

(3) Provision must be made for the safe disposal of any bodily wastes that result from procedures performed in accordance with Centers for Disease Control and Prevention recommendations and state law.

(4) Fire and Safety — State and local fire and life-safety codes apply with specific attention to demonstration of adequate ingress and egress of occupants, placement of smoke alarms, emergency lighting, fire extinguishers or sprinkler systems, fire escape routes, and fire reporting plans. The Center must have an emergency plan in effect on premises available to all staff. There must be evidence of an annual fire inspection.

(5) Emergency Access — Hallways and doorways must be so sized and arranged as to ensure the reasonable access of equipment in the event of the need for emergency transport.

Stat. Auth.: ORS 441 & 442
Stats. Implemented: ORS 441 & 442
Hist.: HD 26-1985, f. & ef. 10-28-85; HD 2-1990, f. 1-8-90, cert. ef. 1-15-90, Renumbered from 333-076-0430; PH 15-2006, f. & cert. ef. 6-27-06

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Rule Caption: WIC Vendor Administration.
Adm. Order No.: PH 16-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06 thru 12-27-06
Notice Publication Date:
Rules Amended: 333-054-0020, 333-054-0030
Subject: The Oregon Department of Human Services, Public Health Division is temporarily amending Oregon Administrative Rule, 333-054-0020 to:

(1) Update the new vendor selection criteria regarding competitive pricing;

(2) Correctly identify the rules under which an applicant may be exempt to ensure adequate participant access; and

(3) Clarify that the Oregon program for Women, Infants and Children (WIC) will no longer be authorizing new vendors who are likely to derive more than 50% of their annual food revenue from WIC transactions.

Oregon Administrative Rule, 333-054-0030, is being temporarily amended to update the criteria used by the Department when making price adjustments on improperly redeemed food instruments.
Rules Coordinator: Christina Hartman—(971) 673-1291

333-054-0020
Vendor Participation

(1) Only authorized vendors may accept food instruments in exchange for authorized foods.

(2) Application:

(a) An applicant shall submit a completed application to DHS, which includes:

(A) An application form;

(B) A Vendor Price List;

(C) A sample of the applicant's current bank endorsement stamp or other method of endorsement approved by DHS, listing the specific store name and store number;

(D) A current Food Stamp Authorization number; and

(E) Any other documents or information required by DHS.

(b) DHS may limit the periods during which applications for vendor authorization will be accepted and processed. DHS will process applications, outside of the limited application period, when it determines the applicant's store is necessary to ensure adequate participant access in a specific geographic location.

(3) Selection Criteria: In order for DHS to consider authorizing an applicant, the applicant shall:

(a) Demonstrate and maintain competitive pricing as determined by DHS based on redemption prices of individual authorized foods within the peer group appropriate to the applicant's characteristics;

(b) Possess a current bank account number;

(c) Ensure the store has adequate refrigeration facilities;

(d) Not have, within the previous six years, a criminal conviction or civil judgment involving fraud or any other offense related to the applicant's business integrity or honesty;

(e) Possess a current FSP authorization number. Pharmacies shall be exempt from this selection requirement due to the nature of the services they provide for the WIC Program;

(f) Not have a history of serious violations with either the WIC Program or Food Stamp Program;

(g) Not be currently disqualified from participation in another state's WIC Program. DHS shall not authorize an applicant that has been assessed a CMP in lieu of disqualification by another state WIC Program until the period of the disqualification that would otherwise have been imposed has expired;

(h) Not be currently disqualified from participation in the Food Stamp Program. DHS shall not authorize an applicant that has been assessed a FSP civil money penalty in lieu of disqualification until the period of the disqualification that would otherwise have been imposed has expired;

(i) Have a fixed location for each store;

(j) Stock representative items from all food categories specified on the Vendor Price List. Minimum quantities specified on the Vendor Price List shall be stocked or on order before authorization of an applicant:

(A) DHS may grant a written exception if the applicant is able to provide documentation that appropriate stock was on order at the time of the initial on-site review and will be in the store within 7 days;

(B) DHS may grant a written exception to this requirement for cases where there is no participant need in the applicant's area for a specific authorized food item, such as infant formula. DHS shall determine participant need based on the local agency's input regarding a vendor request for exception, vendor redemption data relative to the vendor's request, and the number of infants using formula in the vendor's store's zip code. If a local agency notifies the vendor of a specific need for that authorized food item, the vendor will ensure that the authorized food item is available within 7 days of the request;

(C) Pharmacies are exempt from this requirement; however, they shall obtain infant formula, including formula that requires a prescription, within 72 hours of a DHS or participant request.

(k) An applicant's store which is necessary to ensure adequate participant access may be exempt from OAR 333-054-0020(3)(a);

(l) An applicant must purchase infant formula, which is to be sold to WIC shoppers, only from manufacturers, wholesalers, distributors, and retailers authorized by the Oregon WIC Program;

(m) MT 50's may only provide incentive items, as approved by the State agency, that were obtained by the vendor at no cost (free) to the vendor. Minimal customary courtesies of the retail food trade, such as bagging supplemental food for the participant, or helping the shopper load groceries into the cart are exceptions to this rule; and

(n) An applicant that is likely to derive more than 50% of the store's annual food revenue from WIC transactions will not be authorized, except for cases of participant access hardship as determined solely by DHS. An MT 50 vendor that was authorized prior to December 8, 2004 is exempt from this selection criterion.

(4) Authorization Requirements:

(a) DHS or the local agency shall conduct a documented on-site visit prior to, or at the time of, authorization of an applicant, including evaluating the inventory and condition of authorized foods and providing the applicant with the WIC Program information prior to or at the time of authorization;

(b) DHS shall conduct a live interactive training prior to or at the time of authorization. DHS shall designate the date, time, and location of the training, except that DHS shall provide the vendor with at least one alternate date on which to attend such training; and

(c) Once authorized, the vendor shall remain in compliance with the current selection criteria set forth in OAR 333-054-0020(3) for the duration of the vendor agreement. DHS shall disqualify the vendor at any time the vendor does not meet the current selection criteria.

(5) Application Denials: DHS shall give the applicant written notification of denial, in conformance with ORS Chapter 183, as otherwise provided in these rules, DHS may deny an applicant authorization for reasons including, but not limited to, the following:

(a) The applicant's failure to meet the selection criteria;

(b) The applicant's failure to meet all of the WIC rules initially or for the duration of the vendor agreement;

(c) The applicant's store or business has been sold by its previous owner in an attempt to circumvent a WIC Program sanction. In making this determination, DHS may consider such factors as whether the applicant's store or business was sold to a relative by blood or marriage of the previous owner(s) or sold to any person for less than its fair market value;

(d) The applicant's history of redemption of food instruments;

(e) The applicant's refusal to accept training from the WIC Program; or

(f) The applicant's misrepresentation of information on the application.

Stat. Auth.: ORS 291.003, 431.110, 431.250 & 409.600
Stats. Implemented: ORS 409.600
Hist.: HD 7-1993, f. & cert. ef. 6-11-93; OHD 17-2001, f. 8-02-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 7-2005(Temp), f. & cert. ef. 5-2-05 thru 10-28-05; PH 16-2005, f. & cert. ef. 10-28-05; PH 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06

333-054-0030
Vendor Agreements

(1) Each applicant who has been approved for authorization shall sign a vendor agreement. The term of a vendor agreement shall not exceed three years. The vendor agreement shall be signed by a representative of DHS and a representative of the vendor who has the legal authority to sign the vendor agreement and obligate the applicant to the terms of the vendor agreement.

(2) A vendor shall apply for authorization prior to the expiration of each vendor agreement and shall meet the selection criteria in effect at the time of each application. DHS or local agency shall provide a vendor with not less than 15 days advance written notice of the expiration of its vendor agreement.

(3) In the event of any change in store facilities which adversely impacts participants' ability to transact food instruments, (including, but not limited to: store remodel, building damage, and equipment failure) DHS shall disqualify the vendor.

(4) DHS shall immediately terminate the vendor agreement if it determines that the vendor has provided false information in connection with its application for authorization.

(5) Either DHS or the vendor may terminate the vendor agreement for cause after providing at least 15 days advance written notice to the other party.

(6) DHS shall terminate a vendor agreement when DHS determines that there is an inappropriate relationship, real or apparent, which jeopardizes the fair and objective administration of the program between a vendor and DHS or any of its local agencies.

(7) When a vendor has more than one store location, the vendor agreement shall include a list of each store's name and location. Individual store locations may be added or deleted, by amendment to the vendor agreement or disqualification of an individual store location, without affecting the remaining store locations. Each store location included in the vendor agreement shall meet all applicable laws and rules.

(8) Neither DHS nor the vendor is obligated to renew the vendor agreement.

(9) The vendor agreement does not constitute a license or property interest.

(10) DHS may terminate the vendor agreement if a vendor has not been selected for regular use by at least five (5) authorized shoppers during the six-month period prior to the agency's review.

(11) Vendor Responsibility. A vendor shall:

(a) Comply with all applicable federal and state laws, rules and regulations, in addition to the terms of the vendor agreement;

(b) Be accountable for any intentional or unintentional action of its owners, officers, managers or employees, with or without the knowledge of management, who violate the vendor agreement or federal or state statutes, regulations, policies or procedures governing the Program. The vendor is also accountable for the actions of anyone who works as a checker, whether they are paid or not;

(c) Designate one person, at each authorized vendor location, to serve as the designated trainer. The designated trainer shall train all checkers and other staff involved with WIC transactions regarding the handling of food instruments. The vendor or its designated trainer shall promptly inform employees of changes in the WIC Program, including changes to the WIC Authorized Food List;

(d) Ensure that the designated trainer and store manager or other management employee participate in training prior to, or at the time of, the vendor's first authorization and annually thereafter. During the period in which a vendor agreement is in effect, DHS shall conduct at least one live interactive training for that vendor. DHS shall designate the date, time, and location of the training, except that DHS shall provide the vendor with at least one alternate date on which to attend such training;

(e) At all reasonable times, provide DHS' authorized representative or federal government official access to the vendor's facilities, books, records and documents. The vendor shall provide the above entities and individuals access to food instruments negotiated on the day of review, shelf price records, financial records and other documents that DHS or federal officials determine are pertinent to determining a vendor's compliance. The vendor shall also, upon request, furnish to DHS, within two days, verification of

total vendor purchases of specific items in order to justify amounts claimed as WIC Program purchases;

(f) For a period of three years, maintain purchase and receiving records, including, but not limited to, inventory records showing all wholesale and retail purchases, state and federal tax returns, and other pertinent records that substantiate the volume and prices charged for redeemed food instruments. In the case of retail purchases, the vendor shall provide receipts specifying the authorized food item purchased, quantity, unit price and date of purchase;

(g) Notify DHS in writing of any change in ownership, store name, store location or permanent store closure at least 30 days prior to the effective date of the change:

(A) In the event of a cessation of operations or any change in ownership, the legal authority obligating the vendor, or store location, the vendor agreement shall be terminated;

(B) In the event of a name change for any store the vendor shall, within 60 days of the change, ensure that the store's outside sign bears the same name as that listed on the vendor agreement; and

(C) If the vendor closes any store listed in the vendor agreement, which contains more than one store location, the vendor shall notify DHS in writing of the closed store's name, address, and telephone number. This written notification shall be considered an amendment of the vendor agreement unless disapproved in writing by DHS within 15 days of DHS' receipt of the vendor's notification.

(h) Notify DHS in the event of any change in store facilities which adversely impacts participants' ability to transact food instruments, (including, but not limited to: store remodel, building damage, or equipment failure), by no later than 5 p.m. the next business day;

(i) Not sell expired authorized food or infant formula to authorized shoppers;

(j) Mark all authorized foods with the price charged for these products to the general public or prominently display the price of the foods near the location of the foods in clear view of customers and in a manner that clearly identifies the price with the specific food item;

(k) Upon DHS' request, complete and return a Vendor Price List by the deadline set by DHS;

(l) Maintain the premises in a sanitary condition;

(m) Not retain WIC identification or any information that identifies a shopper as a WIC participant or disclose information regarding a client of the WIC Program to any person other than DHS, its representatives or a federal official. This includes not displaying food instruments for any reason;

(n) Not engage in any conduct that would discriminate against any authorized shopper or participant based on the individual's race, color, national origin, gender, age, and disability. Complaints of discrimination will be forwarded to the USDA for follow-up in accordance with 7 CFR § 246.8(b).

(o) Use the "WIC" acronym or logo only as follows:

(A) To identify the vendor as an authorized WIC vendor;

(B) To identify authorized food items by attaching shelf-talkers stating "WIC-approved" or "WIC-eligible" to store shelves.

(p) Not use the "WIC" acronym and/or logo in any way that might give the impression to WIC shoppers that the store location is:

(A) Owned by the Oregon WIC Program;

(B) Operated by the Oregon WIC Program;

(C) Officially endorsed by the Oregon WIC Program; or

(D) Preferred by the Oregon WIC Program.

(q) Comply with investigations by federal or state officials;

(r) Implement corrective action as directed by DHS within 30 days from the issuance of a "Notice of Non-Compliance;"

(s) MT 50's are prohibited from offering incentive items, including food items or other free merchandise, to WIC shoppers unless the vendor provides DHS with proof that these items were obtained at no cost to the vendor and DHS approves the provision of the incentive items. The provision of cash gifts, lottery tickets, transportation, and delivery are not allowable incentives.

(A) MT 50's must maintain and provide documentation for each incentive item, such as a statement from the source that the item was provided at no cost to the MT 50.

(B) MT 50's may not circumvent this requirement by soliciting someone else to purchase and then donate the item for the store's use;

(t) All vendors must maintain and provide documentation of food sales throughout the agreement period; and

(u) All vendors must maintain and provide documentation, such as invoices and receipts, showing source(s) of infant formula purchases.

(12) Redemption of food instruments. A vendor shall:

(a) Require each authorized shopper to produce that individual's WIC identification card prior to the transaction. The vendor shall not require the authorized shopper to provide any other identification or information in addition to the WIC identification card in order to use the food instrument;

(b) Not allow any employee, owner, or person with an interest in the business, who is also an authorized shopper, to redeem a food instrument for which he or she is an authorized shopper;

(c) Complete all food instrument transactions at the authorized store location. The vendor shall not deliver food purchased with food instruments to WIC participants unless the transaction was completed at the store location before delivery, no extra charge is added to the purchase price, and the service is also offered to non-WIC shoppers. This service is not allowed for MT 50 vendors;

(d) Refuse to accept food instruments that appear to be altered;

(e) Accept only valid food instruments made payable to "Any Authorized Oregon WIC Vendor;"

(f) Accept only food instruments within the time period indicated in the "First Day To Use" and "Last Day To Use" boxes. The vendor shall refer the authorized shopper back to the local clinic if either of these dates is missing;

(g) Ensure authorized shoppers receive the same treatment as provided to other customers such as honoring manufacturer's coupons, in-store specials or store promotions and not requiring separate lines for WIC authorized shoppers;

(h) Not accept any food instrument in exchange for alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances, as defined in 21 U.S.C. § 802;

(i) Not accept any food instrument in exchange for credit or non-food items other than those listed in section (12)(h) of this rule;

(j) Not accept any food instrument in exchange for food items or quantities other than those specifically identified on the food instrument, including charging the WIC Program for supplemental food in excess of those listed on the food instrument;

(k) Ensure that only those brand names and food types listed on the WIC Authorized Food List are purchased;

(l) Not influence the authorized shopper's choice of authorized foods;

(m) Not charge authorized shoppers for authorized foods obtained with food instruments;

(n) Not charge DHS more than the vendor's current shelf price or the advertised sale price, whichever is lower, for authorized food purchases;

(o) Not include sales tax or container deposits as part of the purchase price of the authorized foods listed on the food instrument;

(p) Write the actual purchase price in the designated box on the food instrument before the authorized shopper signs the food instrument. The purchase price shall include only the authorized food items actually provided to the authorized shopper at the time of the transaction;

(q) Duly witness the authorized shopper's signature at the time of the transaction, in the designated box, on the front of any food instrument accepted for payment and compare that signature with the signature on the WIC Program identification card, ensuring that these signatures match;

(r) Provide the authorized shopper with a receipt for foods purchased with a food instrument;

(s) After each transaction, return the WIC Program identification card to the authorized shopper; and

(t) Stock appropriate quantities of authorized foods and infant formula as specified on the "WIC Minimum Stock Requirements" document.

(13) Post-redemption of food instruments. A vendor shall:

(a) Not contact the shopper after the transaction has been completed, or ask the local WIC clinic to intercede, to correct an error that was made during the transaction, such as a missing signature;

(b) Not provide a refund or exchange for an authorized food item obtained with a food instrument, except for an exchange of an identical authorized food item when the original authorized food item is defective, spoiled, or has exceeded its "sell by," "best if used by," or other date limiting the sale or use of the food item. An identical authorized food item means the exact brand and size as the original authorized food item obtained and returned by the authorized shopper;

(c) Not alter any food instrument, including by use of correction fluid;

(d) Prior to deposit of a food instrument, stamp each food instrument with the vendor's unique DHS-approved 4-digit number in the designated area on the front of the food instrument;

(e) Prior to deposit of the food instrument, endorse the back of each redeemed food instrument with the store's bank endorsement stamp or other method of endorsement approved by DHS;

(f) Deposit each redeemed food instrument into the vendor's bank within the time period designated on the front of the food instrument; and

(g) Not deposit a food instrument for reimbursement for foods or formula not received by an authorized shopper.

(14) Improperly redeemed food instruments:

(a) DHS may make price adjustments in order to comply with price limitations in accordance with the vendor agreement;

(b) DHS may deny reimbursement to the vendor for improperly redeemed food instruments or may demand refunds for reimbursements already made on improperly redeemed food instruments. In addition to denying payment or assessing a claim, DHS may sanction the vendor for overcharges or other errors in accordance with OAR 333-054-0060;

(c) The vendor shall reimburse DHS, within 30 days of DHS' written request, for amounts paid by DHS to the vendor on improperly redeemed food instruments and for unsubstantiated volumes of authorized foods;

(d) When DHS denies reimbursement for a food instrument or requests payment for an improperly redeemed food instrument, the vendor shall have an opportunity to provide DHS with written justification for the error. A vendor shall submit the written justification, along with the returned food instrument, within the timeframe on the front of the food instrument; and

(e) The vendor shall not seek restitution from an authorized shopper or participant for a food instrument that has not been or will not be reimbursed or partially reimbursed by DHS, or for which DHS has requested repayment from the vendor.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 291.003, 431.110, 431.250 & 409.600
Stats. Implemented: ORS 409.600
Hist.: HD 7-1993, f. & cert. ef. 6-11-93; OHD 17-2001, f. 8-2-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 7-2005(Temp), f. & cert. ef. 5-2-05 thru 10-28-05; PH 16-2005, f. & cert. ef. 10-28-05; PH 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06

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Rule Caption: Establishing rules governing the design, construction and operation of public wading pools.
Adm. Order No.: PH 17-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 1-1-06
Rules Adopted: 333-060-0500, 333-060-0505, 333-060-0510, 333-060-0515
Rules Amended: 333-060-0015, 333-060-0020, 333-060-0035, 333-060-0045, 333-060-0050, 333-060-0060, 333-060-0065, 333-060-0075, 333-060-0110, 333-060-0120, 333-060-0150, 333-060-0160, 333-060-0220
Subject: The Oregon Department of Human Services, Public Health Division, is permanently establishing rules specific to the design, construction, maintenance and operation of public wading pools.

Existing rules in Oregon Administrative Rules, chapter 333, division 060, Public Swimming Pools, have also been permanently amended to reflect new Department terminology and to update references.
Rules Coordinator: Christina Hartman—(971) 673-1291

333-060-0015
Definitions

As used in these rules unless otherwise required by context:

(1) "Administrator" means the State Public Health Director or designee of the Department of Human Services.

(2) "Approved" means approved in writing by the Division.

(3) "Athletic club" means a facility constructed to provide athletic or physical conditioning for its members, guests and/or patrons. It includes but is not limited to racquetball clubs, health spas, fitness facilities, aerobics, etc.

(4) "Bathhouse" means a structure which contains dressing rooms, showers and toilet facilities for use with an adjacent public swimming pool.

(5) "Builder" means a person who, in the pursuit of an independent business, undertakes, or offers to undertake, or submits a bid, to construct, alter, repair, or improve any public swimming pool, spa pool or bathhouse and the appurtenances thereto.

(6) "Cross connection" means an unprotected connection between the piping carrying potable water and the piping or fixtures which carry other water or other substances.

(7) "Division" means the Department of Human Services, Oregon State Public Health Division.

(8) "General-use Public Swimming Pool" means any public swimming pool other than limited-use public swimming pool. Public swimming pools operated in conjunction with a companion facility but not limited to use of the residents, patrons or members of the companion facility are general-use swimming pools.

(9) "Guest protection zone" means a defined and prescribed area of a swimming pool or aquatic feature. A designated lifeguard is responsible for scanning a guest protection zone. Scanning refers to the actions performed by the lifeguard to visually survey and continuously and comprehensively monitor the guest protection zone.

(10) "10/20 guest protection standard" means a nationally recognized professional lifeguarding system which enables and requires a lifeguard to consistently and completely scan his/her assigned guest protection zone within 10 seconds and, should the guest need assistance, reach the guest to begin managing an incident within 20 seconds.

(11) "Horseplay" means any unsafe activity which in the opinion of the Division or the pool operator endangers the pool users and/or bystanders.

(12) "Instructor" means a currently certified American Red Cross Water Safety Instructor, YMCA Swim Instructor, or a person having equivalent certification as determined by the Division.

(13) "Lifeguard" means a currently certified American Red Cross Lifeguard, National Pool and Waterpark Lifeguard, YMCA Lifeguard or a person having equivalent certification as determined by the Division.

(14) "Limited-use Public Swimming Pool" means any public swimming pool located at and operated in connection with a companion facility such as a residential housing facility having five or more living units, travelers' accommodations, mobile home park, recreation park, boarding school, organizational camp, dude ranch, club or association where use of the pool is limited to residents, patrons or members of the companion facility.

(15) "Person" includes, in addition to the definition in ORS 174.100, municipalities, recreation districts, counties and state agencies, instrumentalities, or builder.

(16) "Private Swimming Pool" means any swimming pool, wading pool or spray pool owned by no more than four individuals, either jointly, individually or through association, incorporation or otherwise, and operated and maintained in conjunction with a companion residential housing facility having no more than four living units, for the use of the occupants thereof and their personal friends only. Private pools shall not be subject to the provisions of these rules.

(17) "Public Spa Pool" means any public swimming pool or wading pool designed primarily to direct water or air-enriched water under pressure onto the bather's body with the intent of producing a relaxing or therapeutic effect.

(18) "Public Swimming Pool" means an artificial structure, and its appurtenances, which contains water more than two feet (600mm) deep which is expressly designated or which is used with the knowledge and consent of the owner or operator for swimming or recreational bathing and which is for the use of any segment of the public. "Public swimming pool" includes, but is not limited to, swimming pools owned or operated by:

(a) Traveler's accommodations;
(b) Recreation parks;
(c) Colleges;
(d) Schools;
(e) Organizational camps as defined in ORS 446.310;
(f) Clubs;
(g) Associations;
(h) Business establishments for their patrons or employees;
(i) Private persons and that are open to the public;
(j) Recreation districts;
(k) Municipalities;
(l) Counties; or
(m) A state agency.

(19) "Public Wading Pool" means an artificial structure, and its appurtenances, which contains water less than two feet (600mm) deep which is expressly designated or which is used with the knowledge and consent of the owner or operator for wading or recreational bathing and which is for the use of any segment of the public, whether limited to patrons of a companion facility or not. Special types of wading pools include but are not limited to:

(a) "Spray Pool" or "Water Playground" meaning a wading pool containing spray features intended for recreational use, but that does not allow water to pond in the basin. Spray pools or water playgrounds that do not pond water and use potable water once then send it to waste are not regulated by these rules

(b) "Interactive Fountain" meaning a wading pool designed for esthetic appreciation, which is expressly designated or which is used with the knowledge and consent of the owner or operator for wading or recreational bathing by any segment of the public. Interactive fountains are a type of wading pool. Interactive fountains that do not pond water and use potable water once then send it to waste are not regulated by these rules.

(c) "Non-Regulated Fountain" means a fountain designed and operated solely for visual appreciation and for that function only. The Division does not license or regulate this type of fountain

(20) "Special-use pool" means a public swimming pool which is designed specifically for sporting or recreational purposes and may include but are not limited to special features such as wave pools, diving pools, splash pools, zero depth pools, portable slides, and water slides.

(21) "Supplemental Disinfectant" means a disinfectant which is intended to augment water quality in a public swimming pool or spa and will provide disinfection in conjunction with the approved disinfectant.

(22) "Variance" means written permission from the Division for a public swimming pool, public spa pool or public wading pool to be operated when it does not comply with all the applicable rules for public swimming pools, public spa pools or public wading pools.

(23) "Waterpark slide" means a slide at a public pool which has a length of at least twenty feet (6.1m), not including the platform.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0086; HD 7-1986, f. & ef. 5-1-86; HD 17-1991, f. & cert. ef. 10-15-91; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0020
Compliance

(1) Swimming pools and wading pools which were in public use before May 13, 1959, shall not be required to comply with Structural Stability, OAR 333-060-0050(2); and Dimensions, OAR 333-060-0060(3) and (4), provided such pools are operated in compliance with all other rules of the Division relating to public swimming pools.

(2) All swimming pools and wading pools which were constructed and in use but were not in public use as defined in Definitions, OAR 333-060-0015(19), and were not licensed by the State Board of Health before June 10, 1959, shall before being operated for any public use, have complete and detailed plans submitted to the Division. A license to operate as a public pool shall not be issued until the pool is made to comply with the requirements of these rules.

(3) Any public wading pool constructed before July 1, 2006, but not licensed by the Division or its agent health department before that date, must obtain a license to operate.

(a) Wading pools, other than spray pools, without water recirculation must comply with the requirements of OAR 333-060-0510(1) or must cease operation.

(b) All existing wading pools must provide protection against entrapment, hair entanglement and evisceration in compliance with OAR 333-060-0510(2), or cease operation by December 31, 2007.

(4) Any limited-use swimming pool operated in conjunction with a companion residential housing facility having five or more living units and which was operated and maintained for the use of the occupants thereof and their personal friends only, but which was not required to be licensed prior to February 25, 1971, shall not be required to comply with Structural Stability, OAR 333-060-0050(2); Dimensions, OAR 333-060-0060(3), (4) and (5)(a); Piping, OAR 333-060-0130(1), (2), and (3); and Overflow Systems, OAR 333-060-0115(2)(b), (3) and (4); provided such pools are operated in compliance with all other requirements of these rules.

(5) Public swimming pools built prior to March 1, 1979, are exempt from the following requirements of these rules provided such pools are operated in continuous compliance with the rules in effect at the time such pools were constructed:

(a) Dimensions, OAR 333-060-0060(2), (5)(a)(B), (5)(b);
(b) Finishes, Markings and Lifelines, OAR 333-060-0065(3);
(c) Ladders, Recessed Steps and Stairways, OAR 333-060-0080(7), (8);
(d) Decks, OAR 333-060-0110(1)(a), (2), (6), (7);
(e) Overflow Systems, OAR 333-060-0115(3);
(f) Recirculation Systems, OAR 333-060-0120(2)(c);
(g) Inlets and Outlets, OAR 333-060-0125(2), (4);
(h) Piping, OAR 333-060-0130(1), (4);
(i) Pumps, OAR 333-060-0135(1)(a), (b), (4);
(j) Filters, OAR 333-060-0140(2)(a) – (d), (6), (7);
(k) Heaters, OAR 333-060-0145(1)(c);
(l) Disinfectant and Chemical Feeders, OAR 333-060-0150(4);
(m) Equipment Room, OAR 333-060-0160(1);
(n) Bathhouse and Sanitary Facilities, OAR 333-060-0170(3)(a), (b);
(o) Signs, OAR 333-060-0215(1), (2) and (3).

(6) Public wading pools built prior to March 1, 1979, are exempt from Recirculation System , OAR 333-060-0120(1) provided such pools are operated in continuous compliance with the rules in effect at the time such pools were constructed.

(7) The exemptions of sections (1), (2), (3), and (4) of this rule apply provided the exemption does not present a health or safety hazard. Exemptions do not apply to any alteration or replacement of affected component part.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0088; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0035
Licenses

No person shall operate a public swimming pool or public wading pool without:

(1) Securing an approved final construction inspection from the Division or its agent; or, if an unlicensed wading pool constructed before July 1, 2006, a compliance inspection. The compliance inspection will show items of non-compliance that need to be corrected before license issuance or the need to comply with the requirements of OAR 333-060-0510;

(2) Making application for a license to operate such pool;

(3) Paying the license fee; and

(4) Securing a license from the Division or delegate county health department.

(5) Such license terminates and is renewable on December 31 of each year.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0098; HD 24-1983(Temp), f. & ef. 12-16-83; HD 7-1986, f. & ef. 5-1-86; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0045
Maintenance and Modification

(1) All equipment of public swimming pools and public wading pools shall be operational and shall be kept in good repair. Such equipment shall be maintained in conformance with the original design or better.

(2) The structural components of all public swimming pools and their appurtenances shall be maintained in good repair.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0103; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0050
Structural Stability

(1) All public swimming pools and public wading pools shall be watertight, constructed of waterproof and enduring materials compatible with the swimming pool environment and shall be designed to withstand all anticipated loading for both pool-empty and pool-full conditions.

(2) Where a high water table may be encountered, provisions shall be made for relief of hydrostatic pressure from under the pool floor and/or around the pool walls.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0106; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0060
Dimensions

(1) Public swimming pools and public wading pools shall have no sharp edges or protrusions where walls meet at an acute angle. Public swimming pools and public wading pools shall be shaped so as to provide for complete water recirculation and mixing. Walls in public wading pools must be vertical with a 3 to 6-inch (75 – 150 mm) radius at the pool wall/pool floor juncture.

(2) There shall be no wall ledges in public swimming pools.

(3) Public swimming pools shall be not less than 3' (90cm) nor more than 3'6" (105cm) in depth at their shallowest point.

(4) Walls in public swimming pools shall be vertical or within 11 degrees of vertical for a minimum distance of 2'9" (82.5cm) in deep areas or 2'6" (75cm) in shallow areas from which point they may be radius to join the floor.

(5)(a) Break in grade shall occur at dept no shallower than 5' (1.5m), except pools built prior to March 1, 1979, shall be uniform to a depth of 4'6" (1.4m), and shall not exceed the following:

(A) General-use pools: 1' of fall in 12' (30cm in 3.7m) horizontally;
(B) Limited-use pools: 1' of fall in 10' (30cm in 3m) horizontally.

(b) Floor slopes in the transition area between the deep and shallow portions of the pool shall not exceed 1' of fall in 3' (30cm in 90cm) horizontally.

(6) The wall-floor transition radius shall:

(a) Have its center no less than 2'9" (82.5cm) below the surface of the water in deep areas or 2'6" (75cm) in shallow areas;

(b) Be tangent to the wall;

(c) Be less than or equal to the depth of the pool minus the vertical wall depth measured from the water line in deep areas minus 3" (7.5cm), to allow draining to the main drain. (R maximum = Pool Depth – Vertical Wall Depth – 3" (7.5cm).)

(7) Pools intended for diving shall comply with OAR 333-060-0085.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0111; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0065
Finishes, Markings and Lifelines

(1)(a) Wall and floor finishes shall be of non-toxic materials, shall be impervious and enduring. Such finishes shall be smooth and easily cleanable.

(b) Floors and walls of public swimming pools and public wading pools shall be white, of a light color or a light-colored pattern.

(2) A lifeline shall be provided 2' (60cm) on the shallow side of the break in grade between shallow and deep portions of the pool. Where there is a uniform slope, a lifeline is not required.

(a) This lifeline shall be securely fastened to wall anchors. Wall anchors shall be of corrosion-resistant materials and shall be recessed or have no projections which constitute safety hazards when the lifeline is removed. Pools built prior to March 1, 1979 shall comply with this rule at such time as the interior pool finish is repaired.

(b) The lifeline shall be marked with visible floats at not greater than 7' (2.1m) intervals. The line shall be of sufficient size and strength to offer a good handhold and to support loads normally imposed by bathers.

(c) The lifeline shall lie in place except when pool use is restricted to lap swimming by competent swimmers or to supervised swimming instruction by a certified swim instruc-tor.

(3) The break in grade of the pool shall be marked with a 4" (10cm) minimum width of floor tile or painted stripe of a color contrasting with the bottom. Where there is a uniform slope, a stripe is not required.

(4) Depth of water (in feet) shall be plainly and conspicuously marked above or at the water level on the vertical pool wall except for splash-out (deck level overflow) pools and on the top of the coping or edge of the deck or walk next to the pool. There shall be such markers at the maximum and minimum depth points and at 1' (30cm) depth increments in the shallow portion of the pool. Depth markings shall be spaced at no more than 25' (7.6m) intervals. There shall be depth markings at slope breaks. Pools built prior to March 1, 1979 shall comply with this rule pertaining to vertical pool wall markings when the interior pool finish is repaired or resurfaced.

(5) Depth markings shall be at least 4" (10cm) in height and of a color contrasting with the background.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0113; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0075
Ventilation

Buildings enclosing swimming pools and public wading pools shall be ventilated in accordance with the requirements of the **Oregon State Structural Specialty Code**, **1993 Edition**, as amended by the Building Codes Agency, adopted January 1, 1993. After July 1, 2006, new and renovated public swimming and wading pool ventilation systems must comply with the requirements of the **Oregon State Structural Specialty Code**, **2004 Edition**, as amended by the Building Codes Agency, adopted October 1, 2004.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79, Renumbered from 333-042-0118; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0110
Decks

(1) The following minimum continuous unobstructed deck widths, which may include the coping, shall be provided at all public pools and public wading pools:

(a) General-use swimming pools — 8' (2.4m).

(b) Limited-use swimming pools, spray pools, wading pools — 4' (1.2m).

(A) Pools built prior to March 1, 1979, shall have 4' (1.2m) of deck on at least two sides of the pool.

(B) Public wading pools and spray pools built prior to July 1, 2006 must have a minimum of 4' (1.2m) of deck around the pool. Wading pools built after July 1, 2006 must comply with the deck requirements of OAR 333-060-0505(8).

(2) A minimum of 4' (1.2m) unobstructed deck shall be provided on all sides of diving equipment and slides.

(3) Decks shall slope no less than 1/4" per foot (6mm per 30cm) and shall be drained to perimeter or area drains.

(4) Deck surfaces:

(a) Shall be constructed of concrete, non-slip tile, or equally impervious material with a slip-resistant, easily cleanable surface impervious to water.

(b) Surfaces meeting the requirements of (4)(a) of this rule must be maintained for a minimum width of 8' (2.4m) around the perimeter of general-use pools and 4' (1.2m) around the perimeter of limited-use pools or within the limits of the deck drainage area, whichever is greater. Wood decking, carpeting or artificial turf deck surfaces are prohibited within 8' (2.4m) of general-use pools or 4' (1.2m) of limited-use pools or within the limits of the deck drainage area, whichever is greater.

(c) Pools previously approved with deck surfaces not complying with (4)(a) of this rule shall comply at such time as the surface requires repair or is replaced.

(5) Joints between concrete deck slabs shall be watertight and shall be designed so as to protect the pool, coping and its mortar bed from movement of the deck.

(6) Decks shall be provided with expansion joints.

(7) Voids between adjoining concrete deck slabs shall be no greater than 3/16" (5mm).

(8) Adjoining deck surface elevations shall vary no more than 1/4" (6mm).

(9) New and replacement expansion joints shall not be constructed of wood.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79; Renumbered from 333-042-0135; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0120
Recirculation System

(1) All public swimming and wading pools shall have recirculation and filtration systems with piping, pumps, filters, disinfection and other equipment to maintain pool water quality as required by these rules.

(2) The system of pumps, filters, disinfection facilities and other equipment shall be of adequate size to recirculate, filter and disinfect the entire volume of pool water in the following maximum time intervals: Maximum Turnover — Time

(a) General-use public pools and limited-use public pools of over 2,000 square feet of surface area - 6 hours.

(b) Limited-use public pools of less than 2,000 square feet of surface area — 8 hours.

(c) Public wading pools — See OAR 333-060-0505.

(d) Limited use pools operated in conjunction with athletic clubs and built after May 1, 1986 — 6 hours.

(3) Overflow water shall not be less than 50 percent of the total recirculated water.

(4) Recirculation and filtration systems shall be in operation con-tinuously while the facility is in use.

Stat. Auth.: ORS 448.011
Stats. Implemented: ORS 448.005 - 448.100, 448.990
Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79; Renumbered from 333-042-0140; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0150
Disinfectant and Chemical Feeders

(1) A means of disinfecting the public swimming or wading pool water shall be provided which provides a disinfecting residual in the pool waters at all times as described in Pool Water Quality, OAR 333-060-0200(1)(a) and in addition, public wading pools must also comply with OAR 333-060-0515.

(2) Automatic disinfection equipment for introducing a disinfectant shall be provided.

(3) Disinfection equipment shall:

(a) Be equipped with suitable controls capable of fine feed rate adjustment.

(b) Be capable of feeding one pound of equivalent chlorine per 15,000 gallons of pool capacity per 24 hours.

(c) Be capable of feeding two and one quarter pounds (2-1/4) of bromine per 15,000 gallons of pool capacity per 24 hours where bromine sanitation is applicable.

(4) Hypochlorinators, erosion (flow-through) feeders, or other adjustable output rate disinfectant feeding equipment shall conform to

National Sanitation Foundation Number 50 for Circulation System Components for Swimming Pools.

(5) Where chlorine gas is used as the disinfectant:

(a) Such chlorine gas, its feeders, and other containers shall be housed in a room or compartment separate from other pool equipment. Such room or compartment shall:

(A) Be at or above ground level.

(B) Have adequate ventilation to the outside air.

(C) Have a door which opens to the outside of the building of which the room or compartment is a part. Doors installed after January 1, 1994 shall have a shatter-proof gas tight inspection window for viewing the enclosed area. Such a door must open away from public access area.

(D) Be located so that chlorine gas, if accidentally released, will not flow into the pool room or into the building ventilation systems.

(E) Have lighting and ventilation switches located outside the enclosure, adjacent to the door, or the door shall be equipped with a door switch which automatically activates the mechanical ventilation and lighting systems.

(b) A platform scale for measuring the weight of the chlorine cylinders shall be provided.

(c) A full face negative pressure respirator with a chlorine cartridge approved by the National Institute of Occupational Safety and Health (NIOSH) for protection against chlorine gas or a self-contained breathing apparatus approved by NIOSH shall be supplied, kept in good working condition and mounted outside the chlorine enclosure.

Note: Storage of such equipment in rooms adjoining the chlorine room shall be approved provided such equipment is readily available.

(d) Gas chlorinators shall have a fail-safe mechanism which ceases chlorination in case of malfunction.

(e) Gas chlorinators shall be equipped with an anti-siphon chlorine injection device.

(f) The vent line from the gas chlorinator shall vent away from an occupied area. The exterior opening of the vent line shall be screened.

(6) Where disinfectants other than chlorine or bromine are used, such disinfectants shall:

(a) Achieve water disinfection equal to that which free chlorine or bromine provides at the concentration specified in Pool Water Quality OAR 333-060-0200, **Table 3**, (1)(a); and

(b) Be approved by the Division.

(7) Ozone disinfection may be used only under conditional approval by the Division as a supplemental system. Interim guidelines governing the installation and operation of ozone equipment may be requested from the Division.

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

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

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005 - 448.100, 448.990

Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79; Renumbered from 333-042-0155; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0160
Equipment Room

(1) Swimming pool and wading pool equipment shall be installed in a room or building large enough to permit ready access to all equipment for both operation and maintenance. Ready access shall be determined by:

(a) General-use swimming pools — a minimum of 3 feet (90cm) of unobstructed access to all operational and maintenance portions of the equipment.

(b) Limited-use swimming pools — a minimum of 50 square feet of floor area or a minimum of 3 feet (90cm) of unobstructed access to operational and maintenance portions of the equipment.

(2) Equipment rooms shall be adequately ventilated.

(3) Equipment rooms shall protect the equipment from the elements and be locked, permitting access only to authorized personnel.

(4) Equipment rooms for all pools built after May 1, 1986 shall have a floor drain.

(5) Equipment rooms shall be lighted to properly operate and maintain equipment.

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005 - 448.100, 448.990

Hist.: HD 2-1979, f. 1-25-79, ef. 3-1-79; Renumbered from 333-042-0160; HD 7-1986, f. & ef. 5-1-86; HD 22-1994, f. 8-22-94, cert. ef. 9-1-94; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0220
Variance

(1) The Division may grant a variance from requirements of OAR 333-060-0005 to 333-060-0515 as follows:

(a) Where it is demonstrated to the satisfaction of the Division that strict compliance with the rule would be highly burdensome or impractical due to special conditions or cause;

(b) Where the public or private interest in the granting of the variance is found by the Division to clearly outweigh the interest of the application of uniform rules; and

(c) Where such alternative measures are provided which in the opinion of the Division will provide adequate public health and safety protection.

(2) Such variance authority is not conferred upon any county or local public health authority notwithstanding delegated or contractual authority in administration and enforcement of the swimming pool statutes and rules.

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005 - 448.100, 448.990

Hist.: HD 8-1980(Temp), f. & ef. 6-26-80; HD 13-1980, f. & ef. 12-19-80; Renumbered from 333-042-0190; PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0500
Wading Pools

(1) GENERAL. Public wading pools require special consideration in their design, due to the small water volume and shallow water depth, to protect the health, safety and welfare of the users because of their age, needs and abilities.

(2) Although public wading pools may differ very little in design from non-regulated fountains; public wading pools are designed to allow and encourage human interactive water usage, while non-regulated fountains are designed solely for visual appreciation.

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005 - 448.100, 448.990

Hist.: PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0505
New Wading Pool Construction

(1) RECIRCULATION. Each public wading pool, except those in (1)(c) of this rule, must have a recirculation rate that meets or exceeds (1)(a) or (1)(b) of this rule, whichever is greater:

(a) A 60-minute turnover time; and

(b) When skimmers are used, each skimmer must be designed to skim between 30 to 45 gpm water flow, when 70% of the recirculation flow is through the skimmers ((# of skimmers) x (30 to 45 gpm design flow)/0.70 = gpm recirculation rate).

(c) Spray pools, water playgrounds and interactive fountains that do not pond water and that use potable water once and dispose of it without recirculating it are not regulated or licensed by the Division.

(2) SEPARATE SYSTEM. Each public wading pool must have its own separate recirculation system.

(3) SURFACE SKIMMING. The pool must be designed to skim the water surface continuously. The Division may consider overflow structures such as intermittent fixed weir overflow and trench drains, if shown to be comparably compliant to gutter systems. The Division or its agent may consider alternate overflow designs if the designer shows that adequate skimming and water mixing occur when non-traditional designs are proposed.

(a) SKIMMERS must be listed as meeting ANSI/NSF Standard 50 requirements by a nationally recognized testing organization approved by the Division.

(A) A skimmer must be provided for every 400 square feet (37 m2) of water surface area or fraction thereof and provide flow in the amount determined in section (1)(b) of this rule.

(B) Skimmers must have an equalizer line connecting the skimmer to the main drain sump. The equalizer line may not have a direct connection to any suction piping.

(C) A spring-loaded equalizer-line valve and float control must be installed in the skimmer to meet ANSI/NSF Standard 50 requirements.

(b) GUTTERS AND TRENCH DRAINS. Gutters allow skimming along the entire edge of the gutter. Generally the gutter extends completely around the perimeter of the pool. A TRENCH DRAIN is used much like a gutter, and is installed in zero-depth areas where an overflow lip cannot be provided. Trench drains are installed at the same angle as floor. To skim properly, the bottom edge of the trench drains must be level to a very small tolerance and slightly below the water surface.

(A) To determine the minimum amount of surge capacity needed for the pool, add sections (3)(b)(A)(i) and (ii) of this rule and provide this capacity by installing a surge tank, or any combination of surge tank, gutter, or trench drain:

(i) Provide a minimum surge capacity equal to an amount determined by calculating 8 minutes of recirculation flow (8 x recirculation rate = surge capacity); then

(ii) Add the surge needs of any spray feature or water activity system. Allow an amount equal to at least 30 seconds of feature recirculation flow, or as recommended by the manufacturer, whichever is greater.

(B) Install an automatic fill device, to maintain the water level, on all wading pools with gutters or trench drains.

(4) INLETS. Locate the inlets to evenly distribute treated water to all parts of the wading pool and to move debris to the overflow and drain systems. The designer is responsible for demonstrating that the inlet system will provide adequate circulation to all portions of the wading pool:

(a) Use floor inlets on all wading pools more than 30 feet wide (9.1m), and on zero-depth pools.

(b) In-floor cleaning systems, or other products that may cause a tripping or stubbing hazard, are not allowed.

(5) MAIN DRAINS. Install a drain in the deepest part of the wading pool to allow complete drainage of the pool. Main drain fittings must be installed flush with the surrounding surface.

(6) Provide protection against ENTRAPMENT, HAIR ENTANGLEMENT and EVISCERATION for all suction fittings. Skimmers must comply with section (3)(a) of this rule. Other suction systems require two layers (forms) of protection listed in section (6)(a) through (f) of this rule. Suction or outlet fittings must be sized so that the maximum velocity through the open area of the grating is less than 1.5 feet per second at maximum flow. The acceptable methods of entrapment protection are:

(a) MULTIPLE SUCTION FITTINGS. Install two or more outlets of equal size with a minimum 3-foot straight connector pipe, connected between the fittings. Connect a suction line, the same size as the connector pipe, between the connector pipe and the pump. Install the suction line in the hydraulic middle of the connector pipe. Valving or any other means of isolating an outlet fitting from the other fittings is prohibited:

(A) When two fittings are provided, each fitting must be sized to handle 100% of the recirculation flow.

(B) When three or more fittings are provided, separated from each other by 3 feet of connector piping, each fitting will be sized to handle an equal portion of 200% of the recirculation flow.

Example: (three suction fittings would each handle 66 % of the total recirculation flow; four fittings, 50%)

(b) ANTI-ENTRAPMENT DRAIN COVER. The drain cover and installation must meet the requirements of ASME/ANSI A112.19.8M, Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub Appliances, and be listed by a Division approved national testing service as compliant with this standard. This information must be permanently marked on the drain cover. The fitting must be securely fastened in place and installed flush with the surrounding surface;

(c) An 18 X 18 INCH (300 mm2) OR LARGER DRAIN grate, a grate or combination of grate fittings forming a channel drain measuring at least 24 inches in contiguous open area length;

(d) A GRAVITY RETURN system to return water to a surge tank;

(e) A SAFETY VACUUM RELEASE SYSTEM (SVRS), meeting the standard ASME/ANSI A112.19.17, Manufactured Safety Vacuum Release Systems (SVRS) for Residential and Commercial Swimming Pool, Spa, Hot Tub, and Wading Pool Suction Systems, and listed by a Division approved national testing service as compliant with this standard. The listing service seal must be attached to the device; or

(f) OTHER means of passive protection approved for use by the Division;

(7) BASIN DESIGN. The slope of the pool bottom can be no more than 1 in 12. Eight inches (200 mm) is the maximum water depth allowed at any edge of the pool accessible from the deck. When perimeter water depths exceed 8 inches (200mm) at the edge of the pool, stairs and handrails complying with the requirements of OAR 333-060-0080(1), (3), (4)(b), (7), (8), and (9), must be provided at the designated entry points.

(8) DECKING. Unobstructed decking, 5 feet (1.5 m) or more in width must be provided around the wading pool perimeter. When a wading pool is adjacent to a swimming pool, it must be located near the shallow end of the swimming pool, with a minimum of 9 feet (2.7 m) of deck between the pools.

(9) ENCLOSURE. Enclose the wading pool area, as required by OAR 333-060-0105. Spray pools, water playgrounds, and fountains that do not pond water may comply with (11)(c)(E) of this rule in lieu of providing an enclosure.

(10) DEPTH MARKING:

(a) The operator must indicate the maximum pool depth in feet and inches, with a sign near each entrance to the wading pool.

(b) Depth markings must be placed around the pool perimeter indicating the water depth at the edge, following the requirements in OAR 333-060-0065.

(c) Pools with a zero-depth edge are not required to have perimeter depth markings, but are still required to provide the maximum depth signs.

(d) Pools and fountains that do not pond water are not required to have depth markings or maximum depth signs.

(11) SPRAY FEATURES AND PLAY EQUIPMENT. Fountains, sprays, slides and similar features may be installed, if specifically designed for aquatic installation:

(a) WATER SOURCE. Water-using features must be designed and installed to draw their water supply from the main drain or similar fitting, surge tank, trench drains or gutters, but not from the skimmers. The main drain fittings and the related piping must be sized for 100% of the pool recirculation rate plus 100% of the capacity of any feature pump routed through the fittings. The sizing of the feature pump must be based on 20 ft. TDH (59,000 Pa), unless the actual TDH is calculated.

(b) EQUIPMENT DESIGN AND INSTALLATION. Play equipment shall be designed and installed to meet all applicable standards of the **CPSC Handbook for Playground Safety** (**1997 edition**), and **ASTM F1487**, Standard for Public Playground Equipment:

(A) Applicable Requirements include equipment design and construction, proper anchoring, entrapment protection, protrusion safety, and safety use-zone sizing. All equipment shall be designed for use in pools.

(B) Play Equipment must be designed to be difficult to climb, unless the equipment is specifically designed for climbing and provided with safety zones and impact attenuating surfaces acceptable to the Division.

(C) Swings are not allowed.

(D) Obstructions extending from the walls or the bottom of the wading pool are not permitted, unless a designed part of the play equipment, with provisions made for safety and good water circulation.

(E) "Children's Activity Slides" are small, low exit velocity slides designed for use by small children in shallow water. They must be designated by the manufacturer for use in 24 inches (0.6 m) or less of water, and installed as recommended by the manufacturer. Other types of slides are not allowed.

(c) SPRAY POOLS or WATER PLAYGROUNDS. Spray pools or water playgrounds are basins containing spray features intended for recreational use, but that do not collect water in the basin. If the water is captured and recirculated, the pool shall meet the requirements of OAR, chapter 333, division 060. If potable water is used once and drained to waste, the spray pool or water playground is not regulated or licensed under these rules:

(A) Design spray pools with a zero-depth design, with no walls in the basin.

(B) Spray pools do not require devices for skimming.

(C) All water recirculated through the spray features shall be filtered and sanitized or from a potable water source. Equipment capable of continuously supplying at least 0.25 ppm additional chlorine to the line returning water to the spray features must be provided, except when potable water is supplied, used once and drained to waste, or all the water is filtered and treated before being sent back to the water features.

(D) Slip-resistant, easy to clean and water impervious surfaces must be installed in the spray basin. Impact attenuating surfaces, basin surfacing materials with shock absorbing properties, for use with equipment addressed in (11)(b) of this rule, will be considered, but must be water impervious, not conducive to bacteria and algae growth, and resistant to vandalism and damage. All impact cushioning materials must be approved by the Division for use in a wet environment.

(E) Spray pools do not require a security enclosure. At least six feet (1.9 m) of deck around the perimeter of the pool basin and sloped away from the basin must be provided.

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

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005 - 448.100, 448.990

Hist.: PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0510

Existing Wading Pools

The requirements in this rule apply to all wading pools built before July 1, 2006.

(1) RETRO-FIT RECIRCULATION SYSTEMS. All water-retaining wading pools need recirculation, filtration, and disinfection. Those wading pools without water recirculation shall be renovated, or phased out of use and removed, before December 31, 2009.

(a) COMPLIANCE. Operators of all wading pools affected by this rule must provide to the Division or its agent, before July 1, 2007, a proposed plan and timetable for renovation or removal of the pool.

(A) The proposed plan and timetable will be reviewed by the Division or agent health department and an acceptable plan and timetable will be negotiated or approved.

(B) Before renovation begins, construction plans, a plan review application and fees must be submitted to the Division or its agent to obtain approval and a construction permit.

(C) If a wading pool operator fails to submit a plan by July 1, 2007, or fails to complete renovations or removal by December 31, 2009, the license for the pool will not be renewed:

(i) After December 31, 2009, wading pools without water recirculation systems and without a license to operate, are declared public nuisances under the authority of ORS 448.060; and

(ii) The Division or its agent, in compliance with ORS 448.060 may proceed with abatement of said nuisance.

(b) INTERIM OPERATION. Operators of wading pools that have no recirculation, filtration or disinfection systems must change the water at least every four hours. This may be accomplished by gradual drainage, or by dumping and filling. This may continue until the wading pool is retrofit or December 31, 2009 whichever comes first. Additional requirements include:

(A) At opening, and every two hours after that, until closing, the water must be tested and a chlorinating product added to reach a residual of 5 ppm.

(B) The water must be drained at closing each day. Before opening again, the basin must be thoroughly rinsed and any debris removed. The basin must be scrubbed at least weekly, with a solution containing at least 50 ppm of chlorine, mixed according to the directions on the chemical container. Potable water must be used to fill the pool and the chlorine level adjusted.

(2) Protection against ENTRAPMENT, HAIR ENTANGLEMENT and EVISCERATION for all suction fittings will be provided on all wading pools, except those addressed in section (1)(b) of this rule by December 31, 2008.

(a) COMPLIANCE. If a wading pool operator fails to provide entrapment protection by December 31, 2008 the operator will close the wading pool until either protection is provided and approved by the Division or its agent, or the pool is removed. If corrections are not completed by December 31, 2009, the license for the pool will not be renewed.

(A) Before renovation begins; construction plans, a plan review application and fees must be submitted to the Division or its agent to obtain approval and a construction permit.

(B) After December 31, 2009, wading pools without entrapment protection and without a license to operate are declared public nuisances under the authority of ORS 448.060; and

(C) The Division or its agent, in compliance with ORS 448.060 may proceed with abatement of said nuisance, including summary abatement, if necessary.

(b) DESIGN AND INSTALLATION. One method of protection is required using the options in OAR 333-060-0505(6)(a) through (f). A Safety Vacuum Release System (SVRS) as described in OAR 333-060-0505(6)(e) must not be used as the sole means of protection against entrapment, entanglement and evisceration. The Division may approve, on a case by case basis, individual situations where the SVRS may be used alone or with alternative devices meeting the intent of this rule, when full compliance is not an option.

NOTE: Two layers (forms) of protection are recommended using the options in OAR 333-060-0505(6)(a) through (f).

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005 - 448.100, 448.990

Hist.: PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

333-060-0515

Wading Pool Operation

(1) WATER QUALITY. All wading pools must maintain good water quality using the water quality parameters shown on OAR 333-060-0200 (Table 3). Chlorine residuals must be maintained at a minimum of 2 ppm, except that, compliance with 333-060-0510(1)(b), is required for all wading pools without a recirculation system, except spray pools using potable water once and draining to waste.

(2) TESTING. All wading pools must be tested for water quality and maintained at least every two hours. A record shall be maintained, as required in OAR 333-060-0205(2).

(a) ELECTRONIC MONITORING AND CONTROL EQUIPMENT. All wading pool facilities have until January 1, 2012 to install electronic sanitizer and pH monitoring equipment to control the chemical sanitizer and acid or base feeders. This equipment must measure and adjust the sanitizer residual and pH. New sanitizer monitoring equipment installations must use oxidation-reduction potential (ORP) for measurement of the disinfectant activity, and provide the readout in millivolts (mv) of potential. Readings in parts-per-million (ppm) are not required.

(b) For the operator to qualify for reduced manual testing frequencies, as established in OAR 333-060-0200(3)(d), electronic monitoring equipment reading in millivolts must be certified at least once every 12 months as operating accurately by a service technician trained by the manufacturer, and a minimum of ORP of 750 mv must be maintained.

(c) CERTIFICATION OF THE MONITORING AND CONTROL EQUIPMENT. The certification check, made by the factory trained service technician, includes the probes and electronic equipment. If the equipment is found to need service or parts, the repairs must be made before the unit is certified:

(A) Certification includes testing and standardization of the meter equipment, and the use of standard solutions to verify the accuracy of each probe.

(B) A brightly colored certification tag will be attached to the readout unit of the monitoring equipment by the trained service technician. After the initial certification, the tag will show service and certification for at least the previous 36 months. The tag must show the following:

(i) The name, address, and phone number of the company employing the technician;

(ii) The technician's name;

(iii) The name and address of the facility;

(iv) The make, model, and installation date of the equipment;

(v) A record of all service, dates of service, and re-certification of the equipment for work completed by a trained service technician; and

(vi) When the next certification testing is due.

(C) The calibration programming for the ORP measuring unit must be made inaccessible to the pool operator and non-certification trained personnel.

(D) Upon request by the Division or its agent, the company employing the trained service technician must make available to the Division or its agent, information about the certifying technician's training, training dates, and any manufacturer certification and continuing education or training taken to remain current with the equipment technology. The company must also make information available to the Division about calibration equipment, standardization solutions and certification procedures.

(3) SAFETY SIGNAGE.

(a) Warning signs. Direct supervision of the wading pool must be provided, or warning signs must be placed, in plain view, at the entrance(s) and inside the wading pool area. Each sign is to read, "WARNING: NO LIFEGUARD" in letters at least 4 inches (100 mm) high, and "PARENTS – Do not leave your children unsupervised" in letters at least 2 inches (50 mm) high. If the pool is a spray pool or water playground without an enclosure, the warning signs must be placed on four sides or not more than 50 feet apart, whichever is less.

(b) Wading Pool Rules. A sign must be posted in a conspicuous location within the pool area that contains the following information in easily readable letters at least 1 inch in height:"Do not use the pool if you have had diarrhea in the last two weeks." "All persons, who are not toilet trained, must wear swim diapers." "Drinking and spitting of the pool water is discouraged." If the operator does not provide direct supervision, add: "For emergency assistance please contact (insert 911, or other emergency assistance site staffed during all hours the wading pool is open)." " Please contact (insert contact person or agency and phone number) with any concerns about this pool.

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005 - 448.100, 448.990

Hist.: PH 17-2006, f. 6-30-06, cert. ef. 7-1-06

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Department of Human Services, Self-Sufficiency Programs
Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Adm. Order No.: SSP 10-2006

Filed with Sec. of State: 6-30-2006

Certified to be Effective: 7-1-06

Notice Publication Date: 5-1-06

Rules Adopted: 461-145-0022, 461-145-0108, 461-155-0175, 461-155-0180

Rules Amended: 461-025-0310, 461-025-0315, 461-105-0190, 461-110-0110, 461-110-0370, 461-110-0410, 461-110-0630, 461-115-0210, 461-135-0095, 461-135-0096, 461-135-0505, 461-135-0730, 461-135-0830, 461-135-1110, 461-140-0040, 461-140-0210, 461-140-0220, 461-140-0242, 461-140-0296, 461-140-0300, 461-145-0020, 461-145-0088, 461-145-0180, 461-145-0220, 461-145-0250, 461-145-0310, 461-145-0330, 461-145-0340, 461-155-0030, 461-155-0150, 461-155-0225, 461-155-0250, 461-160-0055, 461-160-0415, 461-160-0580, 461-160-0620, 461-165-0030, 461-170-0025, 461-170-0103, 461-175-0220, 461-175-0230, 461-180-0080, 461-190-0195, 461-185-0511, 461-195-0521, 461-195-0561

Rules Repealed: 461-110-0630(T), 461-135-0095(T), 461-135-0096(T), 461-140-0295, 461-155-0030(T), 461-155-0150(T), 461-155-0175(T), 461-160-0580(T)

Subject: OAR 461-025-0310 about hearing requests is being amended to implement HB 3268 on the subject of hearings for reduction or termination of services. This rule is also being amended to reflect current federal regulations regarding the time period for requesting hearings for the Food Stamp program.

OAR 461-025-0315 is being amended so that clients who are older adults or people with physical disabilities who receive Medicaid paid Title XIX Home and Community based care waivered services will be have a right to an expedited hearing on the denial of the continuation of their services while they are waiting for a non-expedited hearing on an action by the Department. This change gives the client access to an immediate review of a Department denial to maintain the individual's services at the current level in the period between a hearing request and a non-expedited hearing on the Department's proposed action.

OAR 461-105-0190 is being amended so that the rule is consistent with the new Department-wide rules about prohibiting discrimination against individuals with disabilities..

OAR 461-110-0110 is being amended to clarify the definitions of a standard living arrangement and nonstandard living arrangements. These terms are primarily used in the eligibility rules for the Food Stamp, OSIP, and OSIPM programs..

OAR 461-110-0370 is being amended to follow federal food stamp regulations which state that a person in foster care, along with their spouse or a child under age 22 and living with them, may only receive food stamps if their foster care provider applies for benefits for them..

OAR 461-110-0410 is being amended to clarify who is considered a member of the filing group for the OSIP (Oregon Supplemental Income Program) and OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities) programs. The circumstances of members of a filing group are considered in the eligibility determination process..

OAR 461-110-0630 is being amended to make permanent temporary rule amendments that became effective on April 1, 2006. These amendments establish that the need group for the Extended Medical Assistance (EXT) program consists of all members of the EXT financial group. The income and resources of members of a financial group count toward determining eligibility. The basic and special needs of members of a need group are considered in determining eligibility..

OARs 461-115-0210 and 461-180-0080 are being amended to clarify the application processing time frames and the effective dates for starting benefits in the Food Stamp at certification and recertification..

OAR 461-135-0095 is being amended to make permanent temporary rule amendments that became effective on April 1, 2006. These amendments change the eligibility requirements for the Extended Medical Assistance (EXT) program as follows: to incorporate a requirement that a filing group must have been found eligible for and received Medical Assistance Assumed (MAA) or Medical Assistance to Families (MAF) for at least three of the six months prior to the beginning date of the EXT eligibility period; to require that the filing group must meet certain employment, earnings, and reporting requirements to continue EXT eligibility beyond six months; to clarify that a filing group may become eligible for EXT due to a combination of increased earnings and increased child support; and to clarify that EXT eligibility is limited to members of the MAA or MAF benefit group when those benefits ended. The filing group is the people whose circumstances are considered in the eligibility determination process..

OAR 461-135-0096 is being amended to make permanent temporary rule amendments that became effective on April 1, 2006. These amendments indicate that the eligibility period for the Extended Medical Assistance (EXT) program which results from an increase in the earnings of the caretaker relative is six months, and may be extended for up to an additional six months if the filing group meets certain employment, earnings, and reporting requirements. The filing group is the people whose circumstances are considered in the eligibility determination process. This rule is also being amended to clarify specific situations in which eligibility for EXT is characterized as based on increased earnings..

OARs 461-135-0505, 461-155-0150, 461-155-0225, and 461-195-0561 are being amended to reference the new income standard rule (OAR 461-155-0180) instead of referencing other rules or repeating income standards. OAR 461-155-0180 is being adopted to identify the current poverty level monthly income standard as well as other monthly income standards that are based on this poverty level income standard. These income standards determine eligibility for some public assistance and medical assistance programs. This approach will eliminate some $1 discrepancies between some programs for these income standards. OAR 461-155-0150 is also being amended to set the eligibility standard in the Employment Related Day Care (ERDC) program for need groups larger than eight at the standard for need groups of eight (currently $4,200 per month)..

OAR 461-135-0730 is being amended to re-open the QI-1 program in Oregon. These changes were originally adopted by temporary rule in February 2006. QI-1 is a program that pays the Part B Medicare premium for eligible clients. Each state has a fixed allocation from the federal government to pay these premiums. In April 2004, the program was closed to new clients because Oregon exceeded its allocation. Subsequently, the number of individuals in the program dropped (from 5,800 to 4,100). Starting in February 2006, a new allocation allowed the Department to have significantly more clients (about 6,100 depending on the application rate) enrolled. The allocation has recently risen from $4,424,000 to $5,339,000 and is 100% federal funding for the program benefits. These two changes allowed the Department to open the program once again..

OAR 461-135-0830, which concerns eligibility for disabled adult children in the OSIPM program (Oregon Supplemental Income Program Medical, providing medical coverage for elderly and disabled individuals) is being amended to incorporate the language from federal law to clarify who is considered an adult disabled child..

OAR 461-135-1110, concerning the eligibility requirements for students in the OHP-OPU program (Oregon Health Plan for adults who qualify with incomes below 100 percent of the poverty standard), is being amended to update the years for which the Student Aid Report may be used in the eligibility process. The 2006-2007 eligibility standard based on the amount of expected family remains unchanged from 2005-2006..

OAR 461-140-0040 and 461-145-0088 are being amended to resolve potential conflicts between the two rules about whether certain expenditures by a business entity on behalf of a principal may be considered for determining the eligibility of a client for the Oregon Health Plan (OHP), and for all programs whether certain income may be considered for eligibility purposes if held by a corporation to which a member of financial group has a legal right. OAR 461-140-0040 is also being amended to indicate for the OHP and ERDC (Employment or Education-Related Day Care) programs the situations in which money withheld or returned to the source are considered available income for eligibility purposes. OAR 461-145-0088 is also being amended to include certain expenditures by a business entity on behalf of a principal as available income for clients of the Food Stamp program and to describe how income from business entities and corporations is treated in the Food Stamp program.

OAR 461-140-0210 concerning the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs is being amended to clarify the rule, make the rule consistent with other rules, remove unnecessary language, and implement a 60-month look back period for all transfers of assets that occur on or after July 1, 2006. This amendment expands the situations in which a transfer of resources will disqualify an individual from program eligibility..

OAR 461-140-0220 is being amended to clarify the rule, cross-reference the new rule (461-145-0022) about annuities affecting clients

of OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and clarify when the purchase of an annuity on or after July 1, 2006 is a transfer of resources that disqualifies a client from eligibility..

OAR 461-140-0242, which identifies transfers of resources that disqualify clients from some public and medical assistance programs, is being amended to clarify the strength of the presumption that an action was taken in order to maintain eligibility if a Medicaid recipient transfers an excluded resource (such as a home or other real property) for less than fair market value. The rule is also being rewritten and reorganized to merge duplicative provisions..

OAR 461-140-0295 — concerning the groups that filed an application for benefits between October 1, 1993, and September 30, 1998 for the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs — is being repealed because there are no longer any clients affected by this rule. In addition, the one divisor amount that may still apply to calculating a disqualification penalty for a transfer of resources for less than fair market value is being moved to OAR 461-140-0296 where the other pertinent divisors are located..

OAR 461-140-0296 is being amended to extend the duration of disqualification from eligibility due to a resource transfer in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. This amendment establishes partial month penalties for disqualifying transfers of resources that do not currently exist; and for OSIPM clients who receive long-term care or home- or community-based services, states the penalty will be served either at the time the transfer was made or when the client would have been eligible for medical benefits but for the disqualifying transfer, whichever is later. In addition, one divisor amount for calculating a disqualification penalty for a transfer of resources for less than fair market value was moved from OAR 461-140-0295 which was repealed, to this rule..

OAR 461-140-0300 is being amended to establish criteria in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs for deciding whether a disqualification penalty due to a transfer of resources must be waived because of the undue hardship it would cause for the client..

OAR 461-145-0020 – concerning the treatment of annuities, interest, dividends, and royalties to determine eligibility for public assistance, medical assistance and food programs — is being amended to reduce its scope to cover only annuities in programs other than OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities). This rule is also being amended to clarify certain terms such as annuity, commercial annuity, and child. The policies about the treatment of dividends, interest and royalties are being moved to a new rule (OAR 461-145-0108). The policies about the treatment of annuities for OSIPM clients are being moved to a new rule (OAR 461-145-0022)..

OAR 461-145-0022 is being adopted to describe the policies about the treatment of annuities to determine eligibility for clients in the OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities) program. For OSIPM clients and spouses of these clients who purchase an annuity on or after July 1, 2006, there are stricter requirements than in the current rule (461-145-0020). The new rule requires a client and spouse to declare any annuity on each application and redetermination of eligibility. By signing the application, the client and spouse agree that the Department becomes a remainder beneficiary on the annuity for providing medical benefits. For any annuity declared, the Department will notify the annuity issuer that the Department is a preferred remainder beneficiary. In order for an annuity to not be considered a disqualifying transfer of resources for the client and the spouse of the client, the annuity must name the Department as the first remainder beneficiary unless there is a spouse or minor child or child with a disability that meets the Social Security Administration (SSA) disability criteria to name as the first remainder beneficiary. In addition, in order for an annuity to not be considered a disqualifying transfer of resources for a client, it must be irrevocable and non-assignable, provide for payments in equal amounts over the annuitant's lifetime and be purchased from a business. In addition, in order for the annuity to not be considered a countable resource, the annuity must meet all of these criteria for both the client and the spouse of the client. For an OSIPM client (and their spouse) who receives long-term care or home- or community-based services and for all other OSIPM clients (and their spouses) who purchase an annuity prior to July 1, 2006, the new rule continues the requirements for OSIPM clients set out in OAR 461-145-0020 prior to this amendment..

OAR 461-145-0108 is being adopted to describe the policies about the treatment of dividends, interest, and royalties to determine eligibility for public assistance, medical assistance and food stamp programs in a separate rule from one that also covers annuities. These policies are being moved to this rule from OAR 461-145-0020..

OAR 461-145-0180 is being amended to ease the eligibility and client contribution requirements in the OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program), and QMB (Qualified Medicare Beneficiaries) programs. This amendment will exclude from the income counted toward eligibility and client contribution requirements any family support payments distributed by state or local agencies to or on behalf of families who are caring for persons with extraordinary care needs in their home..

OAR 461-145-0220 is being amended to set out the new requirements about the treatment of home equity in determining eligibility for clients in the OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities) program who receive long-term or home- or community-based care services. Under these requirements (which take effect on July 1, 2006), a client whose initial application for services is on or after January 1, 2006 and who has a home with equity of $500,000 or less is excluded (from consideration in determining eligibility) when the client resides there. A home with equity of more than $500,000 is counted (to determine eligibility) unless a spouse or minor child or child with a disability that meets the SSA criteria resides there, or the property produces income consistent with its equity value that is essential to the client's self-support, or the client is legally unable to convert the home equity to cash. A client has a new initial application for services whenever there has been a break in assistance of at least one full calendar month..

OAR 461-145-0250 is being amended to clarify that an individual that rents out a room or other space will have that space considered as income-producing property. This rule is also being amended to indicate that income-producing property is excluded as a resource in the Food Stamp program if its value is under $1,500. This rule is also being amended to treat income-producing property for grandfathered OSIP and OSIPM clients in the same manner as other OSIP and OSIPM clients. It is also being reorganized for easier reading..

OAR 461-145-0310 is being amended to clarify the rule and to implement the new requirements about the treatment of life estates in determining eligibility for clients in the OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. Under these requirements, if a client purchases an interest in a life estate in another person's home on or after July 1, 2006, the transaction is a disqualifying transfer of resources, unless the purchaser lives in the home for at least 12 consecutive months after the date of the purchase..

OAR 461-145-0330 is being amended to clarify the rule and to implement the new requirements about the treatment of loans and loan payments for purposes of determining eligibility for the in the

GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. Under these requirements, if a client purchases a promissory note, loan or mortgage, the transaction is considered a disqualifying transfer of resources unless the repayment plan occurs over the client's lifetime in equal installments and does not have a provision for cancellation if the client should die. The penalty for a transaction that does not meet these requirements is to count the entire balance of the payments owing as a disqualifying transfer of resources that may result in a penalty period. After the penalty period has been served, the entire balance owing is counted as an available resource for purposes of eligibility..

OAR 461-145-0340 is being amended to treat lodger income as self-employment income in all medical and public assistance programs to provide program simplification and adherence to the federal guidelines related to income. In the current rule, this income is excluded for Medicaid and public assistance; this amendments will count the income for eligibility purposes..

OAR 461-155-0030 is being amended to raise the Adjusted Income/Payment Standard for the TANF, MAA, MAF, REF and SAC programs. The payment standard for these programs is being increased by 2.4% effective April 1, 2006. This standard is used as the adjusted income limit and to calculate cash benefits for need groups with an adult..

OAR 461-155-0150 is also being amended to implement a legislatively approved 2.4 percent cost of living adjustment for child care providers in the ERDC (Employment or Education-Related Day Care), JOBS, JOBS Plus, and TANF programs..

OAR 461-155-0175, "Income Standard; EXT", is being adopted to make permanent a temporary rule adopted effective April 1, 2006. This rule establishes income standards or limits that apply to eligibility for the Extended Medical Assistance (EXT) program.

OAR 461-155-0250 is being amended to correct the earnings standard for attachment to the workforce for the OSIP-EPD and OSIPM-EPD programs..

OAR 461-160-0055 is being amended to remove language that allows a deduction for the cost of the Medicare-approved Drug Discount card. The Medicare-approved Drug Discount card expires May 15, 2006..

OAR 461-160-0415 about medical deductions in the Food Stamp program is being amended to update its terminology and to change the policy on when to allow income deductions for unanticipated medical costs. The purpose of this amendment is to simplify policy on budgeting unanticipated medical costs for elderly clients and clients with disabilities, and to allow more of the medical cost to be deducted from countable income..

OAR 461-160-0580 – which concerns clients in the OSIP (Oregon Supplemental Income Program) and OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities) programs — is being amended to be consistent with the new federal requirement that available income of the Medicaid client receiving long term care or home- or community-based services (after required deductions for personal needs, etc.) and income of the spouse of the client must be used to meet the spouse's monthly maintenance needs before any additional resources may be transferred to the spouse to generate interest income to meet the need. This amendment makes permanent a temporary rule amendment adopted in March of 2006. 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 needs of the spouse of the client used income first, court actions filed by attorneys on behalf of spouses for transfers of resources and spousal support orders were not required to use income first..

OAR 461-160-0620 is being amended to make a required, annual adjustment to the income protection requirements for Medicaid offered to married couples where one spouse remains at home. The amount of protection is based on 150% of the federal poverty level for a two person household..

OAR 461-165-0030 is being amended to clarify that no person in a filing group for cash, medical, or food stamp benefits is allowed duplicate benefits in the same month..

OAR 461-170-0025 is being amended to indicate that clients in the EXT (Extended Medical) program are required to report a change in school status for children in the benefit group who are age 18.

OAR 461-170-0103 is being amended to describe more accurately when the Department closes or reduces benefits to Food Stamp clients in response to changes that a client is required to report, including income exceeding the allowed limit..

OAR 461-175-0220 is being amended to clarify the rule and state new requirements for certain notices of disqualification of clients in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. Under these new requirements, a notice of a disqualification due to a transfer of resources for less than fair market value will advise the client that they (or the facility in which the reside on their behalf) may apply for a hardship waiver..

OAR 461-175-0230 – which concerns the types of decision notices required for clients of all public assistance, food stamp, and medical assistance programs who are in a nonstandard living situation — is being amended to clarify the rule, remove outdated language, keep the rule consistent with pending amendments to OAR 461-110-0110, modify the situations in which no decision notice is required in the Food Stamp program, describe the type of decision notice that applies when benefits are suspended, and add unique requirements that apply to the OSIP (Oregon Supplemental Income Program) and OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities) programs..

OAR 461-190-0195 is being amended to make changes to the DCI (JOBS Program Degree Completion Initiative) application process..

OAR 461-195-0511 is being amended to update and clarify the rule and to include language to protect individuals from a child care overpayment when an aspect of a documented disability caused the overpayment and the individual would have otherwise been eligible..

OAR 461-195-0521 which concerns the special rules for calculating overpayments — is being amended to clarify the rule, remove outdated language, and identify what is included in the overpayment calculation for clients who receive benefits in the OSIPM program (Oregon Supplemental Income Program Medical, medical coverage for elderly and disabled individuals) and do not pay their share of the costs of service..

Rules Coordinator: Annette Tesch—(503) 945-6067

461-025-0310
Hearing Requests

(1) A claimant has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:

(a) The Department has not acted on a request or application for public assistance within 45 days of the application.

(b) The Department has not acted timely on an application as follows:

(A) An application for food stamps — within 30 days of the filing date.

(B) An application for a JOBS support service payment — within the time frames established in OAR 461-115-0190(3).

(c) The Department acts to deny, reduce, close, or suspend food stamp benefits, a grant of public assistance, a grant of aid, a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance, or child care benefits authorized under division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, grant of public assistance and grant of aid mean the grant of cash assistance calculated according to the client's need.

(d) The Department claims that an earlier public assistance payment was an overpayment, or that an earlier issuance of food stamps was an overissuance.

(e) The claimant claims that the Department previously underissued public assistance or food stamps and the Department denies the claim.

(f) The household disputes its current level of food stamp benefits.

(g) The filing group is aggrieved by any action of the Department that affects the participation of the filing group in the Food Stamp program.

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.

(i) The Department establishes or changes the client's premium for the Oregon Health Plan.

(j) In the Assessment program, the Department denies payment for a basic living expense (see OAR 461-135-0475).

(k) The right to a hearing is provided for the TA-DVS program (see OAR 461-135-1235).

(l) A service re-assessment of a client conducted in accordance with OAR Division 411-015 has resulted in a reduction or termination of Nursing Home services, Home and Community Based Care Waivered Services (defined at OAR 411-015-0005), Spousal Pay services (see OAR 411-030-0080), or Independent Choices services (see OAR division 411-036).

(m) The right to a hearing is otherwise provided by statute or rule.

(2) A client is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the client is entitled to use the Department's conciliation process (see OAR 461-190-0231).

(3) There is no right to a hearing to dispute a program requirement established by law. Examples are the closure of a program or a change to a payment standard.

(4) A request for hearing is complete:

(a) In public assistance programs, when the Department's Administrative Hearing Request form (form DHS 443) is completed and signed by the claimant or the claimant's representative and is received by the Department.

(b) In the Food Stamp program when:

(A) The Department receives the claimant's oral or written statement that he or she wishes to appeal a decision affecting the claimant's food stamp benefits to a higher authority; or

(B) The Department's Administrative Hearing Request form (form DHS 443) is completed and signed by the claimant or the claimant's representative and is received by the Department.

(c) In the case of a provider of child care, when a written request for hearing from the provider is received by the Department.

(5) In the event a request for hearing is not timely, the Department will determine whether the failure to timely file a request for hearing was beyond the reasonable control of the party and enter an order accordingly. The Department may refer an untimely request to the Panel for a hearing on the question of timeliness.

(6) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Panel for a hearing on the question of whether the claimant has the right to a contested case hearing.

(7) To be timely, a completed hearing request must be received by the Department not later than:

(a) The 45th day following the date of the decision notice in public assistance and medical programs.

(b) The 90th day following the date of the decision notice in the Food Stamp program, except:

(A) A filing group may submit a hearing request at any time within a certification period to dispute its current level of benefits.

(B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if less than one year has expired since the loss of benefits.

(c) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.

(d) In a case described in section (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.

(8) In determining timeliness under section (7) of this rule, delay caused by circumstances beyond the control of the claimant is not counted.

(9) In computing the time periods provided by this rule, if the last day of the time period falls on a Saturday, Sunday, or legal holiday, the period is extended until the next working day.

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

Stat. Auth.: ORS 411.060, 411.816 & 418.100

Stats. Implemented: ORS 411.060, 411.095, 411.816, 414.055, 418.100, 418.125

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-2000, f. 1-31-2000, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-025-0315
Expedited Hearings

(1) A claimant has the right to an expedited hearing in each of the following situations:

(a) The Department denies or fails to issue a timely decision on claimant's request for TA-DVS or emergency assistance.

(b) The claimant contests the form or amount of a TA-DVS or an emergency assistance payment.

(c) The claimant has the right to a hearing over a reduction, suspension, or closure and disagrees with the Department's decision to deny the continuation of one or more of the following pending a requested hearing:

(A) Cash benefits.

(B) Food stamp benefits.

(C) Medical benefits.

(D) Nursing Home, Title XIX Home and Community Based Care waivered, Spousal Pay, or Independent Choices Program services that have been reduced or closed as a result of a service re-assessment conducted in accordance with OAR Division 411-015.

(d) The claimant's request for expedited food stamp service is denied, or the claimant is aggrieved by an action of the Department that affects the expedited participation of the household in the Food Stamp program.

(e) In the JOBS program, the Department denies an application for a support service payment or a payment for a basic living expense authorized by OAR 461-190-0211, or the Department reduces or closes a support service payment authorized by OAR 461-190-0211, or the Department does not issue a JOBS support service payment within the time frames required under OAR 461-115-0190.

(2) Public Assistance programs: An expedited hearing is a telephone hearing held within five working days of the Department's receipt of the written hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service or by certified mail. In the TANF program, if the claimant requests a face-to-face hearing, the hearing may be postponed or continued as necessary to accommodate the claimant. However, the hearing must be held not later than 21 days following the receipt by the Department of the request for hearing if the claimant lives within 100 miles of Salem, Oregon, and not later than 35 days in all other cases. The final order must be issued within three working days from the date the hearing closes.

(3) Food Stamp program: An expedited hearing is a telephone hearing held within five working days of the receipt of a verbal or written hearing request, unless the claimant requests more time. The claimant is entitled to reasonable notice of the hearing either through personal service or by certified mail. Following the expedited hearing, a final order must be issued not later than the ninth working day after the hearing was requested.

Stat. Auth.: ORS 411.060, 411.095, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.095, 411.099, 411.816, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 21-1990(Temp), f. 8-28-90, cert. ef. 9-1-90; AFS 2-1991, f. 1-15-91, cert. ef. 2-1-91; AFS 4-1995, f. & ef. 2-1-95; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-105-0190
Discriminatory Actions

(1) The rules of the Department protecting individuals with disabilities against discrimination are set out at OAR 407-005-0000 to 407-005-0030.

(2) The following acts of discrimination on grounds of race, color, sex, political beliefs, age, religious creed or national origin are specifically prohibited:

(a) Denying an individual any service, financial aid, or other benefit provided under any program.

(b) Providing any service, financial aid, or other benefit to an individual that is different, or is provided in a different way, from that provided to others under the program, unless such action is necessary to provide individuals with disabilities with aids, benefits or services that are as effective as those provided to others.

(c) Subjecting an individual to segregation or separate treatment in any way related to receipt of any service, financial aid, or other program benefit.

(d) Restricting an individual in any way from any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under any program.

(e) Treating an individual differently from others in determining whether they satisfy any admission, enrollment, quota, eligibility, membership or other requirement or condition individuals must meet to be provided any service, financial aid, or other benefit provided under any program.

(f) Denying an individual an opportunity to participate in any program or afford them an opportunity to do so that is different from that afforded others under the program.

(g) Denying a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

Stat. Auth.: ORS 409.050, ORS 411.060, 411.070, 411.816, 418.100
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-110-0110
Terms Used in Determining Eligibility

The following terms are used in the eligibility determination process:

(1) *Child* includes natural, step, and adoptive children. The term child does not include an unborn.

(a) For EXT, MAA, MAF, REFM, and TANF, the term *dependent child* means the following:

(A) A person who is not a caretaker relative of a *child* in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(B) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(b) For ERDC, a *child* need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(c) For FS, a *child* is an adult and minor children living with their parent(s).

(d) For GA, GAM and OSIP, a *child* is a person under the age of 18.

(e) For OHP, *child* means a person, including a minor parent, under the age of 19.

(f) For OSIPM and QMB, *child* means an unmarried person living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 21 and attending full time secondary, post-secondary or vocational-technical training designed to prepare the person for employment.

(2) *Community-based care* is any of the following:

(a) Adult foster care — Room and board and 24-hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of persons in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-home Services recipients in demonstration sites who receive a cash benefit to coordinate in-home services under a section 1115 (42 U.S.C. 1315) demonstration waiver.

(3) *Custodial parents* means parents who have physical custody of their child(ren). Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(4) In the FS program, a *disabled* person or a person with a disability means a person who meets any of the following requirements:

(a) Receives SSI benefits under title XVI of the Social Security Act.

(b) Receives SSB benefits based on blindness or disability criteria under title I, II, X, XIV, or XVI of the Social Security Act.

(c) Receives OSIP or other state or federal supplement under section 1616(a) of the Social Security Act based on disability or blindness criteria.

(d) Receives state general assistance benefits based upon disability or blindness criteria under title XVI of the Social Security Act.

(e) Receives disability-related medical assistance under title XIX of the Social Security Act.

(f) Receives a state or federally administered supplemental benefit under section 212(a) of Public Law 93-66.

(g) Receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible for Medicare by the Railroad Retirement Board.

(h) Receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and meets the disability criteria used under title XVI of the Social Security Act.

(i) Receives VA benefits for non-service or service-connected disability rated or paid as total under title 38 of the United States Code.

(j) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.

(k) Has a disability considered permanent under 221(i) of the Social Security Act section and is the surviving spouse or surviving *child* of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service connected death under title 38 of the United States Code.

(l) Is a veteran or surviving spouse of a veteran considered by the VA to be in need of Aid and Attendance benefits or permanently housebound under title 38 of the United States Code.

(m) Is a surviving child of a veteran and considered permanently incapable of self-support under title 38 of the United States Code.

(5) Disqualified means an individual cannot receive program benefits because they have not cooperated in fulfilling some eligibility requirement. Actions that can disqualify an individual include not cooperating with JOBS, JOBS Plus or OFSET, failing to provide an SSN or failure to pursue assets. In some cases, a disqualified individual can make their filing group ineligible for benefits.

(6) Domestic violence shelters are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(7) For FS, elderly means a person 60 years of age or older.

(8) In the FS program, a person is homeless if the person does not have a fixed or regular nighttime residence or has a primary residence that is one of the following:

(a) A supervised shelter that provides temporary accommodations.

(b) A halfway house or residence for people who may become institutionalized.

(c) A temporary accommodation in another person's or family's residence for 90 days or less.

(d) A place not designed to be or ordinarily used as a place for people to sleep, such as a hallway, bus station, or similar place.

(9) *Ineligible* means a person cannot receive program benefits because they do not meet some eligibility requirement that is beyond their control; not because they refuse to fulfill the requirement. A person may be ineligible for benefits because of age, alien status, student status (for FS) or because a disqualified member of the filing group makes them ineligible.

(10) *Long-term care* is the system through which the Department provides required financial benefits, specialized living arrangements, and a broad range of social and health services to eligible aged, blind or disabled adults for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(11) *Marriage* means legal marriage uniting two people. Legal marriage is:

(a) One recognized as legal by state statute of the state where the marriage occurred, including common-law marriage if recognized as legal in a state where the couple previously resided.

(b) A cultural marriage if it occurred in a country that recognizes it as legal.

(12) For FS, a *migrant farmworker* is an individual who regularly travels away from their permanent residence overnight, usually with a group of laborers, to seek employment in an agriculturally related activity. If any member of an FS household fits the definition of migrant farmworker at any time during the redetermination period, budget the household according to the policy on migrant farmworkers.

(13) A *nonstandard living arrangement* is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a nonstandard living arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the person is not yet 21 years of age or has reached the age of 65.

(D) A community-based setting covered by a waiver under Title XIX of the Social Security Act.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, a nonstandard living arrangement means each of the following locations:

(A) Foster care.

(B) Residential Care Facilities.
(C) Drug or Alcohol Residential Treatment Facilities.
(D) Homeless or Domestic Violence Shelters.
(E) Lodging house if paying for room and board.
(F) Correctional facilities.
(G) Medical institutions.

(14) *Parent* means the biological or legal (step or adoptive) mother or father of a person or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The person is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The *child* lives with the biological parent; and

(B) The legal parent (the adoptive parent) has given up care, control and supervision of the child.

(15) For all programs except FS, *primary person* means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For EXT, MAA, MAF and TANF, the parent or caretaker relative.
(b) For ERDC, the caretaker.
(c) For GA, GAM, OSIP, OSIPM and QMB, the client or their spouse.
(d) For OHP, REF and REFM, the applicant, caretaker, caretaker relative or parent.

(16) For FS, *primary person* means:

(a) An adult in the filing group who is designated by the group to serve as the primary person.

(A) A *child* of any age cannot be the primary person when more than one generation lives together, and an adult who is the parent or fulfilling the role of parent is employed, work-registered for FS or receiving TANF or UC.

(B) Where there is no adult, the group can designate another responsible person in the filing group.

(b) Once the primary person has been designated, the filing group cannot choose a different person to be the primary person during the same certification period or during an OFSET or job quit disqualification period, unless there is a change in the composition of the household group.

(17) Safe homes are private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(18) For FS, *seasonal farmworkers* are people employed in agricultural employment of a seasonal or temporary nature. If any member of an FS household fits the definition of seasonal farmworker at any time during the redetermination period, budget the household according to policy on seasonal farmworkers. Seasonal farmworkers are not required to be absent overnight from their permanent residence when:

(a) Employed on a farm or ranch performing field work related to planting, cultivation, or harvesting operations; or

(b) Employed in a canning, packing, ginning, seed conditioning, or related research or processing operation, and transported to or from the place of employment by means of a day-haul operation.

(19) *Sibling* means the brother or sister of a person. "Blood-related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(20) *Spouse* means a person who is legally married to another person. In the ERDC and FS programs, spouse includes a person who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors or tradespeople; and

(b) Sharing living expenses or household duties.

(21) *Standard living arrangement* means a location that does not qualify as a nonstandard living arrangement.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 30-1992 (Temp), f. & cert. ef. 10-14-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-110-0370
Filing Group; FS

In the Food Stamp program:

(1) Except as provided in this rule, the filing group is composed of members of a household group who customarily purchase and prepare meals together.

(2) Except as provided in sections (3), (6), and (7) and subsection (5)(b) of this rule, the following persons, if they are in the same household group, must be in the same filing group, even if they do not customarily purchase and prepare meals together:

(a) Each spouse.

(b) A parent (as defined in OAR 461-110-0110) and their child under age 22 who is living with them.

(c) A household group member and child under age 18 who lives with and is under parental control of that household group member. For the purposes of this subsection, *parental control* means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(3) Notwithstanding sections (1) and (2) of this rule, a person is excluded from the filing group if, during the month the group applied for food stamps, the person received food-stamp benefits or SSI benefits through the state of California that included food-stamp benefits. This exclusion applies only in the initial month and, if necessary to meet notice requirements, in the month following the initial month. This exclusion does not apply to a person who was the head of household in the prior household.

(4) The following persons may form a separate filing group if they purchase and prepare food with other members of the household group, unless they are required by section (2) of this rule to be in the same filing group:

(a) A paid live-in attendant and the attendant's minor children may choose not to be in the filing group with the people for whom they are providing services.

(b) An elderly person (as defined in OAR 461-110-0110) may be considered a separate filing group from the others with whom the elderly person purchases and prepares meals, if:

(A) The elderly person is unable to purchase and prepare food because of a permanent and severe disabling condition; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE.]

(5) The following persons who are paying to have meals provided are not eligible to participate in the Food Stamp program independently of the care or service provider. However, they may be included in the care or service provider's filing group if the provider chooses to apply for benefits for them.

(a) A person in foster care along with his or her spouse and each child under age 22 living with them.

(b) A member of the household group who pays the filing group a reasonable amount for room and board (lodger). A reasonable amount is:

(A) An amount that equals or exceeds the Thrifty Food Plan for the person and anyone in that person's filing group (see OAR 461-155-0190(2)), if more than two meals a day are provided; or

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the person and anyone in that person's filing group, if two or fewer meals a day are provided.

(6) Notwithstanding section (2) of this rule, the following household group members may form a separate filing group from other members of the household group:

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative.

(b) A resident of a nonprofit public or private residential care facility.

(c) A resident of a homeless or domestic violence shelter.

(d) A member of the household group who is not paying the filing group a reasonable amount for room and board (lodger), as defined in subsection (5)(b) of this rule.

(7) The following household group members are excluded from the filing group:

(a) A resident of a commercial boarding house.

(b) An ineligible student, as defined in OAR 461-135-0570.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816

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 23-1990, f. 9-28-90, cert. ef. 10-1-90; 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 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-110-0410
Filing Group; OSIP, OSIPM, QMB

(1) In the OSIP and OSIPM programs (except OSIP-EPD, OSIPM-EPD, and OSIPM-IC):

(a) For applicants age 18 and older who live in a *standard living arrangement* as defined in OAR 461-110-0110, the filing group consists of applicants and the spouse of an applicant.

(b) For applicants who are under the age of 18 living in a standard living arrangement and are not assumed eligible, the filing group consists of applicants and each parent (defined in OAR 461-110-0110) of these applicants.

(2) In the OSIP and OSIPM programs (except OSIP-EPD, OSIPM-EPD, and OSIPM-IC), when people live in a *nonstandard living arrangement* as defined in OAR 461-110-0110, the filing group consists only of the person applying for benefits.

(3) In the OSIP-EPD, OSIPM-EPD, and OSIPM-IC programs, the filing group consists only of the person applying for benefits.

(4) In the QMB program, whether in a *standard or nonstandard living arrangement*, the filing group consists of applicants and the following household members:

(a) The spouse of an applicant.

(b) Each parent of children under age 21, if the children are applying and are not assumed eligible.

(c) Children under age 21, if the parent wants to include these children in the need group.

Stat. Auth.: ORS 411.060, 411.070 & 414.042
Stats. Implemented: ORS 411.060, 411.070 & 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; 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 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-110-0630
Need Group

(1) In the MAA and TANF programs, the need group is formed as follows:

(a) Except as provided in section (1)(b) of this rule, the need group consists of the financial group members who meet all nonfinancial eligibility requirements other than the citizenship and alien status requirements of OAR 461-120-0110.

(b) The need group cannot include:

(A) A parent who is in foster care and for whom foster care payments are being made.

(B) An unborn child.

(C) In the TANF program, a person who cannot be in the need group because of a disqualification penalty.

(2) In the MAF program, the need group consists of the financial group members who meet all nonfinancial eligibility requirements, except for the following people:

(a) A parent who is in foster care and for whom foster care payments are being made.

(b) The father of an unborn child who has no eligible dependent children.

(3) In the EA, REF, and REFM programs, the need group consists of the financial group members who meet all nonfinancial eligibility requirements, except that members disqualified for an intentional program violation are not in the need group.

(4) In the EXT program, the need group consists of all members of the financial group.

(5) In the SAC program, the need group consists of the person in the financial group.

(6) In the ERDC program, the need group consists of each member of the financial group.

(7) In the FS program, the need group consists of the financial group members who meet all nonfinancial eligibility requirements, except the following people are not in the need group:

(a) A member disqualified for an intentional program violation.

(b) A client fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey.

(c) A person violating a condition of parole or probation imposed under a state or federal law.

(8) In the GA and GAM programs, the need group consists of each member of the financial group except that the following people may not be in the need group:

(a) A client fleeing to avoid prosecution, or custody or confinement after conviction, or fleeing after trying to commit a crime, under the law of the place from which the client is fleeing, for a crime that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey.

(b) A person in violation of a condition of parole or probation imposed under a state or federal law.

(9) In the OHP program, the need group consists of each member of the financial group. An unborn child of a pregnant female is included in the need group.

(10) In the OSIP and OSIPM programs, the need group consists of each member of the financial group.

(11) In the QMB program, the need group consists of each member of the financial group, except for the following:

(a) A person who does not meet the citizenship or alien status requirements.

(b) A person disqualified from TANF for noncooperation in the JOBS program.

(c) A person disqualified for failure to meet the requirements of OAR 461-120-0345(2) or for not providing a social security number (SSN).

Stat. Auth.: ORS 411.060, 411.816 & 418.100
Stats. Implemented: ORS 411.060, 411.816 & 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-115-0210
Application Processing Time Frames; FS

(1) This rule applies in the Food Stamp program to an initial application and at recertification.

(2) The Department will determine eligibility and provide the benefit group the opportunity to participate as soon as possible. The application processing time frame for regular service is the 30 days immediately following the *filing date* (see OAR 461-115-0040) and not later than the 7th day following the *filing date* for expedited service.

(3) The application processing time frame for regular service includes:

(a) An interview as soon as possible but not later than 20 days after the filing date (see OAR 461-115-0230 regarding interviews);

(b) Completion of required verification; and

(c) The eligibility determination.

(4) The *filing date* remains effective for 60 days in both of the following situations:

(a) If the Department is not able to complete the application process within 30 days (for example, unable to schedule an interview by the 20th day following the *filing date*).

(b) If the applicant contacts the Department before the 30th day following the *filing date* and informs the Department that verification cannot be provided by the 30th day due to reasons beyond his or her control.

(5) If, for a reason within his or her control, the client fails to attend an interview by the 20th day following the *filing date*, and the interview occurs between the 20th and 30th days following the filing date, all verification must be provided not later than the 30th day following the *filing date*. If required verification is received after the 30th day, a new *filing date* is established as of the date the verification is received.

(6) If a client scheduled for an interview for expedited service fails to attend the interview without good cause, the client's application is processed for regular service.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-

96, cert. ef. 11-1-96; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-135-0095
Specific Requirements; EXT

(1) To be eligible for EXT benefits, at least one member of the filing group must have been eligible for and received MAA or MAF for at least three of the six months prior to the beginning date of the EXT eligibility period (see OAR 461-135-0096(3) to determine the beginning date), and then become ineligible because of:

(a) An increase in the earnings of the caretaker relative;

(b) An increase in child support received; or

(c) A combination of an increase in both the earnings of the caretaker relative and child support received.

(2) If the filing group becomes ineligible for MAA or MAF when another change occurs in conjunction with the increase in earned income or child support, the filing group is not eligible for EXT if the other change, by itself, makes the group ineligible for MAA or MAF.

(3) Eligibility for EXT is limited to the members of the MAA or MAF benefit group at the time that those benefits end.

(4) Subject to the time periods established in OAR 461-135-0096(1):

(a) Once eligibility for EXT is established, members of the benefit group are ineligible if the filing group contains no dependent child.

(b) A benefit group may regain EXT eligibility after becoming ineligible, even if eligibility was lost due to moving out of state, whenever the group again meets EXT eligibility requirements.

(c) Persons who have lost EXT eligibility because they leave the household during the EXT eligibility period may regain eligibility when they return to the household.

(5) For purposes of this rule, "*good cause*" means a circumstance beyond the reasonable control of the client.

(6) To be considered for EXT benefits in the seventh month, unless good cause exists, the filing group must report the following information by the 21st day of the fourth month for each of the preceding three months:

(a) The gross earned income of the financial group; and

(b) Costs for child care necessary for the employment of the caretaker relative.

(7) Unless *good cause* exists, to be considered for EXT benefits in the eighth through tenth months, all of the following requirements must be met:

(a) The filing group must have met the requirements of section (6) of this rule.

(b) By the 21st day of the seventh month, the filing group must report all of the following information for each of the preceding three months:

(A) The gross earned income of the financial group.

(B) Costs for child care necessary for the employment of the caretaker relative.

(c) The caretaker relative must have had earnings in each of the preceding three months of the EXT period.

(d) The average adjusted earned income of the financial group for the reporting period must be below 185% of the federal poverty level (see OAR 461-155-0175).

(8) Unless *good cause* exists, to be considered for EXT benefits in the eleventh and twelfth months, all of the following requirements must be met:

(a) The filing group must have met the requirements of section (7) of this rule.

(b) By the 21st day of the tenth month, the filing group must report all of the following information for each of the preceding three months:

(A) The gross earned income of the financial group.

(B) Costs for child care necessary for the employment of the caretaker relative.

(c) The caretaker relative must have had earnings in each of the preceding three months of the EXT period.

(d) The average adjusted earned income of the financial group for the reporting period must be below 185% of the federal poverty level (see OAR 461-155-0175).

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-135-0096
Eligibility Period; EXT

(1) For a client who meets the eligibility requirements for EXT, the period of eligibility is one of the following:

(a) If eligibility for EXT results from increased child support, the period of eligibility is four months and may not be extended.

(b) If eligibility for EXT results from an increase in the caretaker relative's earnings:

(A) The period of eligibility is six months.

(B) The period of eligibility may be extended for no more than six additional months if the filing group meets the specific EXT requirements in OAR 461-135-0095 and the earned income of the filing group is below the EXT income standard in OAR 461-155-0175.

(2) The period of eligibility for EXT is based on the increase in the caretaker relative's earnings and is described in subsection (1)(b) of this rule in each of the following situations:

(a) A client meets the eligibility requirements for EXT based on an increase in the caretaker relative's earnings and also meets the eligibility requirements based on an increase in child support in the same month.

(b) A client meets the eligibility requirements for EXT based on a combination of increased income from the caretaker relative's earnings and child support, although either increase by itself does not make the filing group ineligible for MAA or MAF.

(3) The EXT eligibility period begins the first of the month following the month eligibility for MAA or MAF ends. If a benefit group received MAA or MAF benefits when they were eligible for EXT, the MAA or MAF benefits are not an overpayment. However, any month in which the client receives MAA or MAF benefits when eligible for EXT is counted as a month of EXT eligibility.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-135-0505
Categorical Eligibility for FS

(1) A person is categorically eligible for food stamps if the person:

(a) Receives or is authorized to receive GA or SSI benefits or cash benefits funded by TANF;

(b) Receives or is authorized to receive in-kind benefits or services funded by TANF;

(c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or

(d) Is a member of a financial group with *countable income* less than 185 percent of the federal poverty level as described in OAR 461-155-0180(5) — and has received a pamphlet about Information and Referral Services.

(2) A benefit or service is "funded by TANF" (see section (1) of this rule) if it is provided as part of the ADC-PLS, Assessment, EA, ERDC, JOBS, TA-DVS, transition, or other TANF-funded program.

(3) For an entire filing group to be categorically eligible for food stamps, it must contain only clients who are categorically eligible for food stamps. For the purpose of determining who is categorically eligible for food stamps, in some programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit. Those programs are the ERDC and TA-DVS programs and any housing assistance or transition service funded by TANF.

(4) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.

(5) A person categorically eligible for the Food Stamp program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The person is also presumed to meet the requirements for a social security number, sponsored alien information, and residency, if verified in a public assistance program.

(6) When a filing group contains both members who are categorically eligible for food stamps and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.

(7) A person cannot be categorically eligible for food stamps in either of the following circumstances:

(a) The person is disqualified from receiving food stamps because of an intentional program violation.

(b) The person is a *primary person* disqualified from receiving food stamps for failure to comply with an OFSET activity or component contained in an OFSET *case plan*.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 29-2000(Temp), f. & cert. ef. 12-1-00 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-135-0730
Specific Requirements; QMB

(1) The following requirements apply to QMB-BAS:

(a) To qualify for QMB-BAS, a person must be receiving Medicare hospital insurance under Part A. This includes people who must pay a monthly premium to receive coverage.

(b) Clients who qualify for QMB-BAS are not eligible to receive the full range of the Department's medical services. QMB-BAS benefits are limited to payments toward Medicare cost-sharing expenses. These expenses are:

(A) Medicare Part A and Part B premiums; and

(B) Medicare Part A and Part B deductibles and coinsurance up to the Department's fee schedule.

(2) The following requirements apply to QMB-DW:

(a) To qualify for QMB-DW program, a person must be eligible for Part A of Medicare as a qualified disabled worker under Section 1818(A) of the Social Security Act. These are people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed, but can continue to receive Part A of Medicare by paying a premium.

(b) QMB-DW clients are eligible only for payment of their premiums for Part A of Medicare. They are not eligible for MAA, MAF, or OSIPM at the same time they are eligible for QMB benefits.

(3) The following requirements apply to QMB-SMB:

(a) To qualify for QMB-SMB, a person must be receiving Medicare hospital insurance under Part A. This includes people who must pay a monthly premium to receive coverage.

(b) Clients who qualify for QMB-SMB are not eligible to receive the full range of the Department's medical services. QMB-SMB benefits are limited to payment of Medicare Part B premiums.

(c) Clients who are institutionalized (reside in a nursing facility, an intermediate care facility for the mentally retarded (ICF/MR), or a hospital) are not eligible for QMB-SMB if they have income equal to or greater than 120% of the Federal Poverty Level (FPL).

(d) A need group with income equal to or greater than 120% of the FPL (see OAR 461-155-0295) may receive QMB-SMB benefits on or after December 1, 2005, except as provided in subsection (3)(e) of this rule.

(e) The QMB-SMB program is subject to an enrollment cap based on the federal allocation. If the enrollment in this program (of clients with income greater than 120% of the FPL) exceeds the federal allocation for that group, the program may be closed.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; 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 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 9-2004(Temp), f. & cert. ef. 4-1-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 3-2006(Temp), f. & cert. ef. 2-6-06 thru 6-30-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-135-0830
Eligibility for Disabled Adult Children; OSIPM

A client is eligible for OSIPM as a Disabled Adult Child if the client meets all of the following requirements:

(1) The client is age 18 or older.

(2) The client became blind or a person with a disability as defined by SSA before reaching the age of 22.

(3) The client lost SSI benefits on or after July 1, 1987 because the client became eligible for Social Security benefits as a result of a parent's retirement, death, or disability, or because of an increase in such benefits.

(4) The client would continue to be eligible for SSI in the absence of the Social Security disabled adult child benefit or increases to that benefit.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-135-1110
Eligible and Ineligible Students; OHP-OPU

(1) In the OHP-OPU program, a person who is enrolled *full time* in *higher education* is ineligible to receive benefits, unless the requirements of one of the following subsections are met:

(a) The student:

(A) Meets the *income requirements* for a *Pell grant*;

(B) Is not currently covered by private major medical health insurance or an HMO; and

(C) Has not been covered by private major medical health insurance or by an HMO for the six months immediately preceding the date of application.

(b) The student is in a program serving displaced workers under Section 236 of the Trade Act of 1974 (19 U.S.C. § 2296).

(2) For the purposes of this rule:

(a) *Higher education* includes the following:

(A) Any public or private university, college or community college.

(B) Any post-secondary vocational or technical school that is eligible to accept Pell grants.

(b) *Full time* is defined by the school.

(c) Meets the *income requirements* for a *Pell grant* means:

(A) The student's Student Aid Report shows an "expected family contribution" less than $3,851 for the 2005-2006 or 2006-2007 school year; or

(B) The student is eligible for a Pell grant and provides documentation of eligibility from the school's financial aid office.

(3) A student's enrollment status continues during school vacation and breaks. A student's *higher education* status ends when the student graduates, drops out (as verified by their disenrolling), reduces their credit or attendance hours below full-time status, is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 13-2000, f. & cert. ef. 5-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 14-2002(Temp), f. & cert. ef. 10-30-02 thru 4-28-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-140-0040
Determining Availability of Income

(1) This rule describes the date income is considered available, what amount of income is considered available and situations in which income is considered unavailable.

(2) Income is considered available the date it is received or the date a member of the financial group has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Earned income withheld or diverted at the request of an employee is considered available on the date the wages would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.

(e) A payment due to a member of the financial group, but paid to a third party for a household expense, is considered available when the third party receives the payment.

(3) The following income is considered available even if not received:

(a) Deemed income.

(b) In the ERDC, GA, GAM, MAA, MAF, OHP, OSIP, OSIPM, QMB, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or social security, withheld to repay an overpayment.

(4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions.

(5) The following income is not considered available:

(a) Wages withheld by an employer in violation of the law.

(b) Income received by another person who does not pay the client his or her share.

(c) Income received by a member of the financial group after he or she has left the household.

(d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is countable:

(A) In the FS program, under OAR 461-145-0105; or

(B) In the ERDC, GA, GAM, MAA, MAF, OHP, OSIP, OSIPM, and TANF programs, under subsection (3)(b) of this rule.

(e) For a client who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.

(f) In the FS program, income received by the financial group but intended and used for the care of someone not in the financial group as follows:

(A) If the income is intended both for someone in the financial group and someone not in the financial group, the portion of the income intended for the care of the person not in the financial group is considered unavailable.

(B) If the portion intended for the care of the person not in the financial group cannot readily be identified, the income is prorated evenly

among the people for whom the income is intended. The prorated share intended for the care of the person not in the financial group is then considered unavailable.

(g) In the FS, MAF, and OHP programs, income controlled by the client's abuser if the client is a victim of domestic violence, the client's abuser controls the income and will not make the money available to the filing group, and the abuser is not in the client's filing group.

(h) In the MAA and TANF programs, the client is a victim of domestic violence and the client's abuser controls the income and will not make the money available to the filing group.

(6) The availability of lump-sum income is covered in OAR 461-140-0120.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.117, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; 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 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-140-0210
Asset Transfer; General Information and Timelines

(1) OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of an asset on a client.

(2) If an asset is transferred during the periods of time listed in section (4) or (5) of this rule and if the transfer is made in whole or in part for the purpose of establishing or maintaining eligibility for benefits:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, the need group is disqualified if a member of the financial group or the spouse of a client transferred the asset.

(b) In the FS, MAA, MAF, REF, REFM, SAC, and TANF programs, the filing group is disqualified if the asset was a resource and a member of the financial group transferred the resource.

(3) In all programs except ERDC and OHP, clients in financial groups whose members transfer a resource within the time periods listed in section (4) of this rule or an asset within the time periods listed in section (5) of this rule must report the transfer as soon as practicable and must provide information requested by the Department concerning the transfer.

(4) In the FS, MAA, MAF, REF, REFM, SAC, and TANF programs, a transfer of resource may be disqualifying if the transfer occurs:

(a) In the Food Stamp program, during the three months preceding the filing date or during a certification period.

(b) In the MAA, MAF, REF, REFM, SAC, and TANF programs, during the three years preceding the *date of request* (as defined in OAR 461-115-0030).

(5) In the GA, GAM, OSIP, OSIPM, and QMB programs, a transfer of an asset may be disqualifying if the transfer occurs:

(a) On or before June 30, 2006 and as described in one of the following paragraphs:

(A) On or after the date that is 60 months prior to the *date of request* — for assets that are transferred without compensation equal to or greater than fair market value from a revocable trust (see OAR 461-145-0540(8)(c)).

(B) On or after the date that is 60 months prior to the *date of request* — for assets that are transferred without compensation equal to or greater than fair market value to an irrevocable trust (see OAR 461-145-0540(9)(a)).

(C) On or after the date that is 60 months prior to the date of request — when there is a change in circumstances that makes assets in an irrevocable trust unavailable to the client (see OAR 461-145-0540(9)(d)).

(D) On or after the date that is 36 months prior to the *date of request* — for assets transferred without compensation equal to or greater than fair market value from an irrevocable trust (see OAR 461-145-0540(9)(b) and (c)).

(E) On or after the date that is 36 months prior to the *date of request* — for other asset transfers made without compensation equal to or greater than fair market value.

(b) On or after:

(A) July 1, 2006; and

(B) The date that is 60 months prior to the *date of request*.

(6) The duration of the period of disqualification or ineligibility is set out in OAR 461-140-0260 to 461-140-0300.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.117, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; 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 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-140-0220
Determining if a Transfer of an Asset is Disqualifying

A transfer of an asset is not *disqualifying* if the requirements of one of the following sections are met:

(1) Except as otherwise provided in OAR 461-140-0242, the transferred item was either:

(a) An excluded asset other than a home or real property; or

(b) Personal property such as jewelry or furniture.

(2) The asset was sold or traded:

(a) In all programs except the Food Stamp program, for compensation equal to or greater than fair market value.

(b) In the Food Stamp program, for compensation near, equal to or greater than fair market value.

(3) The asset was transferred between members of the same financial group, including members who are ineligible aliens or disqualified people.

(4) The transfer settled a legally enforceable claim against the asset or client.

(5) Except in the OSIP, OSIPM and QMB programs, a court ordered the transfer.

(6) In the OSIP, OSIPM and QMB programs, a court ordered the transfer and:

(a) The transfer occurs more than 36 months or 60 months before the *date of request* (as defined in OAR 461-115-0030), whichever is applicable under OAR 461-140-0210(5); or

(b) There is an institutionalized spouse, and — after performing the calculations required in OAR 461-160-0580(2) — the amount of resources allocated to a community spouse does not exceed the largest of the four amounts set forth in OAR 461-160-0580(2)(f).

(7) The client was a victim of fraud, misrepresentation, or coercion, and legal steps have been taken to recover the asset.

(8) In the OSIP, OSIPM and QMB programs, the asset is an annuity purchased on or before December 31, 2005, the client or the spouse of the client is the annuitant, and the entire amount of principal and earned interest is paid in equal installments during the actuarial life expectancy of the annuitant. For purposes of this section, the actuarial life expectancy is established by the life expectancy table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(B).

(9) In the OSIP, OSIPM and QMB programs, for a client in a *standard living arrangement* (as defined in OAR 461-110-0110), the asset is an annuity purchased on or after January 1, 2006, and the client or the spouse of the client is the annuitant.

(10) In the OSIP, OSIPM and QMB programs, for a client in a *non-standard living arrangement* (as defined in OAR 461-110-0110):

(a) The asset is an annuity purchased from January 1, 2006 through June 30, 2006, and the client or the spouse of the client is the annuitant.

(b) The asset is an annuity purchased on or after July 1, 2006, and the annuity meets the requirements of OAR 461-145-0022(11).

Stat. Auth.: ORS 411.060, 411.816 & OAR 418.100
Stats. Implemented: ORS 411.060, 411.816 & OAR 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 2-2002(Temp), f. & cert. ef. 2-26-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-140-0242
Disqualifying Transfer of Assets Including Home; GA, GAM, OSIP, OSIPM, and QMB

(1) A transfer of an asset (including a home) by a client or the spouse of the client is a disqualifying transfer unless the requirements of at least one of the following subsections are met:

(a) The transfer was made exclusively for purposes other than establishing eligibility or maintaining benefits.

(b) The title to the asset was transferred to the person's spouse.

(c) The title to the asset was transferred to the person's child who is blind or has a disability under the criteria of the Social Security Administration.

(d) The title to the asset was transferred to another for the sole benefit of the spouse or a child who is blind or has a disability under the criteria of the Social Security Administration. This transfer must be arranged in such a way that no individual or entity except this spouse or child can benefit from the asset transferred in any way, whether at the time of transfer or any time in the future. A direct transfer, transfer instrument, or trust that provides for funds or property to pass to a beneficiary who is not the spouse or child who is blind or has a disability under the criteria of the Social Security Administration is not considered to be established for the benefit

of one of those individuals. In order for a transfer or a trust to be considered for the sole benefit of one of these individuals, the instrument or document must provide for the spending of the funds involved for the benefit of the individual based on the life expectancy of the individual.

(e) The transfer was made to a trust described in OAR 461-145-0540(10).

(f) The transfer is a transfer described in OAR 461-160-0580(2).

(g) The resource is transferred by the community spouse after the Department has determined the community spouse's resource allowance in accordance with OAR 461-160-0580 and the resource has not been attributed to the institutionalized spouse. Notwithstanding this subsection, a transfer of a resource by a community spouse who is receiving or applying for benefits remains subject to all rules regarding the transfer of an asset by a client.

(2) A transfer of a home by a client or the spouse of the client is a disqualifying transfer unless the title was transferred to the client's:

(a) Child under age 21;

(b) Sibling who has equity interest in the home and was residing in the home for at least one year immediately before the client's admission to long-term care; or

(c) Son or daughter who resided with the client for at least two years immediately prior to the client's admission to long-term care and provided care that permitted the client to reside at home rather than in an institution or long-term care facility. A son or daughter provides the care required by this subsection by doing at least five of the following for the client on a regular basis, without receiving payment from the Department:

(A) Prepares meals.

(B) Shops for food and clothing.

(C) Helps maintain the home.

(D) Assists with financial affairs.

(E) Runs errands.

(F) Provides transportation.

(G) Provides personal services.

(H) Arranges for medical appointments.

(I) Assists with medication.

(3) If a transfer described in subsection (1)(a) of this rule is made for less than fair market value, there is a rebuttable presumption that the asset was transferred for the purpose of establishing or maintaining eligibility.

(4) To rebut the presumption in section (3) of this rule, the client must present evidence other than his or her own statement and must provide to the Department the information it requests for the purpose of evaluating the purpose of the transfer. To meet the burden, it is sufficient for the client to show one of the following:

(a) The decision to make the transfer was not within the client's control;

(b) At the time of transfer, the client could not reasonably have anticipated applying for medical assistance;

(c) Unexpected loss of resources or income occurred between the time of transfer and the application for medical assistance;

(d) Because of other, similarly convincing, circumstances, it appears more likely than not that the transfer was not made, in whole or in part, for the purpose of establishing or maintaining eligibility for benefits.

(5) The fact that a recipient was already eligible for benefits is not sufficient to rebut the presumption in section (3) of this rule because the asset may not always be excluded and if the client had received full compensation for the asset, the compensation received would have been used to determine future eligibility.

Stat. Auth.: ORS 411.060 & 411.710

Stats. Implemented: ORS 411.060 & 411.710

Hist.: AFS 18-1993(Temp), f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-140-0296

Length of Disqualification Due to An Asset Transfer; GA, GAM, OSIP, OSIPM or QMB

In the GA, GAM, OSIP, OSIPM, and QMB programs:

(1) A financial group containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the initial month (defined in OAR 461-150-0010) is on or after October 1, 1993 and prior to October 1, 1998 — $2,595.

(b) If the *initial month* is on or after October 1, 1998 and prior to October 1, 2000 — $3,320.

(c) If the *initial month* is on or after October 1, 2000 and prior to October 1, 2002 — $3,750.

(d) If the *initial month* is on or after October 1, 2002 and prior to October 1, 2004 — $4,300.

(e) If the *initial month* is on or after October 1, 2004 — $4,700.

(2) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (1)(a) to (1)(e) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (1)(a) to (1)(e) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (1) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (2)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this section overlap, the periods are applied sequentially so that no two penalty periods overlap.

(3) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (1)(a) to (1)(e) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (1)(a) to (1)(e) of this rule.

(b) The quotient resulting from the calculation in section (1) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) For a client in a *standard living arrangement* (defined in OAR 461-110-0110), the first month of the disqualification is the month following the month of the first asset transfer.

(d) If a client is in a *nonstandard living arrangement* (defined in OAR 461-110-0110), the first month of the disqualification is the later of:

(A) The month following the month the asset was transferred.

(B) The date of request (as defined in OAR 461-115-0030) for medical benefits as long as the client submits an application, and would otherwise be eligible but for this disqualification period.

(4) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(5) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the uncompensated value as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (6) of this rule.

(6) A disqualification period is assessed for the value of an annuity beyond the actuarial life expectancy of the annuitant if subsections (a) and (b) of this section both apply:

(a) Either:

(A) A client or the spouse of a client purchase an annuity on or before December 31, 2005; or

(B) An OSIPM client who is in a nonstandard living arrangement purchases an annuity on or after July 1, 2006.

(b) If the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the life expectancy table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(B), a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

(7) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef 10-4-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-140-0300
Adjustments to the Disqualification for Asset Transfer

(1) The disqualification imposed under OAR 461-140-0260 is not adjusted once applied in the Food Stamp program.

(2) In all other programs, the disqualification ends if the transfer that caused the disqualification is rescinded. The duration of the disqualification is recalculated if the terms of the transfer are modified.

(3) In the GA, GAM, OSIP, OSIPM and QMB programs, the Department may waive the disqualification if the disqualification would create an undue hardship on the client. For purposes of this section, the disqualification would create an undue hardship if the requirements of subsections (a) and (b) of this section are met:

(a) The client has no other means for meeting his or her needs. The client has the burden of proving that no other means exist by:

(A) Exploring and pursuing all reasonable means to recover the assets to the satisfaction of the Department, including legal remedies and consultation with an attorney; and

(B) Cooperating with the Department to take action to recover the assets.

(b) The disqualification would deprive the client of:

(A) Medical care such that the client's health or life would be endangered; or

(B) Food, clothing, shelter, or other necessities of life without which the health or life of the client would be endangered.

(4) As authorized by ORS 411.620, the Department retains the authority to bring a civil suit or action to set aside a transfer of assets for less than fair market value and may seek recovery of all costs associated with such an action.

(5) Notwithstanding the granting of an undue hardship waiver under section (3) of this rule, the Department is not precluded from recovering public assistance from any assets in which the client held an interest, or in which the client previously held an interest, at the time the undue hardship waiver was granted.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060 & 411.632
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0020
Annuities; Not OSIPM

(1) For the purposes of this rule:

(a) An annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether maintained in the original account or used to purchase an annuity, if the Internal Revenue Service recognizes the account as dedicated to retirement or pension purposes. (The treatment of pension and retirement plans is covered in OAR 461-145-0380)

(b) The definition of "child" in OAR 461-110-0110 does not apply.

(c) "*Child*" means a biological or adoptive child who is:

(A) Under age 21; or

(B) Any age and meets the Social Security Administration criteria for blindness or disability.

(d) "Commercial annuities" mean contracts or agreements (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.

(2) An annuity is counted as a resource if:

(a) The annuity does not make regular payments for a lifetime or specified number of years; or

(b) The annuity does not qualify for exclusion as a resource under subsection (4)(c) of this rule.

(3) If an annuity is a countable resource under this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular payments already received, minus any early withdrawals, and minus any surrender fees.

(4) *Commercial annuities* and payments from such annuities are counted as follows:

(a) In all programs except OSIP, OSIPM, and QMB, annuity payments are counted as unearned income.

(b) In the OSIP and QMB programs:

(A) If a client or the spouse of a client purchases or transfers an annuity prior to January 1, 2006, the transaction may be subject to the rules on asset transfers at OAR 461-140-0220 and following. For an annuity that is not disqualifying but meets the criteria of OAR 461-140-0220, the annuity payments are counted as unearned income.

(B) If a client or the spouse of a client purchases an annuity on or after January 1, 2006, the annuity is counted as a resource unless it is excluded under paragraph (C) of this subsection.

(C) An annuity described in paragraph (B) of this subsection is excluded as a resource if the criteria in subparagraphs (i), (ii), and (iii) of this paragraph are met, except that if an unmarried client is the annuitant, the requirements of subparagraph (iv) of this paragraph must also be met and if a spouse of a client is the annuitant, the requirements of subparagraph (v) of this paragraph must also be met.

(i) The annuity is irrevocable.

(ii) The annuity pays principal and interest out in equal monthly installments within the actuarial life expectancy of the annuitant. For purposes of this subparagraph, the actuarial life expectancy is established by the life expectancy table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(B).

(iii) The annuity is issued by a business that is licensed and approved to issue *commercial annuities* by the state in which the annuity is purchased.

(iv) If an unmarried client is the annuitant, the annuity must specify that upon the death of the client, the first remainder beneficiary is either of the following:

(I) The Department, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(II) The child of the client, if the Department is the next remainder beneficiary (after this child), up to the amount of medical benefits provided on behalf of the client, in the event that the child does not survive the client.

(v) If a spouse of a client is the annuitant, the annuity must specify that, upon the death of the spouse of the client, the first remainder beneficiaries are either of the following:

(I) The client, in the event that the client survives the spouse; and the Department, in the event that the client does not survive the spouse, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(II) A child of the spouse; and the client in the event that this child does not survive the spouse.

(D) If an annuity is excluded under paragraph (C) of this subsection, annuity payments are counted as unearned income.

(c) For OSIPM, see OAR 461-145-0022.

Stat. Auth.: ORS 411.060, 411.816 & 418.100
Stats. Implemented: ORS 411.060, 411.816 & 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0022
Annuities; OSIPM

In the OSIPM program:

(1) For the purposes of this rule:

(a) An annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether maintained in the original account or used to purchase an annuity, if the Internal Revenue Service recognizes the account as dedicated to retirement or pension purposes. (The treatment of pension and retirement plans is covered in OAR 461-145-0380.)

(b) The definition of "child" in OAR 461-110-0110 does not apply.

(c) "Child" means a biological or adoptive child who is:

(A) Under age 21; or

(B) Any age and meets the Social Security Administration criteria for blindness or disability.

(d) "Commercial annuity" means a contract or agreement (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.

(2) An annuity that does not make regular payments for a lifetime or specified number of years is a resource.

(3) When a client applies for medical benefits, both initially and at periodic redetermination (see OAR 461-115-0050 and 461-115-0430), the client must report any annuity owned by the client or a spouse of the client.

(4) By signing the application for assistance, a client and the spouse of a client agree that the Department, by virtue of providing medical assistance, becomes a remainder beneficiary as described in sections (8) and (10) of this rule, under any *commercial annuity* purchased on or after February 8, 2006, unless the annuity is included in the community spouse's resource allowance under OAR 461-160-0580(2)(c).

(5) If the Department is notified about a *commercial annuity*, the Department will notify the issuer of the annuity about the right of the Department as a preferred remainder beneficiary, as described in sections

(8) and (10) of this rule, in the amount of medical assistance provided to the client.

(6) If a client or the spouse of a client purchases or transfers a *commercial annuity* prior to January 1, 2006, the transaction may be subject to the rules on asset transfers at OAR 461-140-0220 and following. For an annuity that is not disqualifying but meets the requirements in OAR 461-140-0220, the annuity payments are counted as unearned income.

(7) Sections 8 and 9 of this rule apply to a *commercial annuity* if:

(a) The client is in a nonstandard living arrangement (defined in OAR 461-110-0110), and the client or the spouse of the client purchases an annuity from January 1, 2006 through June 30, 2006; or

(b) The client is in a standard living arrangement (defined in OAR 461-110-0110), and the client or the spouse of a client purchase an annuity on or after January 1, 2006.

(8) A *commercial annuity* covered by section (7) of this rule is counted as a resource unless the annuity is excluded by meeting the following requirements:

(a) If an unmarried client is an annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that upon the death of the client, the first remainder beneficiary is either of the following:

(A) The Department, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(B) The child of the client, if the Department is the next remainder beneficiary (after this child), up to the amount of medical benefits provided on behalf of the client, in the event that the child does not survive the client.

(b) If a spouse of a client is the annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that, upon the death of the spouse of the client, the first remainder beneficiaries are either of the following:

(A) The client, in the event that the client survives the spouse; and the Department, in the event that the client does not survive the spouse, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.

(B) A child of the spouse; and the client in the event that this child does not survive the spouse.

(c) An annuity covered by section (7) of this rule may not be excluded unless the annuity meets all of the following requirements:

(A) The annuity is irrevocable.

(B) The annuity pays principal and interest out in equal monthly installments within the actuarial life expectancy of the annuitant. For purposes of this paragraph, the actuarial life expectancy is established by the life expectancy table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(B).

(C) The annuity is issued by a business that is licensed and approved to issue a commercial annuity by the state in which the annuity is purchased.

(9) If an annuity is excluded as a resource under section (8) of this rule, the annuity payments are counted as unearned income. If an annuity is a countable resource under section (8) of this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

(10) This section lists the requirements for a commercial annuity purchased by the client or the spouse of the client on or after July 1, 2006, when a client is in a nonstandard living arrangement, and the annuity names the client or the community spouse as the annuitant. Annuities that meet all of the requirements of this section are counted as unearned income. The treatment of annuities that do not meet all requirements of this section is covered in sections (11) and (12) of this rule.

(a) The annuity must comply with one of the following paragraphs:

(A) The first remainder beneficiary is the spouse of the client, and in the event that the spouse transfers any of the remainder of the annuity for less than fair market value (as defined at OAR 461-145-0250(2)(a)(B)), the Department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.

(B) The first remainder beneficiary is the annuitant's child, and in the event that the child or a representative on behalf of the child transfers any of the remainder of the annuity for less than fair market value, the Department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.

(C) The first remainder beneficiary is the Department for up to the total amount of medical benefits paid on behalf of the client.

(b) The annuity must be irrevocable and nonassignable.

(c) The annuity pays principal and interest out in equal monthly installments within the actuarial life expectancy of the annuitant. For purposes of this subsection, the actuarial life expectancy is established by the life expectancy table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(B).

(d) The annuity is issued by a business that is licensed and approved to issue a commercial annuity by the state in which the annuity is purchased.

(11) If the client is the annuitant and a commercial annuity does not meet all of the requirements of section (10) of this rule, or the spouse of the client is the annuitant and a commercial annuity does not meet the requirements of subsection (10)(a) of this rule, there is a disqualifying transfer of assets under OAR 461-140-0210 and following. See OAR 461-140-0296(5) and (6) for calculation of the disqualification period.

(12) Regardless of whether a commercial annuity is a disqualifying transfer of assets, if the annuity does not meet all of the requirements of section (10) of this rule, the annuity is counted as a resource with cash value equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0088
Corporations and Business Entities; Income and Resources

(1) The value of stocks or other ownership interest in a corporation is a resource.

(2) Assets of the corporation essential to the employment of a client are excluded. For instance, if the corporation owns equipment used by the client to produce income for the corporation, the equipment is an excluded resource. If a client must own stock in the corporation as a condition of working for the corporation, the stock is an excluded resource.

(3) Except as provided in OAR 461-140-0040(2) and section (4) of this rule, income of a corporation is not income of a client with an ownership interest in the corporation until the income is distributed to the client.

(4) In the FS and OHP programs, an expenditure by a business entity or corporation that benefits a principal – such as a car or housing payment — is considered available when the expenditure is made. For purposes of this rule, a principal is a person with significant authority in a business entity or corporation, including a sole proprietor, a self-employed person (see OAR 461-145-0910), a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.

(5) In the FS program:

(a) Income from business entities and corporations is treated as follows:

(A) If a client is actively working in a corporation, the income is treated as earned income.

(B) If a client is actively working in an unincorporated business entity, refer to OAR 461-145-0910 to determine if the income is treated as earned or as self-employment.

(C) If a client is no longer actively working to produce the income, the income is treated as unearned.

(b) Income from a limited liability company is treated as follows:

(A) If a client is a member or a manager member, the income is treated as self-employment income.

(B) If a client is a manager but not a member, the income is treated as earned income.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.816, 418.100
Hist.: AFS 11-1999, f. & cert. ef. 10-1-99; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0108
Dividends, Interest and Royalties

(1) Dividends are counted as unearned income, unless the dividends are from a trust described in OAR 461-145-0540(10), in which case the dividends are excluded.

(2) Interest income is counted as unearned income.

(3) Royalties are counted as unearned income, except that royalties are counted as earned income if the client is actively engaged in the activity from which the royalties are accrued.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.816, 418.100
Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0180
Family Support Payments

Family Support program payments are social benefits distributed by state or local agencies to families caring for individuals with extraordinary care needs who live at home. Needs are typically caused by disability or

advanced age. Payments are made to or on behalf of family members. These payments are treated as unearned income except as follows:

(1) In the MAA, MAF, SAC and TANF programs, shelter payments and payments for services or needs not covered by TANF are excluded.

(2) In the ERDC program, the payments are excluded unless they duplicate day care payments provided through a child care program operated by the Department.

(3) In the FS program, payments provided specifically as reimbursement for an identified expense are covered by OAR 461-145-0440. Lump-sum payments are covered in OAR 461-140-0120. All other payments are unearned income.

(4) In the OHP, OSIP, OSIPM, and QMB programs, the payments are excluded.

Stat. Auth.: ORS 411.060, 411.070
Stats. Implemented: ORS 411.060, 411.070
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0220
Home

(1) Home defined: A home is the place where the filing group lives. A home may be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:

(a) Land on which the home is built and contiguous property.

(A) In all programs except FS, property must meet all the following criteria to be considered contiguous property:

(i) It must not be separated from the land on which the home is built by land owned by people outside the financial group.

(ii) It must not be separated by a public right-of-way, such as a road.

(iii) It must be property that cannot be sold separately from the home.

(B) In the Food Stamp program, contiguous property is property not separated from the land on which the home is built by land owned by people outside the financial group.

(b) Other dwellings on the land surrounding the home that cannot be sold separately from the home.

(2) Exclusion of home and other property:

(a) For a client who has an initial month (defined in OAR 461-150-0010) of long-term care or waivered services on or after January 1, 2006:

(A) For purposes of this subsection:

(i) The definition of "child" in OAR 461-110-0110 does not apply.

(ii) "Child" means a biological or adoptive child who is:

(I) Under age 21; or

(II) Any age and meets the Social Security Administration criteria for blindness or disability.

(B) The value of a home is excluded if the client or the spouse of the client occupies the home and the equity in the home is $500,000 or less.

(C) The home is countable as a resource if the client has equity in the home of more than $500,000, unless one of the following requirements is met:

(i) The spouse of the client occupies the home.

(ii) The child of the client occupies the home.

(iii) The client is legally unable to convert the equity value in the home to cash.

(iv) The home equity is excluded under OAR 461-145-0250.

(b) For all other filing groups, the value of a home is excluded when the home is occupied by any member of the filing group.

(c) In the Food Stamp program only, the value of land is excluded while the group is building or planning to build their home on it, except that if the group owns (or is buying) the home they live in and has separate land they intend to build on, only the home in which they live is excluded, and the land they intend to build on is treated as real property in accordance with OAR 461-145-0420.

(3) Exclusion during temporary absence: If the value of a home is excluded under section (2) of this rule, the value of this home remains excluded in each of the following situations:

(a) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, during the temporary absence of all members of the filing group from the property, if the absence is due to illness or uninhabitability (from casualty or natural disaster), and the filing group intends to return home.

(b) In the Food Stamp program, when the financial group is absent because of employment or training for future employment.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, when the client is absent to receive care in a medical institution, if one of the following is true:

(A) The absent client is a single adult who has provided evidence that he or she will return to the home. The evidence must reflect the subjective intent of the client, regardless of the client's medical condition. A written statement from a competent client is sufficient to prove the intent.

(B) The home remains occupied by the client's spouse, child, or a relative dependent on the client for support. The child must be less than 21 years of age or, if over the age of 21, blind or an individual with a disability as defined by SSA criteria.

(d) In the MAA, MAF, REF, REFM, SAC, and TANF programs, when all members of the filing group are absent because:

(A) The members are employed in seasonal employment and intend to return to the home when the employment ends; or

(B) The members are searching for employment, and the search requires the members to relocate away from their home. If all members of the filing group are absent for this reason, the home may be excluded for up to six months from the date the last member of the filing group leaves the home to search for employment. After the six months, if a member of the filing group does not return, the home is no longer excluded.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0250
Income-Producing Property

(1) Income-producing property is any real or personal property that generates income for the financial group. Examples of income-producing property are:

(a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

(2) Income from income producing property is counted as follows:

(a) If a financial group member actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).

(b) If a financial group member does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920.

(3) The equity value of income-producing property is treated as follows:

(a) In the EA, ERDC, and OHP programs, it is excluded.

(b) In the FS program, it is counted as a resource except to the extent described in each of the following situations:

(A) If the property produces an annual countable income similar to other properties in the community with comparable market value, the equity value of the property is excluded.

(B) The equity value of income-producing livestock, poultry, and other animals is excluded.

(C) If selling the resource would produce a net gain to the financial group of less than $1,500, the equity value is excluded.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs, it is counted as a resource, except:

(A) If the property produces an annual countable income of at least six percent of its equity value, the value of the property is excluded up to a maximum of $6,000.

(B) The total equity value is excluded if all the following are true:

(i) The property is used in a trade or business.

(ii) The property is essential to the client's self-support.

(iii) The property produces an annual countable income of at least six percent of its equity value.

(d) In the MAA, MAF, REF, REFM, SAC, and TANF programs, it is counted as a resource.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.700, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0310
Life Estate

(1) A life estate is the right to property limited to the lifetime of the person holding it or the lifetime of some other person. In general, a life estate enables the owner of the life estate to possess, use and obtain profits from property during the lifetime of a designated person while actual ownership of the property is held by another individual. A life estate is created when an individual owns property and then transfers their ownership to another while retaining, for the rest of their life, certain rights to that property. In addition, a life estate is established when a member of the financial group purchases a life estate interest in the home of another individual.

(2) For all programs except OSIP, OSIPM and QMB, if a financial group is living in real property while a member holds a life estate in this property, the property is treated as a home (see OAR 461-145-0220). In all other situations, a life estate is treated as real property (see OAR 461-145-0420).

(3) In the OSIP, OSIPM and QMB programs:

(a) A transfer for less than fair market value (see OAR 461-140-0050) in which a member of the financial group retains a life estate is a disqualifying transfer. A transfer is considered for less than fair market value if the fair market value of the transferred resource on the day prior to the transfer is greater than the sum of the value of the rights conferred by the life estate plus the compensation received for the transfer. For purposes of this subsection, the value of the rights conferred by the life estate is established by the Life Estate and Remainder Interest Table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(A).

(b) If a member of the financial group purchases a life estate interest in the home of another individual on or after July 1, 2006, the purchase is considered a transfer of resources unless the client resides in this home for at least 12 consecutive months after the date of the purchase. The value of the transfer for a client who does not reside in the home for at least 12 consecutive months is calculated by using the purchase price of the life estate.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.700, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0330
Loans and Interest on Loans

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.

(2) For purposes of this rule, "*reverse-annuity mortgage*" means an arrangement in which a homeowner borrows against the equity in the home and receives regular monthly tax-free payments from the lender. A "reverse-annuity mortgage" is sometimes referred to in the private sector as a reverse mortgage or a home equity conversion mortgage.

(3) The proceeds of a home equity loan or reverse-annuity mortgage are considered loans under this rule.

(4) For payments that a member of the financial group receives as a borrower to be treated as a loan:

(a) In the GA, GAM, OHP, OSIP, OSIPM, and QMB programs, there must be an oral or written loan agreement, and this agreement must state when repayment of the loan is due to the lender.

(b) In all other programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and state when repayment of the loan is due to the lender.

(5) When a member of a financial group receives cash proceeds from a loan:

(a) In all programs, educational loans are treated according to OAR 461-145-0150.

(b) In the ERDC, EXT, FS, MAA, MAF, OHP, REF, REFM, SAC and TANF programs, the loan is excluded. If retained after the month of receipt, the loan is treated in accordance with OAR 461-140-0070.

(c) In the GA, GAM, OSIP, OSIPM and QMB programs, a loan is excluded as income. The loan is a resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).

(6) Except as provided in section (7) of this rule, if a member of a financial group has made a loan and is receiving return payments as a result:

(a) The interest payment is unearned income.

(b) The payment of principal is excluded.

(7) In the GA, GAM, OSIP, OSIPM and QMB programs, if a client or a spouse of a client uses funds to purchase a promissory note, loan, or mortgage in a transaction occurring on or after July 1, 2006, the balance of the payments owing to the client or spouse of the client is a transfer of assets for less than fair market value, unless all of the following requirements are met:

(a) The total value of the transaction is being repaid to the client or spouse of the client within that person's actuarial life expectancy as established by the life expectancy table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9B.

(b) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.

(c) The contract is not cancelled upon the death of the client or the spouse of the client (who made the transaction).

Stat. Auth: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-145-0340
Lodger Income

(1) A lodger is a member of the household group who:

(a) Is not a member of the filing group; and

(b) Pays the filing group for room and board.

(2) Lodger income is the amount a lodger pays the filing group for room (rent) and board (meals).

(3) Lodger income is self-employment income.

Stat. Auth.: ORS 411.060, 411.816 & 418.100
Stats. Implemented: ORS 411.060, 411.816 & 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-155-0030
Income and Payment Standards; MAA, MAF, REF, SAC, TANF

For MAA, MAF, REF, SAC and TANF, the income standards are as follows:

(1) The Countable Income Limit Standard is the amount set as the maximum countable income limit.

(a) For need groups in the REF and TANF programs containing an adult and for all need groups in the MAA, MAF and SAC programs, the following table is used: [Table not included. See ED. NOTE.]

(b) In the REF and TANF programs, when the need group contains no adults, the "no-adult countable income limit standard" is calculated as follows:

(A) Refer to the Countable Income Limit Standard for need groups with adults. Use the standard for the number of people in the household group.

(B) Divide the standard in paragraph (A) of this subsection by the number of people in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of people in the need group. The result is the standard.

(2) The Adjusted Income/Payment Standard is used as the adjusted income limit and to calculate cash benefits for need groups with an adult.

(a) For need groups containing an adult in the REF and TANF programs and for all need groups in the MAA, MAF and SAC programs, the following table is used: [Table not included. See ED. NOTE.]

(b) For the REF and TANF programs, when the need group contains no adult, the No-Adult Adjusted Income/Payment Standard is calculated as follows:

(A) Refer to the Adjusted Income/Payment Standard for need groups with adults. Use the standard for the number of people in the household group.

(B) Divide the standard in paragraph (A) of this subsection by the number of people in the household group. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of people in the need group.

(D) Add $12 to the figure calculated in paragraph (C) of this subsection.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 418.100
Stats. Implemented: ORS 411.070 & 418.100
Hist.: AFS 80-1989, f. & cert. ef. 2-1-90; 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 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-155-0150
Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: A child aged birth through 12 months.

(b) Toddler: A child aged 1 year through 30 months.

(c) Preschool Child: A child aged 31 months through 5 years.

(d) School Child: A child aged 6 years or older.

(e) Special needs child: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above

the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, licensed or certified psychologist or clinical social worker.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets:

(A) The training requirements of the Oregon Registry entry level, established by the Oregon Center for Career Development in Childhood Care and Education; or

(B) The training requirements established by the Child Care Division for registered family providers who apply to become registered after October 1, 1999.

(c) The Enhanced Group Rate applies to child care provided in a residential dwelling that is certified by the Child Care Division as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(d) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Division Certification rules (see OAR 414-300-0000).

(e) The Enhanced Center Rate applies to child care provided in a center that is certified by the Child Care Division or in an exempt center whose staff meet the training requirements of the Oregon Registry entry level established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry entry level training requirements noted in paragraph (2)(b)(A) of this rule.

(B) New staff must meet the Oregon Registry entry level training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (2)(e)(A) of this rule.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(f) An exempt center is eligible to receive the enhanced rate for a maximum of six months while in the process of meeting the requirements of subsection (2)(e) of this rule if it files a statement of intent to meet the requirements on a form prescribed by the Department.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (2)(b), (c), (e), or (f) of this rule.

(3) Subject to the provisions in section (6) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (6) of this rule.

(b) The product of the hours of care, limited by section (4) of this rule, multiplied by the hourly rate provided in section (6) of this rule.

(4) The number of payable billable hours for a child is limited as follows:

(a) For the ERDC-BAS and TANF programs, the total in a month may not exceed:

(A) The number of hours of care necessary for the client to maintain his or her job including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client, or to participate in activities included in a case plan (see OAR 461-190-0161 and OAR 461-190-0310); or

(B) 125 percent of the time the client is at work or participating in an approved activity of the JOBS program.

(b) For the ERDC-SBG program, the total may not exceed the number of hours of care necessary for the client to maintain his or her education, training or employment. The total may not exceed 125 percent of the sum of 200 percent of class hours and the time the client is at work.

(c) In the ERDC-BAS and TANF programs, for a client who earns less than state minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage. The limitation of this subsection is waived for the first three months of the client's employment.

(5) The following provisions apply to all programs:

(a) Providers not eligible for the enhanced rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced rate will be paid at an hourly rate for children in care less than 136 hours a month unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate.

(c) At their request, providers eligible for the enhanced rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month and customarily bill all families at a part-time monthly rate.

(d) Unless required by the client's or child's circumstances, the Department will not pay for care at a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care;

(B) The absent child's place is not filled by another child; and

(C) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(6) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (7) of this rule, is the lesser of the following:

(a) The amount billed by the provider or providers; and

(b) The monthly rate established in section (8) of this rule multiplied by a factor, limited to 1.5, determined by dividing the number of hours billed by 215.

(7) The limit allowed by section (6) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this rule, a client has special circumstances when it is necessary, in order for the client to perform the requirements of his or her employment or training, to obtain child care for a child in excess of 215 hours in a month.

(8) The payment available for care of a child who meets the special needs criteria described in subsection (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(9) The following are the child care rates. The rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (that is, hourly or monthly) [Table not included. See ED. NOTE.]

(10) This section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is met for need groups of eight or less if monthly income for the need group is less than 150 percent of the federal poverty level, as described in OAR 461-155-0180(4). The eligibility standard for a need group size of eight applies to any need group larger than eight. The ERDC copay is $25 or the amount determined by the formula in subsection (b) of this section, whichever is greater.

(b) The maximum copay equals the constant determined by the table in subsection (c) of this section, added to the product of a constant determined by the table in subsection (d) of this section times the constant determined by the table in subsection (e) of this section raised to a power equal to the family's gross income, expressed in dollars. The formula is as follows: $y = k + (b \times m^x)$

(c) The constant k is determined by the number of people in the need group, as follows:

(A) 2 persons: k = -30

(B) 3 persons: k = -55

(C) 4 persons: k = -50

(D) 5 persons: k = -51

(E) 6 persons: k = -80

(F) 7 persons: k = -92

(G) 8 or more persons: k = -103

(d) The constant b is determined by the number of people in the need group, as follows:

(A) 2 persons: b = 18.0

(B) 3 persons: b = 23.0

(C) 4 persons: b = 20.9
(D) 5 persons: b = 20.6
(E) 6 persons: b = 33.2
(F) 7 persons: b = 33.2
(G) 8 or more persons: b = 40.4

(e) The constant m is determined by the number of people in the need group, as follows:

(A) 2 persons: m = 1.001885
(B) 3 persons: m = 1.001550
(C) 4 persons: m = 1.001380
(D) 5 persons: m = 1.001250
(E) 6 persons: m = 1.000990
(F) 7 persons: m = 1.000910
(G) 8 or more persons: m = 1.000795

(11) Effective October 1, 2003, a client's copay is limited to $25 during the first month the client is eligible for ERDC. This limitation cannot be used in more than one month in any 12 consecutive months.

(12) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

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

Stat. Auth.: ORS 411.060, 418.100
Stats. Implemented: ORS 411.060, 418.100
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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-155-0175
Income Standard; EXT

(1) For the first seven months of EXT eligibility, there is no income limit.

(2) To continue EXT eligibility after the first seven months, the average adjusted earned income of the financial group must be below 185 percent of the federal poverty level as described in OAR 461-155-0180, using income from:

(a) The second three months of the EXT period to continue eligibility for the eighth through tenth months.

(b) The third three months of the EXT period to continue eligibility for the eleventh and twelfth months.

Stat. Auth.: ORS 411.060, 411.070
Stats. Implemented: ORS 411.060, 411.070
Hist.: SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-155-0180
Poverty Related Income Standards; Not OSIP, OSIPM, QMB, TANF

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level.

(2) A monthly income standard set at 100 percent of the 2006 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 133 percent of the 2006 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 150 percent of the 2006 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 185 percent of the 2006 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard set at 200 percent of the 2006 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060, 411.070, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.070, 411.816, 418.100
Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-155-0225
Income Standard; OHP

(1) If a financial group contains a person with significant authority in a business entity a "principal" as defined in OAR 461-140-0040 the group is ineligible for the OHP program if the gross income of the business entity exceeds $10,000. If the need group is not ineligible under this section, its eligibility is evaluated under section (2) of this rule.

(2) The countable income standards for OHP are as follows:

(a) The countable income standard for OHP-OPC and OHP-OPU is 100 percent of the federal poverty level, as listed in OAR 461-155-0180(2), based on the size of the need group.

(b) The countable income standard for OHP-OP6 is 133 percent of the federal poverty level, as listed in OAR 461-155-0180(3), based on the size of the need group.

(c) The countable income standard for OHP-OPP and OHP-CHP is 185 percent of the federal poverty level, as listed in OAR 461-155-0180(5), based on the size of the need group.

Stat. Auth.: ORS 409.050 & 411.060
Stats. Implemented: ORS 411.060 & 411.070
Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; 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 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; 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 10-1998, f. 6-29-98, cert. ef. 7-1-98; 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 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 2-2004(Temp), f. & cert. ef. 2-13-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 2-2005, f. & cert. ef. 2-18-05; SSP 1-2006, f. & cert. ef. 1-24-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-155-0250
Income and Payment Standard; OSIP, OSIPM

(1) For an OSIP (except OSIP-EPD) or OSIPM (except OSIPM-EPD) client in long-term care or in a waivered nonstandard living arrangement (defined in OAR 461-110-0110), 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 shelter (housing and 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 the SIP (supplemental income payment) amount. The SIP is a need amount added to any other special or service needs to determine the actual payment. In some cases, the need amount is zero.

(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 spouses who each receive SSI and live in an AFC, ALF or RCF, an amount is added to each person's SIP payment 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, 411.070
Stats. Implemented: ORS 411.060, 411.070
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; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-160-0055
Medical Costs That are Deductible

For FS clients who are elderly (defined in OAR 461-110-0110) or persons with a disability (defined in OAR 461-110-0110), and for clients in the GA, GAM, OSIP and OSIPM programs, medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and as follows:

(1) Health and hospitalization insurance premiums and coinsurance are deductible. In the FS and OSIPM programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.

(2) The cost of a medical service is deductible if it is—

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Except in the Food Stamp program, a medical necessity approved by the Department.

(3) Medical deductions are also allowed for, among other things, the cost of:

(a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.

(b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, the annual fee for a drug prescription card, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) In the FS program, such items as the following:

(A) Nursing care, nursing home care, and hospitalization, including payments for a person who was a member of the household group immediately prior to entering a hospital or a nursing home certified by the state.

(B) Services of an attendant, home health aid, housekeeper or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person FS benefit group if the client furnishes the majority of an attendant's meals.

(C) Prescribed, companion animals and assistance animals (such as a Seeing Eye Dog, Hearing Dog, or Housekeeper Monkey), including the cost of acquiring the animals, their training, food, and veterinarian bills.

(D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.

Stat. Auth.: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-160-0415
Medical Deduction; FS

(1) This rule explains how to calculate the deduction for medical costs in the Food Stamp program allowed under OAR 461-160-0055 when incurred by an elderly (defined in OAR 461-110-0110) member of a household or by a household member with a disability (defined in OAR 461-110-0110).

(2) For each certification period, the Department estimates the amount of the client's medical deduction and apportions the amount evenly among the months in the certification period. For medical costs payable during the month of certification, the client may choose to deduct each cost in the month of certification or to average the cost over the certification period.

(3) For medical costs that were not anticipated when the deduction was estimated but are incurred and reported to the Department during the certification period, the client may choose to deduct each cost:

(a) In the month after the cost is reported; or

(b) By averaging the cost over the period from the month after the cost was reported to the end of the certification period.

(4) If the client is billed in the last month of a certification period for a medical cost that is due after the certification period, and the client does not pay the bill during the certification period, the cost may be used to compute the deduction in the next certification period.

(5) A medical cost is not deductible in any of the following situations:

(a) The client reports a paid medical cost in the last month of the redetermination period, but reports this cost after their benefits for that month have already been issued.

(b) The medical cost is past due or is an amount carried forward from a previous billing period.

(c) The client and creditor have agreed on a monthly payment amount, but the client defaults on the agreement.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816
Hist.: AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; Suspended by AFS 31-2000(Temp), f. & cert. ef. 12-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

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 has applied for benefits because he or she is in or will be in a continuous period of care (defined in OAR 461-160-0560).

(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 institutionalized 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:

(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).

(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; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-160-0620

Income Deductions and Client Liability; Long-Term Care or Waivered Services

(1) Deductions from income in the OSIP and OSIPM programs are made for a client specified in subsection (a) of this section as explained in subsections (a) through (i) of this section. The liability of the client is determined according to subsection (j).

(a) Deductions are made in the order below for a client who resides in or is entering a long-term care facility or receives Title XIX waivered services, except that there is no client liability for:

(A) A client who receives SSI or is deemed to receive SSI under section 1619(b) of the Social Security Act (42 U.S.C. § 1382h(b)).

(B) A client in one of the following categories who receives only waivered services:

(i) A client in OSIPM-IC.

(ii) An adult disabled child as described at OAR 461-135-0830.

(iii) A disabled widow or widower under OAR 461-135-0811.

(iv) A widow or widower under OAR 461-135-0820.

(b) One standard earned income deduction of $65 is made from the earned income in the OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA programs. The deduction is $85 in the OSIP-AB and OSIPM-AB programs.

(c) In the OSIP and OSIPM programs, the deductions under the plan for self-support is made as allowed by OAR 461-140-0420.

(d) One of the following need standards is deducted:

(A) A $30 personal needs allowance for a client in long-term care.

(B) A $90 personal needs allowance for a client in long-term care who is eligible for VA benefits based on unusual medical expenses. The $90 allowance is allowed only when the VA benefit has been reduced to $90.

(C) The OSIP maintenance standard for a client who receives waivered services.

(e) A community spouse monthly income allowance is deducted from the income of the institutionalized spouse if the income is made available to (or for the benefit of) the community spouse. If neither spouse is eligible for SSI and both receive waivered services through the home- and community-based care program in the same residence or facility, and if the countable income of either spouse is less than the one-person OSIPM payment standard, an allowance is calculated separately using calculation methods 1 and 2 below. The result that is better for the couple is the allowance. For all other couples, the amount calculated using method 2 is the allowance.

(A) Calculation method 1: The allowance is the difference between the one-person payment standard of the OSIPM program (see OAR 461-155-0250) and the countable income of the spouse with the lesser countable income.

(B) Calculation method 2:

(i) Step 1 — Determine the maintenance needs allowance. $1,650 is added to the amount over $495 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or $2,488.50, whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the Food Stamp program (see OAR 461-160-0420).

(ii) Step 2 — Compare maintenance needs allowance with community spouse's gross income. The gross income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(iii) Step 3 — If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(f) A dependent income allowance is deducted for each eligible dependent as follows:

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below $1,650. To determine the income allowance of the eligible dependent:

(i) The monthly income of the eligible dependent is deducted from $1,650.

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no community spouse:

(i) The allowance is the TANF adjusted income standard for the client and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(g) Costs for maintaining a home are deducted if the client meets the criteria in OAR 461-160-0630.

(h) In the OSIPM program, medical deductions allowed by OAR 461-160-0055 are made for costs not covered under the state plan. This includes the public and private health insurance premiums of the community spouse and the client's dependent.

(i) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(j) The client liability is determined as follows:

(A) For a client receiving waivered services (except a client identified in subsection (1)(a) of this rule), the liability is the actual cost of the waivered service or the adjusted income of the client, whichever is less. This amount must be paid to the Department each month as a condition of

being eligible for waivered services. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(B) For a client who resides in a nursing facility, an acute hospital, a state hospital, an Intermediate Care Facility for the Mentally Retarded, or a non-waivered mental health facility, there is a liability as described at OAR 461-160-0610.

(2) The deduction used to determine adjusted income for a GA and GAM client in long-term care or waivered services is as follows:

(a) One standard earned income deduction of $65 is made from the earned income for a client who is not blind; or

(b) One standard earned income deduction of $85 is made from the earned income for a client who is blind.

Stat. Auth.: ORS 411.060 & 411.070
Stats. Implemented: ORS 411.060 & 411.070
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 13-1991. f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; 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 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, 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 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 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; 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 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-165-0030
Concurrent and Duplicate Program Benefits

(1) A person may not receive benefits from the Department of the same type (that is, cash, medical, or food stamp benefits) for the same month as a member of two different benefit groups or from two separate programs, except as noted in this rule. This provision includes a prohibition against an individual receiving TANF concurrently with another cash assistance program funded under Title IV-E of the Social Security Act.

(a) If a GA client becomes eligible for TANF, the client's benefits are supplemented during the first month of eligibility for TANF to the TANF payment standards.

(b) A TANF recipient may receive ERDC for children who are in the household group but may not be included in the TANF filing group.

(c) A client may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.

(d) A child who is a member of an ERDC benefit group may also be a member of one of the following benefit groups:

(A) A TANF benefit group when living with a nonneedy caretaker relative, if the caretaker relative is not the child's parent.

(B) An OSIP-AB benefit group.

(C) A TANF benefit group when living with a needy caretaker relative receiving SSI.

(e) Clients in the Food Stamp program who leave a filing group that includes a person who abused them and enter a shelter or safe home for victims of domestic violence may receive food stamp benefits twice during the month they enter the shelter or safe home.

(f) A QMB-BAS client may also receive medical benefits from EXT, MAA, MAF, OSIPM, or SAC.

(2) A person may not receive benefits of the same type (that is, cash, medical, or food stamp benefits) for the same period from both Oregon and another state or tribal food distribution program, except as follows:

(a) Medical benefits may be authorized for an eligible client if the client's provider refuses to submit a bill to the Medicaid agency of another state and the client would not otherwise receive medical care.

(b) Cash benefits may be authorized for a client in the Assessment Program if benefits from another state will end by the last day of the month in which the client applied for TANF.

(3) In the FS program, each person who has been included as a member of the filing group in Oregon or another state is subject to all of the restrictions in section (2) of this rule.

(4) A person may not receive benefits from the EXT, MAA, MAF, OHP, OSIPM, or SAC program while receiving a subsidy through the Family Health Insurance Assistance Program (FHIAP) established by ORS 735.720 to 735.740.

Stat. Auth.: ORS 411.060, 411.816 & 418.100
Stats. Implemented: ORS 411.060, 411.117, 411.816 & 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-170-0025
Changes That Must be Reported; EXT

Clients in the EXT program are required to report each of the following within 10 days of occurrence:

(1) A change in address of anyone who is receiving benefits.

(2) A change of name of anyone who is receiving benefits.

(3) A change in health-insurance coverage available to anyone who is receiving benefits.

(4) A report of pregnancy of anyone who is receiving benefits.

(5) A birth to anyone who is receiving benefits.

(6) A report that a member of the filing group who is 18 years of age is no longer a full-time student in secondary school or in vocational or technical training.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-170-0103
Actions Resulting From Changes in Household Circumstances; Simplified Reporting System (SRS); FS

In the Food Stamp program, benefits may be changed for a client using SRS based on information obtained other than through the interim change report — only as follows:

(1) The benefit level will be increased if the information demonstrates the client is eligible for greater benefits.

(2) The benefits will be closed or reduced if any of the following subsections apply:

(a) The household requests a closure of benefits.

(b) The action is based on information that is verified upon receipt. Information is considered verified upon receipt if:

(A) It is not questionable and the person making the report has first-hand knowledge of the information reported; or

(B) Verification is provided with the reported change in accordance with OAR 461-115-0651.

(c) The client reports information that results in loss of eligibility for the FS program.

(d) The client reports financial group income exceeding the countable income limit.

(3) The Department acts on information reported through computer matches when the interim change report is processed, when the client is recertified, or when the monthly match with the Employment Department generates an Unemployment Compensation (UC) hold.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-175-0220
Notice Situation; Disqualification

(1) If a benefit group or individual is disqualified for an FS voluntary job quit or for failure to apply for or provide an SSN, pursue assets, cooperate in the JOBS, JOBS Plus, or OFSET program, or assist the state's efforts to collect support, the Department sends the following type of notice:

(a) If benefits are reduced or closed because of the disqualification:

(A) A continuing benefit decision notice is used when changes are reported on the Monthly Change Report, Interim Change Report or Periodic Review forms.

(B) A timely continuing benefit decision notice is used when changes are not reported on the Monthly Change Report, Interim Change Report or Periodic Review forms.

(b) If benefits are opened without the disqualified individual in the benefit group or if the entire benefit group is denied assistance, a basic decision notice is used.

(2) For a JOBS, JOBS Plus, or OFSET disqualification, and for an FS voluntary job quit by a person receiving food stamp benefits, the notice includes the following information:

(a) The client action that resulted in disqualification.

(b) The length of the minimum disqualification period.

(c) The reduced benefit amount.

(d) How the client may end the disqualification after the minimum period.

(3) For a voluntary job quit by a person applying for food stamp benefits, the notice includes the following information:

(a) The action that resulted in the disqualification; and

(b) The length of the disqualification period.

(4) For an FS or TANF IPV disqualification:

(a) A basic decision notice is required if a person in the benefit group is disqualified for an IPV as the result of a court order or a final order from an administrative hearing.

(b) A continuing benefit decision notice is required if a person in the benefit group is disqualified for an IPV based on a signed waiver.

(5) For a GA, GAM, OSIP, OSIPM and QMB program disqualification due to a transfer of assets:

(a) The Department sends:

(A) A basic decision notice for a denial of benefits.

(B) A timely continuing benefit decision notice if benefits are reduced or closed.

(b) The notice sent under subsection (5)(a) of this rule includes each of the following items:

(A) The action that resulted in the disqualification, including the amount of uncompensated value used to calculate the disqualification period.

(B) The length of the disqualification.

(C) Information that the client, or the facility in which the client resides (on behalf of the client), may apply for a waiver of the disqualification on the basis of undue hardship.

Stat. Auth.: 411.060, 411.816, 418.100
Stats. Implemented: 411.060, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-175-0230
Notice Situation; Nonstandard Living Situations

(1) In the Food Stamp program:

(a) A timely continuing benefit decision notice is sent to terminate, suspend, or reduce benefits if the notice occurs as a result of any of the following situations:

(A) A client has been admitted or committed to an institution.

(B) A client has been placed in foster care, skilled nursing care, intermediate care, or long term hospitalization.

(C) A client is placed in official custody or a correctional facility.

(D) A client enters a drug or alcohol residential treatment facility.

(E) A client leaves a drug or alcohol residential treatment facility without reapplying for FS benefits.

(b) No decision notice is required if the Department determines that a resident of a drug or alcohol treatment center or a residential care facility (RCF) is ineligible as a result of one of the following actions taken against the center or facility:

(A) Disqualification by Food and Nutrition Services (FNS) as an authorized representative.

(B) Loss of certification with the Department.

(c) A resident of an RCF that is disqualified or loses its certification as described in subsection (1)(b) of this rule may still qualify for Food Stamps through a separate application.

(2) Except as provided in section (3) of this rule, for all programs except FS, a basic decision notice is sent to terminate, suspend, or reduce benefits in each of the following situations:

(a) The client has been admitted or committed to an institution.

(b) The client has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

(c) The client is placed in official custody or a correctional facility.

(3) In the OSIP and OSIPM programs, a client receiving waivered or long term care services is sent a timely continuing benefits decision notice in each of the following situations:

(a) A reduction or closure of services occurs as the result of a process of reevaluating both the functional impairment levels of a client and the requirements of a client for assistance in performing activities of daily living.

(b) Services are closing because the client has not paid the client liability.

(c) The client receives benefits in the OSIP-IC or OSIPM-IC program, and benefits will end under OAR 411-036-0050.

(d) There is an increase in the client liability.

(e) There is a change in special needs as described in OAR 461-180-0040.

Stat. Auth.: ORS 411.060, 411.101, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.095, 411.099, 411.101, 411.111, 411.816, 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-180-0080
Effective Dates; Initial Month FS Benefits

In the Food Stamp program:

(1) Except as provided in section (2) of this rule, for a filing group making an initial application or applying after the end of its certification period, the effective date for starting benefits is the filing date (see OAR 461-115-0050 and 461-115-0210), as long as all eligibility requirements are met on the filing date. If all eligibility requirements are not met on the filing date, the effective date is the date all eligibility requirements are met.

(2) For migrant and seasonal farmworkers that received FS benefits in another state the month before applying for FS in Oregon, the effective date for starting benefits is the first of the month.

(3) If a filing group is applying for benefits during the last two months of a certification period, the effective date is the first of the month following the end of the certification period, unless the filing group fails to complete the application process within the time frames listed in OAR 461-115-0210.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 10-1995, f. 30-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-190-0195
Degree Completion Initiative Component

(1) The Degree Completion Initiative (DCI) assists TANF parents who are undergraduates to complete their education at a two- or four-year educational institution. DCI is a work-attached component of the JOBS program for certain TANF clients. A participant in the DCI component (participant) receives TANF cash assistance as well as support services provided through the JOBS program. JOBS support services does not pay for the cost of tuition, fees, books, or supplies associated with enrollment by a participant at an educational institution.

(2) The following definitions apply to DCI:

(a) "DCI" refers to Degree Completion Initiative.

(b) "Educational institution" refers to any post-secondary educational institution approved or accredited by the Northwest Commission on Colleges and Universities, by its regional equivalent, or by the appropriate official, department, or agency of the state or nation in which the institution is located and which is--

(A) A two- or four-year college or university; or

(B) A community college.

(c) "Participant" refers to a participant in the DCI component of the JOBS program.

(3) The number of participants at any time may not exceed one hundred households receiving TANF.

(4) Applying for DCI; Waiting List:

(a) A parent who is applying for or receiving TANF may apply for DCI by completing and signing the DCI application and submitting it to the Department. The application and other documentation required by this rule must be submitted to Department of Human Services JOBS Unit (DCI), 2nd Floor, 500 Summer Street NE E48, Salem, Oregon 97301.

(b) The Department will follow the following procedure for DCI applications received by the Department:

(A) For applications received prior to November 1, 2005, the Department will select participants in a random selection process of applicants, subject to the priority established in paragraph (E) of this subsection. The number of participants selected may not exceed the cap established in section (3) of this rule. The Department will notify all selected applicants who qualify that they have been selected to participate.

(B) For applications received prior to November 1, 2005, the Department will create a waiting list of applicants from the applicants who are not selected for participation in the random selection held pursuant to paragraph (A) of this subsection. The waiting list will be created through a random selection process in which the first application selected will be first on the waiting list. The Department will notify applicants that they have been placed on the DCI waiting list.

(C) For applications received on or after November 1, 2005, the Department will add applicants to the waiting list created pursuant to paragraph (B) of this subsection in the order of the date and time the completed application is received by the Department. The Department will notify applicants that they have been placed on the waiting list.

(D) When an opening in DCI becomes available, the Department will notify the next applicant on the waiting list.

(E) The priority population for the first 100 DCI slots will be applicants who are undergraduates and who require 12 months or less to complete a degree at an educational institution.

(F) If the department does not have 100 DCI slots filled, applications will be open to applicants who are undergraduates and who require between 13 and 24 months to complete a degree at an educational institution. Prior to November 1, 2005, a random selection process will be used if there are too many applicants in this category for the remaining slots available.

(c) The Department will inform each applicant for DCI who does not qualify or no longer qualifies for placement on the waiting list.

(5) Selection Requirements:

(a) A DCI applicant must meet the financial and nonfinancial eligibility requirements for TANF.

(b) Subject to the priority established by paragraph (4)(b)(E) of this rule, a DCI applicant must demonstrate that they are an undergraduate who requires 24 months or less to complete a degree at an educational institution.

(c) A DCI applicant who is not applying for or receiving TANF at the time of selection may not participate in DCI or remain on the waiting list.

(d) A DCI application must include documentation that the DCI applicant has been accepted for full-time attendance into or is enrolled full-time at an educational institution. If the DCI applicant does not include such documentation with the DCI application, the applicant must submit documentation to the Department no later than 60 days from the date the application is submitted. An applicant who does not provide this documentation within 60 days is not eligible to participate in the DCI component. This deadline may be extended beyond 60 days in special circumstances beyond the control of the client.

(6) Requirements of Participants; Limitations:

(a) A participant must provide documentation to the Department quarterly, or following completion of each academic term at the educational institution, that the participant is making satisfactory academic progress, as defined by the educational institution, toward a degree.

(b) A participant who does not provide the documentation required by subsection (6)(a) of this rule, or who is not making satisfactory academic progress as defined by the educational institution, is not eligible to continue to participate.

(c) A participant must attend classes full-time as defined by the educational institution, unless there is good cause (see OAR 461-130-0327) to limit attendance to less than full-time.

(d) Unless there is good cause (see OAR 461-130-0327) for not attending year round, a participant must either--

(A) Attend classes year round, including during the summer if classes are offered by the educational institution; or

(B) If not attending classes year round, participate in work experience related to the field of study of the participant when not attending classes.

(e) A participant must provide the Department, either verbally or in writing, with attendance information at least once per month.

(f) Eligibility for DCI is limited to 12 months and may not be extended.

(g) Upon completing the last semester or term of the educational program of the participant, the participant must engage in work preparation activities, which may include resume preparation, employment research, interviews, work experience, and other activities related to job placement.

(h) The following requirements apply to a participant who is required to participate in the JOBS program:

(A) A mandatory participant who does not attend classes year round may be required to participate in other activities of the JOBS program.

(B) A mandatory participant found to be ineligible to participate in DCI must meet the participation requirements of the JOBS program.

(i) A participant may not simultaneously receive services from both the ERDC-SBG program and from the TANF or JOBS program.

(j) Except as provided in subsection (6)(k) of this rule, a participant must remain eligible for TANF: if the participant becomes ineligible for TANF, the participant is ineligible for DCI.

(k) If a participant becomes temporarily ineligible for TANF during a period of four or fewer months due to income from a paid work experience, the applicant may retain their DCI slot when school resumes if the participant meets all of the following requirements:

(A) The time of the participant in DCI will be no longer than 12 months.

(B) The participant regains TANF eligibility.

(C) DCI is still an appropriate activity for the participant.

Stat. Auth.: ORS 411.060, 418.100

Stats. Implemented: ORS 411.060, 418.100

Hist.: SSP 15-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-195-0511

Child Care Overpayments

This rule defines overpayments in the Department's child care programs and explains when clients and providers are liable for an overpayment.

(1) A *child care overpayment* is a payment for child care made by the Department to or on behalf of a client that is paid to an ineligible provider or exceeds the amount authorized by law for the care provided, except that it is not a *child care overpayment* if any of the following subsections apply:

(a) A client fails to make a required report of a change in income during a reporting period, other than the changes covered in OAR 461-170-0015.

(b) The total due and paid to two or more providers exceeds the monthly limit the Department may pay on behalf of the client. The exception provided by this subsection does not apply if:

(A) Two or more providers are paid at the full-time rate; or

(B) One of the providers provides child care under a contract with the Department.

(c) A client unintentionally provides an inaccurate estimate of prospective income or other information.

(d) A client would otherwise be eligible for a payment and provides inaccurate information due to an aspect of a documented disability of the client.

(2) A child care payment is a client overpayment if made for care provided when a client was not:

(a) Engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-190-0110 and following); or

(b) Eligible for child care benefits.

(3) A child care overpayment occurring after November 30, 1999, not caused by the client or the provider is collectible as follows:

(a) The provider is liable for a provider overpayment made on behalf of a client eligible for child care payments.

(b) The client is liable for an overpayment if the client was not eligible for the payment.

(4) A client is liable for a *client overpayment*, and a provider is liable for an overpayment caused by the provider. The client and provider are jointly and severally liable for an overpayment caused by both. In the case of an alleged provider overpayment, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

(5) The Department may recover a child care overpayment for which a provider is liable by reducing up to 100 percent any future child care payments for which the provider bills the Department.

(6) An adult who cosigned an application with a minor provider applicant is responsible to repay an overpayment incurred by the minor provider.

Stat. Auth.: ORS 411.060 & 418.100

Stats. Implemented: ORS 411.060, 411.122 & 418.100

Hist.: AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-195-0521

Special Rules for Calculation of Overpayments

This rule contains special rules for calculating an overpayment.

(1) If a client directly receives support that should be, but is not, used to reimburse the Department for assistance or to reduce benefits, there is an overpayment for the amount of support the client received directly that should have been used to reimburse the Department or reduce benefits.

(2) If a client failed to comply with the requirements of OAR 461-120-0345 relating to medical insurance, an overpayment is calculated according to this section. The client is not included in the need group (see OAR 461-110-0630) during any period in which the client failed to meet a requirement of the OAR 461-120-0345 by withholding information or giving false information. Therefore, there is an overpayment equal to the difference between the benefits the group received and the reduced amount it would have received had the client been removed from the need group.

(3) If the benefit group was categorically eligible for food stamps, there is no Food Stamp overpayment based on resources, Social Security number, or residency. A Food Stamp overpayment may exist based on incorrect income.

(a) For a group found eligible for food stamps under OAR 461-135-0505(1)(a), (b) or (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for food stamps. Benefit groups of one or two persons would be entitled to at least $10 in food stamp benefits.

(b) For a group found eligible for food stamps only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185% Federal

Poverty Level, the group is no longer categorically eligible and the overpayment is the food stamp benefit amount.

(4) When a client receives benefits in the OSIPM program and does not pay their share of the cost of service (client liability), the overpayment consists of all payments made by the Department on behalf of the client, including but not limited to capitation payments, all medical expenses for that period, waivered service payments (including home-delivered meals and non-medical transportation), Medicare Buy-In, and mileage reimbursement.

(5) Credit against an overpayment is allowed as follows:

(a) In the GA, REF and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless it would have been authorized if requested.

(b) Credit is allowed for an underpayment of benefits.

(c) In the FS program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(6) Benefits paid during the notice period (see OAR 461-175-0050) are included in the calculation of the overpayment if:

(a) The client failed to report changes within the reporting time frame; and

(b) Benefits could have been adjusted in time to prevent the overpayment if the client had reported changes at any time within the reporting time frame.

(7) An overpayment is determined and calculated by assigning unreported income to the applicable budget month without averaging the unreported income. There is a rebuttable presumption that a client's earnings reported in a quarterly earnings report from the Employment Department were received by the client in equal amounts during the months identified in the report.

(8) Earned income deductions are applied in calculating an overpayment except as follows:

(a) For MAA, MAF, REF and TANF, no earned income deduction (see OAR 461-160-0160 and -0190) is allowed for a client who, without good cause, did either of the following:

(A) Failed to report all earned income within the reporting time frame.

(B) Under reported earned income.

(b) For FS, no deduction is applied to earned income not timely reported.

(9) For the purposes of section (8) of this rule, good cause means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(10) In the TANF program, the amount of support retained by the Department as current reimbursement each month is added to other income to determine ineligibility. In the case of a client not eligible for TANF, the overpayment is offset by support retained by the Department as current reimbursement.

(11) When a client has incurred an overpayment due to both an administrative error and a client error in the same month, the client error overpayment is calculated by determining the total overpayment for the month and subtracting from it the portion due to administrative error.

(12) In the medical programs:

(a) There is no overpayment if the client was ineligible for financial assistance but, during the period in question, would have been eligible for EXT or any other medical program.

(b) When an overpayment is caused by *administrative error*, there is no corresponding overpayment if the client had been eligible to receive medical benefits under EXT, GAM, MAA, MAF, OSIPM or SAC. In such cases, the overpaid cash benefits are not counted as income in calculating eligibility for EXT, GAM, MAA, MAF, OSIPM or SAC and are not used in determining the client's spend down (see OAR 461-160-0080).

Stat. Auth.: ORS 411.060, 411.660, 411.816 & 418.100
Stats. Implemented: ORS 411.060, 411.630, 411.635, 411.660, 411.816 & 418.100
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; 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 22-2002, f. 12-31-02, cert ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

461-195-0561
Compromise of Overpayment Claims

(1) This rule establishes the Department's policy for compromising claims for overpayments in the Child Support, ERDC, Food Stamp, medical, and TANF programs. The Department will consider a request to compromise an overpayment claim only if the costs of administration and collection necessary to collect the account in full would likely exceed the current balance of the overpayment. In making the determination whether to compromise, the Department will consider the requester's ability to repay the overpayment in full within a reasonable time, as evidenced by such factors as:

(a) Income less than 200% of the federal poverty level (see OAR 461-155-0180(6)); or

(b) Income and liquid assets that are small compared with the outstanding overpayment.

(2) The following limitations and considerations apply to the Department's evaluation of a request to compromise an overpayment claim:

(a) The Department's authority to compromise may be limited by federal or state law.

(b) The Department will allow a compromised claim to be paid in installments over a period not to exceed 90 days.

(c) The Department will compromise a claim only once it is a liquidated claim; liquidated claim is described in OAR 461-195-0551.

(d) The Department will compromise a claim that exceeds $20,000 only to the extent permitted by the rules of the Secretary of State.

(e) Except for an overpayment in the child support program, the Department will not agree to compromise a claim for less than 75 percent of the total amount of the claim. In the child support program, the amount for which a claim will be compromised will be determined following the applicable standards in OAR 137-055-6120(1).

(f) During the 12 months following the date of the compromise agreement, the Department reserves the right to collect the original, unmitigated claim through benefit reduction (see OAR 461-195-0551). This subsection does not apply to claims in the child support program.

(3) The following limitations apply to a request to compromise an overpayment:

(a) A request for compromise will be considered only if 36 months have passed since the requester was first notified of the overpayment.

(b) A request for compromise will be considered only if 12 months have passed since the requester was last eligible for and received benefits of the program in which the overpayment occurred or last received a direct provider payment for child care (see the rules in division 165 of this chapter of rules). This subsection does not apply to claims in the child support program.

(c) An overpayment caused by the requester's conduct is subject to compromise only if caused by his or her inadvertent error or by circumstances beyond his or her reasonable control.

(d) The Department will not compromise a claim if the requester has not made a good faith effort to repay the overpayment.

(e) The Department is more likely to approve a request to compromise if the requester has not previously caused an overpayment in the same program.

Stat. Authority: ORS 411.060, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.635, 411.816, 418.100
Hist.: AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06

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Rule Caption: Changin OARs affecting public assistance, medical assistance or food stamp clients.
Adm. Order No.: SSP 11-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-1-06 thru 9-30-06
Notice Publication Date:
Rules Amended: 461-120-0125, 461-140-0250, 461-145-0420
Rules Suspended: 461-007-0124
Subject: OAR 461-007-0124 which covers the payment of attorney fees on SSI appeals is being suspended because the rule is obsolete. These fees are now paid by the federal government.

OAR 461-120-0125 is being amended to add the Medicare Savings Programs — QMB, SMB and SMF —- to programs that evaluate citizenship and legal alien status when determining eligibility. The Department will use the same criteria as it does for the Oregon Supplementary Income Program (OSIPM) when doing this evaluation.

OAR 461-140-0250 — which concerns the determination of uncompensated value upon which a disqualification period is based for clients of food stamps, public assistance, and medical assistance — is being amended to clarify the rule and to make the rule consistent with other rules amended due to implementation of the Deficit Reduction Act of 2005 that apply to clients in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and

QMB (Qualified Medicare Beneficiaries) programs. The rule is being amended to cover the calculation of uncompensated value for any asset, regardless of whether the asset is income or a resource (currently the rule only mentions transfers of resources). This rule is also being amended to allow for exclusion in the calculation of the client's resource limit amount and to clarify what constitutes the fair market value of an annuity.

OAR 461-145-0420 — which concerns the treatment of real property in determining eligibility for public assistance benefits — is being amended to make the rule consistent with other rules amended due to implementation of the Deficit Reduction Act of 2005 (DRA) that apply to clients in the GA (General Assistance, currently closed), GAM (General Assistance Medical, currently closed), OSIP (Oregon Supplemental Income Program), OSIPM (Oregon Supplemental Income Program Medical, providing medical coverage to the elderly and individuals with disabilities), and QMB (Qualified Medicare Beneficiaries) programs. The DRA requires that certain clients who have equity value in excess of $500,000 in their homes are no longer eligible for long-term care and in-home and community-based services. This rule is being changed to be consistent with that new requirement.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-007-0124

Payment of Attorney Fees on SSI Appeals

(1) If a GA client has been denied by SSI at the initial and reconsideration level, and through the services of legal counsel wins a reversal at a subsequent appeal level, the Division will pay 25 percent of the reimbursement the Division receives from the interim assistance agreement.

(2) The Division's fee payment for legal services rendered is based on the lesser amount of the following computations:

(a) Divide the Division's share of the SSI lump-sum by the total settlement and then multiply the percentage of that total by the valid attorney fees approved by SSA.

(b) Multiply the Division's share of the SSI lump-sum by 25 percent.

(3) If the criteria set forth in Social Security Ruling (SSR 85-3) are met, the fee setting regulation requiring that valid attorney fees be approved by the Social Security Administration is not required. However, the client's attorney must submit an itemized bill detailing legal services rendered in conjunction with the client's representation. Payment for legal services will be paid by the Division at a maximum fixed rate of $100 per hour. When billing the Division, the client's attorney must provide a copy of the waiver of a fee notice (Form SSA 1696) issued to the Social Security Administration.

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

Stat. Auth.: ORS 135.200 & 411.710

Stats. Implemented: ORS 135.200 & 411.710

Hist.: AFS 52-1984, f. & ef. 12-24-84; AFS 83-1989, f. 12-28-89, cert. ef. 1-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; Suspended by SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06

461-120-0125

Alien Status; Not REF or REFM

(1) For purposes of this chapter of rules, a person is a "qualified noncitizen" if he or she is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq*).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 251(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) In all programs except the Food Stamp programCa battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the United States Immigration and Naturalization Service.

(i) In the Food Stamp programCa non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent=s family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

(2) A person meets the alien status requirements if he or she is one of the following:

(a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the ERDC and TANF programs, a person meets the alien status requirements if he or she is one of the following:

(a) A person who is a qualified non-citizen.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(d) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(4) In the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs, a qualified non-citizen meets the alien status requirements if he or she satisfies one of the following situations:

(a) Was a qualified non-citizen before August 22, 1996.

(b) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified-noncitizen status was obtained. A person is not continuously present in the United States if he or she is absent from the United States for more than 30 consecutive days or for a total of more than 90 days.

(c) Is a person granted any of the following alien statuses:

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(d) Meets the alien status requirements in section (2), (7), or (8) of this rule.

(e) In the OSIPM and QMB programs, is receiving SSI benefits.

(5) In the GA and GAM programs, a person meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability, was lawfully residing in the United States on August 22, 1996, and is now a qualified noncitizen.

(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(c) A person who meets one of the alien status requirements in section (2) or (7) of this rule.

(6) In the OSIP program, a person meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability, was lawfully residing in the United States on August 22, 1996, and is now a qualified noncitizen.

(b) A qualified noncitizen who physically entered the United States on or after August 22, 1996, has had the qualified noncitizen status for at least five years, and has forty qualifying quarters of coverage as defined in section (10) of this rule.

(c) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(d) A person receiving SSI benefits.

(e) A person who meets one of the alien status requirements in section (2) or (7) of this rule.

(7) In all programs except ERDC and TANF, a qualified non-citizen meets the alien status requirement if he or she is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. ' 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of a person described in subsection (a) or (b) of this section.

(d) In the FS program, a qualified non-citizen who meets the requirement in section (10) of this rule.

(8) Except as provided in sections (2), (4), (5), and (7) of this rule, a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996:

(a) Is ineligible for the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs for five years beginning on the date the non-citizen received his or her qualified non-citizen status.

(b) Meets the alien status requirement following the five-year period.

(9) In the FS program, a person meets the alien status requirement if he or she is one of the following:

(a) A person granted any of the following alien statusesC

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(b) A qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.

(f) A qualified non-citizen who is disabled, as defined in OAR 461-110-0110(4).

(10) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the FS program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include FS, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that he or she has fewer than 40 quarters of coverage, may be provisionally certified for food stamp benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for food stamp benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

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

Stat. Auth.: ORS 411.060, 411.816 & 418.100

Stats. Implemented: ORS 411.060, 411.816 & 418.100

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06

461-140-0250

Determining The Uncompensated Value of a Transferred Asset

(1) The *uncompensated value* of a disqualifying transfer of an asset is used in OAR 461-140-0260 to 461-140-0300 to calculate the ineligibility period of the financial group.

(2) To determine *uncompensated value*:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The value of the compensation received for the asset is subtracted from the *fair market value* of the asset. This result is the uncompensated value, unless the financial group had countable resources of less than the resource limit at the time of the first transfer. If the financial group had countable resources of less than the resource limit at the time of the first transfer, the remainder is then added to other countable resources, and the amount by which the sum exceeds the resource limit in OAR 461-160-0015 is the uncompensated value.

(B) For an annuity, unless the client verifies a lesser amount, the *fair market value* is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

(b) In all other programs, the value of the compensation received for the resource is subtracted from the *fair market value* of the resource. The remainder is added to the other countable resources at the time of the transfer. The amount by which the sum exceeds the resource limit is the *uncompensated value*.

(c) The compensation received for a transferred asset includes:

(A) Encumbrances assumed by the buyer; and

(B) Goods or services provided to the client, limited to their true value, if there was a prior agreement to exchange the asset for the goods or services.

Stat. Auth: ORS 411.060, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.632, 411.816, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06

461-145-0420
Real Property

Real property is land, buildings, and whatever is erected on or affixed to the land and taxed as real property. Real property that is not income-producing or the financial group's home is treated as follows:

(1) In the MAA, MAF, SAC, REF, REFM, and TANF programs, the equity value of all real property that is not excluded under a TANF Interim Assistance agreement is counted as a resource.

(2) In the EA, ERDC, and OHP programs, real property is excluded.

(3) In the FS program, real property is treated as follows:

(a) If the financial group is making a good-faith effort to sell the property at a fair market price, the property is excluded.

(b) If the financial group refuses to make a good-faith effort to sell, the equity value of the property is counted as a resource.

(4) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(a) The equity value of real property that was the home of the financial group is excluded if the financial group is making a good-faith effort to sell the property at a reasonable price, unless the equity value in the home makes the client ineligible under OAR 461-145-0220(2)(a).

(b) The equity value of all other real property is excluded if the financial group is making a good-faith effort to sell the property at a reasonable price. The equity value is counted after the property is excluded for nine months unless the failure to sell it is for reasons beyond the reasonable control of the financial group.

Stat. Auth.: ORS 411.060, 411.816 & 418.100
Stats. Implemented: ORS 411.060, 411.816 & 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06

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

Rule Caption: Allows discharge of residents with a sexual conviction and who are a risk of harm.
Adm. Order No.: SPD 21-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 411-088-0020
Rules Repealed: 411-088-0020(T)
Subject: OAR 411-088-0020 is being adopted as a permanent rule. Failure to adopt this rule prevents Nursing Facilities from immediately discharging a resident with a sexual conviction who poses a current risk of harm to others.

Senate Bill 106 was imposed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate at the request of Governor Kulongoski.
Rules Coordinator: Lisa Richards—(503) 945-6398

411-088-0020
Basis for Involuntary Transfer

Upon compliance with these Transfer rules (OAR 411-088), an involuntary transfer of a resident may be made when one of the reasons specified in section (1) or section (2) of this rule exists.

(1) MEDICAL and WELFARE REASONS.

(a) A resident may be transferred when the resident's physician states in writing that:

(A) The resident's health has improved sufficiently so the resident no longer needs the services provided by the facility; or

(B) The facility is unable to meet the resident's care needs and the facility has identified another environment available to the resident which can better meet the resident's needs. The Division shall assist the facility in the effort.

(b) A resident may be transferred when the Division Administrator or the State Fire Marshal states in writing the safety of the resident (or other persons in the facility) is endangered and justifies the transfer;

(c) A resident may be transferred when the behavior of the resident creates a serious and immediate threat to the resident or to other residents or persons in the facility and all reasonable alternatives to transfer (consistent with the attending physician's orders) have been attempted and documented in the resident's medical record. Such alternatives may include but are not limited to chemical or physical restraints and medication;

(d) A resident may be transferred when the resident has a medical emergency;

(e) A resident may be transferred when governmental action results in the revoking or declining to renew a facility's certification or license;

(f) A resident may be transferred when the facility intends to terminate operation as a nursing facility, and:

(A) Certifies in writing to the Division the license is to be irrevocably terminated; and

(B) Establishes to the satisfaction of the Division it has made arrangements to accomplish all necessary transfers in a safe manner with adequate resident involvement and follow-up or each resident to minimize negative effects of the transfer;

(g) A resident may be transferred from a facility when the resident has been accepted for the purpose of receiving post-hospital extended care services or specialized services, as physician's orders for such facility services and has, according to the physician's written opinion, improved sufficiently so the resident no longer needs the post-hospital extended care services or specialized services provided by the facility. The purpose of the admission, including the program of care, and the expected length of stay must have been agreed to in writing by the resident (or his/her legal representative who is so authorized to make such an agreement) at or prior to admission. The facility shall identify another environment available to the resident which is appropriate to meet the resident's needs. The Notice may be issued at the time of admission or later and shall be based upon the projected course of treatment.

(2) NON-PAYMENT REASONS. A resident may be transferred when there is a non-payment of facility charges for the resident and payment for the stay is not available through Medicaid, Medicare or other third party reimbursement. A resident may not be transferred if, prior to actual transfer, delinquent charges are paid. A resident may not be transferred for delinquent charges if payment for current charges is available through Medicaid, Medicare or other third party reimbursement.

(3) CONVICTION OF A SEX CRIME. A resident who was admitted January 1, 2006 or later may be moved without advance notice if all of the following are met:

(a) The facility was not notified prior to admission that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and

(b) The facility learns that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and

(c) The resident presents a current risk of harm to another resident, staff or visitor in the facility, as evidenced by:

(A) Current or recent sexual inappropriateness, aggressive behavior of a sexual nature or verbal threats of a sexual nature; and

(B) Current communication from the State Board of Parole and Post-Prison Supervision, Department of Corrections or community corrections agency parole or probation officer that the individual's Static 99 score or other assessment indicates a probable sexual re-offense risk to others in the facility.

(d) Prior to the move, the facility must contact DHS Central Office by telephone and review the criteria in paragraphs (8)(c)(A) & (B) of this rule. DHS will respond within one working day of contact by the facility. The Department of Corrections parole or probation officer will be included in the review, if available. DHS will advise the facility if rule criteria for immediate move out are not met. DHS will assist in locating placement options.

(e) A written move-out notice must be completed on a Department approved form. The form must be filled out in its entirety and a copy of the notice delivered in person, to the resident, or the resident's legal representative, if applicable. Where a person lacks capacity and there is no legal representative, a copy of the notice to move-out must be immediately faxed to the State Long Term Care Ombudsman.

(f) Prior to the move, the facility must orally review the notice and right to object with the resident or legal representative and determine if a hearing is requested. A request for hearing does not delay the involuntary move-out. The facility will immediately telephone DHS Central Office when a hearing is requested. The hearing will be held within five business days of the resident's move. No informal conference will be held prior to the hearing.

Stat. Auth.: ORS 441.055, 441.605, & 443.410
Stats. Implemented: ORS 441.055, 441.600, 441.615, 443.410 & 181.586
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 2-1995, f. & cert. ef. 2-15-95; SPD 6-2006(Temp), f. & cert. ef. 1-18-06 thru 7-1-06; SPD 21-2006, f. 6-27-06 cert. ef. 7-1-06

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

Adm. Order No.: SPD 22-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 411-056-0020
Rules Repealed: 411-056-0020(T)
Subject: OAR 411-056-0020 is being adopted as a permanent rule. Failure to adopt this rule prevents Assisted Living Facilities from immediately discharging a resident with a sexual conviction who poses a current risk of harm to others.

Senate Bill 106 was imposed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate at the request of Governor Kulongoski.
Rules Coordinator: Lisa Richards—(503) 945-6398

411-056-0020
Involuntary Move-Out Criteria

The Department of Human Services, Seniors and People with Disabilities encourages facilities to support a resident's choice to remain in his or her living environment while recognizing that some residents may no longer be appropriate for the assisted living setting due to safety and medical limitations.

(1) A resident may, but is not required to be, asked to leave under the following circumstances:

(a) Residents shall be given 30 days written notice when they are requested to move-out for the following reasons:

(A) The resident's needs exceed the level of ADL services the facility provides. There shall be documentation of the facility's efforts to provide or arrange for the required services. The minimum required services identified in OAR 411-056-0015(3) shall be provided before a resident can be asked to move-out for this reason;

(B) The resident exhibits behavior or actions that repeatedly and substantially interferes with the rights or well being of other residents and the facility has tried prudent and reasonable interventions. There shall be documentation of the interventions attempted;

(C) The resident, due to severe cognitive decline, is not able to respond to verbal instructions, recognize danger, make basic care decisions, express need or summon assistance;

(D) The resident has a medical condition that is complex, unstable or unpredictable and treatment cannot be appropriately developed and implemented in the assisted living environment. There shall be documentation of the facility's efforts to obtain appropriate care for the resident; or

(E) Non-payment of charges.

(b) The resident may be asked to move-out with less than 30 days, but not less than 14 days written notice for the following reasons:

(A) The resident exhibits behavior that is an immediate danger to self or others;

(B) The resident has had a sudden change in condition that requires medical or psychiatric treatment outside the facility and at the time the resident is to be discharged from that setting to move back into the facility, appropriate facility staff have re-evaluated the resident's needs and have determined the resident's needs exceed the facility's level of service. If the resident appeals the notification to move-out, the facility shall not rent the resident's unit pending completion of the appeals process;

(C) The facility is unable to accomplish resident evacuation in accordance with OAR 411-056-0035; or

(D) The resident requires 24 hour, seven day a week nursing supervision.

(c) A resident or his/her legal representative may be given less than 14 days notice with written consent from the Department. All appeal rights shall remain intact.

(d) A resident or his/her legal representative shall be given at least 30 days notice if a facility has had its license revoked, not renewed, or voluntarily surrendered.

(e) A resident or his/her legal representative may terminate residency of a resident without notice due to abuse or conditions of imminent danger to life, health or safety, as substantiated by the Department.

(2) The written move-out notice shall be completed on a Department designated form. The form shall be filled out in its entirety and a copy of the notice shall be sent by certified mail or delivered in person to the resident, the resident's legal representative, or any person designated by the resident, guardian, or conservator and if applicable, the case manager. Where a person lacks capacity and there is no legal representative, a copy of the notice to move-out shall be faxed or sent next-day delivery to the State Long Term Care Ombudsman, who may request an informal conference for the resident.

(3) When given a 14 day move-out notice, residents who object to the notification have five working days from receipt of the notice to request an informal conference. Residents who receive a 30 day notice to move have ten working days to request an informal conference after receipt of the notice. When a resident or designee requests an informal conference, the Department's Salem central office shall be notified by the facility.

(4) The Department will hold an informal conference as promptly as possible after the request is received. Participants shall include the resident and others as requested by the resident. The purpose of the informal conference is to resolve the matter without a formal hearing. If a resolution is reached at the informal conference, no formal hearing will be held. If a resolution is not reached at the informal conference, the resident or resident's representative may request a formal hearing.

(5) The resident has the right to a formal administrative hearing prior to an involuntary move-out.

(6) Temporary absence for medical treatment is not considered a move-out.

(7) Intra-facility move policy shall be included in the facility's disclosure statement. In the case of a facility requested move, the facility shall pay all associated costs with the move. Residents shall not be relocated from one unit to another for the convenience of the facility.

(8) A resident who was admitted January 1, 2006 or later may be moved without advance notice if all of the following are met:

(a) The facility was not notified prior to admission that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and

(b) The facility learns that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and

(c) The resident presents a current risk of harm to another resident, staff or visitor in the facility, as evidenced by:

(A) Current or recent sexual inappropriateness, aggressive behavior of a sexual nature or verbal threats of a sexual nature; and

(B) Current communication from the State Board of Parole and Post-Prison Supervision, Department of Corrections or community corrections agency parole or probation officer that the individual's Static 99 score or other assessment indicates a probable sexual re-offense risk to others in the facility.

(d) Prior to the move, the facility must contact DHS Central Office by telephone and review the criteria in paragraphs (8)(c)(A) & (B) of this rule. DHS will respond within one working day of contact by the facility. The Department of Corrections parole or probation officer will be included in the review, if available. DHS will advise the facility if rule criteria for immediate move out are not met. DHS will assist in locating placement options.

(e) A written move-out notice must be completed on a Department approved form. The form must be filled out in its entirety and a copy of the notice delivered in person, to the resident, or the resident's legal representative, if applicable. Where a person lacks capacity and there is no legal representative, a copy of the notice to move-out must be immediately faxed to the State Long Term Care Ombudsman.

(f) Prior to the move, the facility must orally review the notice and right to object with the resident or legal representative and determine if a hearing is requested. A request for hearing does not delay the involuntary move-out. The facility will immediately telephone DHS Central Office when a hearing is requested. The hearing will be held within five business days of the resident's move. No informal conference will be held prior to the hearing.

Stat. Auth.: ORS 410 & 443
Stats. Implemented: ORS 443.450 & 181.586
Hist.: SSD 14-1989, f. & cert. ef. 9-1-89; SDSD 3-1999, f. 3-1-99, cert. ef. 4-1-99; SDSD 7-2002, f. & cert. ef. 8-1-02; SPD 7-2006(Temp), f. & cert. ef. 1-18-06 thru 7-1-06; SPD 22-2006, f. 6-27-06, cert. ef. 7-1-06

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Rule Caption: Allows discharge of residents with a sexual conviction and who are a risk of harm.
Adm. Order No.: SPD 23-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 411-055-0190
Rules Repealed: 411-055-0190(T)
Subject: OAR 411-055-0190 is being adopted as a permanent rule. Failure to adopt this rule prevents Residential Care Facilities from

immediately discharging a resident with a sexual conviction who poses a current risk of harm to others.

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

Rules Coordinator: Lisa Richards—(503) 945-6398

411-055-0190

Involuntary Move-out Criteria

The Department of Human Services, Seniors and People with Disabilities encourages facilities to support a resident's choice to remain in his or her living environment while recognizing that some residents may no longer be appropriate for the community based care setting due to safety and medical limitations.

(1) Residents will be given a minimum of 30 days written notice when they are requested to move-out. A resident may, but is not required to be, asked to leave under the following circumstances:

(a) The resident's needs exceed the level of ADL services the facility provides. The minimum required services identified in OAR 411-055-0210 will be provided before a resident can be asked to move-out for this reason;

(b) The resident exhibits behavior or actions that repeatedly and substantially interfere with the rights or well being of other residents and the facility has tried prudent and reasonable interventions. There will be documentation of the interventions attempted;

(c) The resident has a medical condition that is complex, unstable or unpredictable and treatment cannot be appropriately developed and implemented in the residential care environment. There will be documentation of the facility's efforts to obtain appropriate care for the resident;

(d) Non-payment of charges;

(e) The facility is unable to accomplish resident evacuation in accordance with OAR 411-055-0081(4).

(2) A resident who leaves to receive urgent medical or psychiatric care will have the right of return to the facility unless, at the time the resident is to return, facility staff have re-evaluated the resident's needs and have determined that the resident's needs cannot be met at the facility.

(a) A resident who is refused the right of return will be immediately notified in writing of their right to an informal conference and hearing.

(b) If the resident appeals the notification to move out, the facility will not rent the resident's unit pending completion of the appeals process.

(3) A resident or his/her legal representative will be given at least 30 days notice if a facility has had it's license revoked, not renewed or voluntarily surrendered.

(4) The written move-out notice will be completed on a Department approved form. The form will be filled out in its entirety and a copy of the notice will be sent by certified mail or delivered in person to the resident, the resident's legal representative, or any person designated by the resident, guardian, or conservator and if applicable, the case manager. Where a person lacks capacity and there is no legal representative, a copy of the notice to move-out will be faxed or sent next-day delivery to the State Long Term Care Ombudsman, who may request an informal conference for the resident.

(5) The Department will hold an informal conference as promptly as possible after the request is received. Participants will include the resident and others as requested by the resident. The purpose of the informal conference is to resolve the matter without a formal hearing. If a resolution is reached at the informal conference, no formal hearing will be held. If a resolution is not reached at the informal conference, the resident or resident's representative may request a formal hearing.

(6) The resident has the right to a formal administrative hearing prior to an involuntary move-out.

(7) Intra-facility move policy will be included in the facility's disclosure statement. In the case of a facility requested move, the facility will provide 30 days written notice and pay all associated costs with the move. Residents will not be relocated from one unit to another for the convenience of the facility.

(8) A resident who was admitted January 1, 2006 or later may be moved without advance notice if all of the following are met:

(a) The facility was not notified prior to admission that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and

(b) The facility learns that the resident is on probation, parole or post-prison supervision after being convicted of a sex crime, and

(c) The resident presents a current risk of harm to another resident, staff or visitor in the facility, as evidenced by:

(A) Current or recent sexual inappropriateness, aggressive behavior of a sexual nature or verbal threats of a sexual nature; and

(B) Current communication from the State Board of Parole and Post-Prison Supervision, Department of Corrections or community corrections agency parole or probation officer that the individual's Static 99 score or other assessment indicates a probable sexual re-offense risk to others in the facility.

(d) Prior to the move, the facility must contact DHS Central Office by telephone and review the criteria in paragraphs (8)(c)(A) & (B) of this rule. DHS will respond within one working day of contact by the facility. The Department of Corrections parole or probation officer will be included in the review, if available. DHS will advise the facility if rule criteria for immediate move out are not met. DHS will assist in locating placement options.

(e) A written move-out notice must be completed on a Department approved form. The form must be filled out in its entirety and a copy of the notice delivered in person, to the resident, or the resident's legal representative, if applicable. Where a person lacks capacity and there is no legal representative, a copy of the notice to move-out must be immediately faxed to the State Long Term Care Ombudsman.

(f) Prior to the move, the facility must orally review the notice and right to object with the resident or legal representative and determine if a hearing is requested. A request for hearing does not delay the involuntary move-out. The facility will immediately telephone DHS Central Office when a hearing is requested. The hearing will be held within five business days of the resident's move. No informal conference will be held prior to the hearing.

Stat. Auth.: ORS 443.410
Stats. Implemented: ORS 443.410 & 181.586
Hist.: SSD 1-1985, f. & ef. 2-1-85; SSD 12-1993, f. 12-30-93, cert. ef. 1-1-94, Renumbered from 411-055-0090; SDSD 6-2002, f. & cert. ef. 8-1-02; SPD 4-2004, f. 3-18-04, cert. ef. 4-1-04; SPD 2-2006(Temp). f. & cert. ef. 1-18-06 thru 7-1-06; SPD 23-2006, f. 6-27-06 cert. ef. 7-1-06

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Rule Caption: Amending rules related to the confidentiality policies that apply to Seniors and People with Disabilities.
Adm. Order No.: SPD 24-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Adopted: 411-005-0100
Rules Amended: 411-005-0010, 411-005-0015, 411-005-0020, 411-005-0035, 411-005-0045
Rules Repealed: 411-005-0000, 411-005-0005, 411-005-0025, 411-005-0030, 411-005-0040, 411-005-0050, 411-005-0055, 411-005-0060, 411-005-0065
Subject: OARs 411-005-0000 through 411-005-0065 are being amended or repealed to align the SPD confidentiality policy with the Department-wide policy on confidentiality and privacy. Procedures are being removed from the rules. This information will now be available to staff in the SPD policy manuals. SPD will depend on the Department-wide rules in OAR Chapter 410, Division 014. Rule 411-005-0100 is being adopted to outline when fees are assessed for access to records.
Rules Coordinator: Lisa Richards—(503) 945-6398

411-005-0010

Disclosure of Information to the Client or Third Party

This rule applies to programs covered by chapter 411 of the Oregon Administrative Rules.

(1) Except as provided in section (2) of this rule and OAR 410-014-0030:

(a) The Department must make information in a client case record or record of service as defined in 411-320-0070 available to the client or anyone authorized by the client.

(b) Information that was obtained from a third party, becomes part of the case record of the client and is available to the client.

(c) Case record information may be requested by the client and released to the client or third party by telephone. The client must satisfy the local office as to their identity. A verbal authorization from the client is permitted to allow verbal release of case record information specified by the client to third parties. Each authorization is valid for a period of 30 days from the date the authorization is given verbally, unless a shorter time period is given.

(2) The Department may withhold from clients information that was obtained from a confidential informant if all of the following are true:

(a) The information was submitted to the Department in confidence.

(b) The information was not required by law to be submitted.

(c) The information can reasonably be considered confidential.

(d) The Department has obliged itself not to disclose the information.

(e) The information is not a part of the case record.

(f) The public interest would suffer if the information were disclosed.

(3) An employee designated by the Department or local office must be present while the client or the authorized third party has access to the case record. No one except a Department or local office employee is allowed to remove any material from the case record.

(4) Except for HIV information and the provisions in 411-005-0045, client information may be exchanged with other governmental or private, non-profit agencies if necessary to assist the individual in accessing other governmental or private, non-profit services that will benefit or serve the individual. Reasonable efforts must be made to obtain authorization in advance.

(5) Disclosure of individually identifying information concerning clients without their authorization is allowed for purposes outlined in 410-014-0020 and for purposes directly connected with:

(a) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of an assistance or service program; or

(b) The administration of any other federal or federally assisted program which provides assistance in cash, in-kind or services directly to individuals on the basis of need.

(6) The Department will disclose only the minimum amount of information necessary for the purpose. The "minimum necessary" standard is described in OAR 410-014-0040.

Stat. Auth.: ORS 410.140, 410.150, 411.060
Stats. Implemented: ORS 410.140, 410.150, 411.060, 411.300, & 411.320
Hist.: SSD 1-1984, f. & ef. 2-1-84; SPD 24-2006, f. 6-27-06 cert. ef. 7-1-06

411-005-0015
Release of Information to a Law Enforcement Officer

For any program covered by chapter 411 of the Oregon Administrative Rules:

(1) The Department may provide client information only to a law enforcement officer in any of the following situations:

(a) The law enforcement officer is involved in carrying out public assistance laws, or any investigation, criminal or civil proceedings connected with administering the Department's benefit programs.

(b) The disclosure is required or authorized by statute or administrative rule.

(2) The Department may give a client's current address, Social Security number, and photo to a law enforcement officer if the law enforcement officer makes the request in the course of official duty, supplies the client's name, and states that the client:

(a) Is a fugitive felon or is violating parole or probation; or

(b) Has information that is necessary for the officer to conduct official duties of the officer, and the location or apprehension of the client is within the officer's official duties.

(3) The Department will notify the Oregon State Police with the name, address, and other requested identifying information of an client individual who receives services, benefits, or assistance, if the Department is aware of a pending warrant for the arrest of a client.

Stat. Auth.: ORS 410.140, 410.150
Stats. Implemented: ORS 410.140, 410.150, 659A.212
Hist.: SSD 1-1984, f. & ef. 2-1-84; SPD 24-2006, f. 6-27-06 cert. ef. 7-1-06

411-005-0020
Release of Information to a State or Federal Legislative Body or Committee

(1) The Department may not disclose any information identifying any client by name or address to any committee, advisory board, legislative body, or individual member of such committee, board, or body without written consent of the client.

(2) The Department may disclose the minimum necessary information about a client to a public official who has been asked by the client to review an action taken by the Department.

Stat. Auth.: ORS 183 & 410
Stats. Implemented: ORS 410.140 & 410.150
Hist.: SSD 1-1984, f. & ef. 2-1-84; SPD 24-2006, f. 6-27-06 cert. ef. 7-1-06

411-005-0035
Release of Information in Judicial Proceedings

(1) Client specific information must not be divulged in any judicial proceeding unless:

(a) The proceeding is directly connected with administration of public assistance or service under chapter 411 of the Oregon Administrative Rules; or

(b) The client has given written authorization for release of specific information at the judicial proceeding; or

(c) A judge orders the release of the information.

(2) Except in the presence of one of these three conditions, no information will be released in any form during any stage of a judicial proceeding either voluntarily or as the result of a subpoena.

(3) When appearing before the court in a judicial proceeding where the proceeding are not directly connected with administering the programs covered by chapter 461 of the Oregon Administrative Rules and there is no written client authorization that permit the release of information, a Department employee provides the presiding judge with copies of the state statutes relating to confidentiality of client records (such as ORS 411.117, 411.320, and 418.130). The employee requests the court's guidance about testifying under the statutes.

Stat. Auth.: ORS 183 & 410
Stats. Implemented: ORS 410.150
Hist.: SSD 1-1984, f. & ef. 2-1-84; SPD 24-2006, f. 6-27-06 cert. ef. 7-1-06

411-005-0045
Release of Alcohol and Drug and Mental Health Reports

(1) Unauthorized use, disclosure and redisclosure of alcohol and drug treatment information and mental health information is prohibited.

(2) A client has the right to restrict to what entity or person and for what purpose treatment information may be disclosed.

(3) The client's right to limit use and disclosure of alcohol and drug and mental health information must be communicated to the client.

Stat. Auth.: ORS 183 & ORS 410, 42 CFR part 2
Stats. Implemented: ORS 410.140 & 410.150, 179.505
Hist.: SSD 1-1984, f. & ef. 2-1-84; SPD 24-2006, f. 6-27-06 cert. ef. 7-1-06

411-005-0100
Fees for Public Records

(1) The cost of providing a public record, as defined in ORS 192.410(4), is determined by the following factors:

(a) Cost of reproducing the record.

(b) Third-class postage at the prevailing U.S. postal rate.

(c) A reasonable charge for handling the record.

(d) Staff time needed to research and reproduce the record.

(e) Computer systems costs, if necessary, to produce the record.

(2) The cost of furnishing a public record may be waived in whole or in part if charging a fee would be counter to the effective administration of the Department's statutes or if it is determined that the waiver or reduction of fees is in the public interest because making the record available benefits the general public.

(3) Notwithstanding the above:

(a) A client, an authorized representative (as defined at OAR 461-115-0090), or a personal representative (as defined at OAR 410-014-0000(32), including an attorney who represents the client on a matter before the Department) may request a copy of information from the client filecase record at no cost once every 12 months. If the client, authorized representative, or personal representative requests another copy of the same information already provided more frequently than once every 12 months, the local office may impose a reasonable, cost based fee.

(b) If an authorized third party who is not an authorized representative or personal representative requests client records, fees may be assessed for accessing stored records, extracting filed matter, duplication of records, or other costs necessary to releasing requested information.

(c) A local office may establish additional, reasonable fees to cover extraordinary costs of duplicating records, making extensive searches, or preparing written summaries of records.

(d) At the option of the local office, fee assessment may be waived.

Stat. Auth.: ORS 410.140
Stats. Implemented: ORS 192.410
Hist.: SPD 24-2006, f. 6-27-06 cert. ef. 7-1-06

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Rule Caption: Moving rule from Office of Medical Assistance Programs to Seniors & People with Disabilities.
Adm. Order No.: SPD 25-2006
Filed with Sec. of State: 7-12-2006
Certified to be Effective: 7-14-06
Notice Publication Date:
Rules Renumbered: 410-015-0000 to 411-044-0000, 410-015-0010 to 411-044-0010, 410-015-0020 to 411-044-0020, 410-015-0030 to 411-044-0030, 410-015-0040 to 411-044-0040
Subject: The purpose of the rulemaking action is to renumber the rules and move them from the Department of Human Services, Office of Medical Assistance Programs to the Department of Human Services, Seniors and People with Disabilities only.
Rules Coordinator: Lisa Richards—(503) 945-6398

411-044-0000
Purpose and Scope

Lifespan respite care is a community-based system of accessible respite care services for any individual and/or family regardless of age,

income, ethnicity, race, special need or situation. Lifespan respite care services can include providing respite-related information to the community, recruitment and training of paid and volunteer respite providers, connecting individuals and/or families with respite care providers and linking individuals and/or families with respite care payment resources.

Stat. Auth.: ORS 409.050 & 409.474
Stats. Implemented: ORS 409.450 – 409.478
Hist.: OMAP 19-1998, f. & cert. ef. 5-4-98; OMAP 42-1998(Temp), f. & cert. ef. 11-9-98 thru 5-8-99; Suspended by OMAP 4-1999, f. & cert. ef. 2-23-99; Renumbered from 410-015-0000 by SPD 25-2006, f. 7-12-06 cert. ef. 7-14-06

411-044-0010
Definitions

(1) "Department" means the Department of Human Resources of the State of Oregon.

(2) "Special Needs" may encompass physical, emotional, and/or mental illnesses and/or conditions an individual may experience which result in the need for ongoing care and supervision, such as:

(a) Developmental disabilities;
(b) Physical disabilities;
(c) Mental illnesses;
(d) Emotional and behavioral disorders;
(e) Alzheimer's disease and related disorders;
(f) Chronic illness; and
(g) Medical fragility.

(3) "Special Situations" may include:

(a) A time in which a high risk of abuse and/or neglect may exist; and/or

(b) Other circumstances as defined by the governing body of the community-based lifespan program.

Stat. Auth.: ORS 409.050 & 409.474
Stats. Implemented: ORS 409.450 – 409.478
Hist.: OMAP 19-1998, f. & cert. ef. 5-4-98; OMAP 42-1998(Temp), f. & cert. ef. 11-9-98 thru 5-8-99; Suspended by OMAP 4-1999, f. & cert. ef. 2-23-99; Renumbered from 410-015-0010 by SPD 25-2006, f. 7-12-06 cert. ef. 7-14-06

411-044-0020
Application Procedures

(1) The Department may solicit applications for the development and implementation of community-based lifespan respite care services systems.

(2) Applicants shall be:

(a) Private non-profit;
(b) For profit;
(c) Public agency; or
(d) A coalition that has a designated fiscal agent.

(3) Applicants shall submit the application before the closing date and time specified in the application procedure.

(4) Applications shall contain at a minimum the following information:

(a) The name, address and telephone number of the applicant organization;

(b) The name, address and telephone number of the contact person;

(c) The names, addresses and telephone numbers of community partners participating in the development and implementation of the lifespan respite care program representing children, adults, seniors, and individuals with special needs;

(d) A projected budget detailing the project's financial needs, expenses, and other sources of support; and

(e) Any other information requested by the Department in the application packet.

Stat. Auth.: ORS 409.050 & 409.474
Stats. Implemented: ORS 409.450 – ORS 409.478
Hist.: OMAP 19-1998, f. & cert. ef. 5-4-98; OMAP 42-1998(Temp), f. & cert. ef. 11-9-98 thru 5-8-99; Suspended by OMAP 4-1999, f. & cert. ef. 2-23-99; Renumbered from 410-015-0020 by SPD 25-2006, f. 7-12-06 cert. ef. 7-14-06

411-044-0030
Application Review

(1) The Department shall review all applications and may request any additional information needed to assure applications are complete.

(2) After an application is determined to be complete and concordant with the intended goals and outcomes of the program, it shall be forwarded to the Lifespan Advisory Review Committee, a sub-committee of the Oregon Family Support Council, for review and possible recommendation for selection approval.

(3) In reviewing applications, the Committee shall consider the following elements:

(a) The amount of available funds for the Oregon Lifespan Respite Care Program;

(b) The existence of a strong community coalition representing children, adults and seniors with special needs and situations. The coalition should include, but not be limited to, members from the following areas:

(A) Families and/or consumers;
(B) Respite providers;
(C) Medical and/or health related fields;
(D) State, federal and/or county agencies;
(E) Private businesses;
(F) Civic, social and community organizations;
(G) Faith communities; and
(H) Community volunteers.

(c) The willingness and ability to contract with the Department and participate in all required Oregon Lifespan Respite Care Program activities;

(d) The ability to articulate program outcomes and strategies, which include Family Support principles, as described in ORS 417.342;

(e) The amount of in-kind services;

(f) The stability of other funding sources; and

(g) Additional departmental administrative costs or responsibilities associated with the individual application.

Stat. Auth.: ORS 409.050 & 409.474
Stats. Implemented: ORS 409.450 – 409.478
Hist.: OMAP 19-1998, f. & cert. ef. 5-4-98; OMAP 42-1998(Temp), f. & cert. ef. 11-9-98 thru 5-8-99; Suspended by OMAP 4-1999, f. & cert. ef. 2-23-99; Renumbered from 410-015-0030 by SPD 25-2006, f. 7-12-06 cert. ef. 7-14-06

411-044-0040
Selection

(1) The Director of the Department of Human Resources or his/her designee shall make the final decision regarding selection of community-based lifespan respite programs.

(2) The Department shall notify applicants in writing of the approval or rejection of the applications.

(3) Selected applicants shall:

(a) Develop and maintain a point of contact for access to lifespan respite care services within a designated geographical area;

(b) Develop and maintain a mechanism to recruit and screen potential respite providers and volunteers;

(c) Identify local training resources and coordinate respite training opportunities for caregivers, respite providers, and families;

(d) Publicize the lifespan respite care program phone number and address; and

(e) Comply with all program policies and guidelines established by the Oregon Lifespan Respite Care Program.

(4) Selected applicants shall make available to the Department records and materials necessary to provide funding and to monitor the program, including projected and actual budgets, performance criteria and reports.

(5) If the term and conditions are not met, the Department may, upon written notice, take one or more of the following actions:

(a) Immediately revoke approval of funding;
(b) Require repayment of all or a portion of any funds advanced; or
(c) Take any other appropriate legal action necessary.

Stat. Auth.: ORS 409.050 & 409.474
Stats. Implemented: ORS 409.450 – 409.478
Hist.: OMAP 19-1998, f. & cert. ef. 5-4-98; OMAP 42-1998(Temp), f. & cert. ef. 11-9-98 thru 5-8-99; Suspended by OMAP 4-1999, f. & cert. ef. 2-23-99; Renumbered from 410-015-0040 by SPD 25-2006, f. 7-12-06 cert. ef. 7-14-06

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Department of Justice
Chapter 137

Rule Caption: Amends child support rules to deal with additional child attending school and other miscellaneous issues.
Adm. Order No.: DOJ 5-2006
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 7-3-06
Notice Publication Date: 5-1-06
Rules Amended: 137-055-1020, 137-055-1140, 137-055-1145, 137-055-2160, 137-055-3020, 137-055-3060, 137-055-3100, 137-055-3140, 137-055-3420, 137-055-3430, 137-055-5110, 137-055-5120, 137-055-5220, 137-055-6021, 137-055-6210, 137-055-6260
Subject: Amendment to OAR 137-055-1020 incorporates changes from HB 2359 and SB 1050 which removes "installments" and add a definition for "tiered order"; Changes to OAR 137-055-1140 removes language regarding information released to a state agency from OAR 137-055-1145 and inserts it into OAR 137-055-1140; Changes to OAR 137-055-2160, 137-055-3020, 137-055-3060. 137-055-3100, and 137-055-3140 incorporate changes from SB 234 regarding paternity and presumptions; Changes to OARS 137-055-

3420, 137-055-3430, 137-055-5110, 137-055-5120, 137-055-5220, and 137-055-6021 incorporate further changes to SB 1050 for the child attending school and the adult child; Amendment to OAR 137-055-6210 provides an exception to the rule for a deceased obligor without assets or an estate; Change to OAR 137-055-6260 provides for a return of overcollected support when order exists for current support.

Rules Coordinator: Shawn Brenizer—(503) 986-6240

137-055-1020
Child Support Program Definitions

The following definitions apply to OAR 137-055-1040 through 137-055-7190, inclusive:

(1) Unless otherwise stated, "administrator" means either the Administrator of the Division of Child Support of the Department of Justice or a district attorney, or the administrator's or a district attorney's authorized representative.

(2) "Assignee" means the Department of Human Services (DHS), the Division of Child Support, Oregon Youth Authority (OYA) or equivalent agencies in any other state or Tribe to which support rights for a person are assigned.

(3) "Assignment" or "Assigned" means all or a portion of support payments owed to a person will be retained by an assignee if such person or beneficiary of such person is receiving assistance in the form of Temporary Assistance for Needy Families (TANF) cash assistance, foster care, or OYA services. Support payments will be distributed per OAR 137-055-6020. There is also an assignment of rights to medical support for reimbursement of health care costs for any person who has been granted medical assistance.

(4) "Beneficiary" means any child, spouse or former spouse for whom an obligor has been ordered (or has agreed) to pay support, under a court order, an administrative order, or a voluntary agreement.

(5) "Child Support Award" means a money award or administrative order that requires the payment of child support. Prior to January 5, 2004, this was referred to as a money judgment.

(6) "Child Support Program or ACSP" is the program authorized under title IV-D of the Social Security Act to provide child support enforcement services required by federal and state law. The CSP director in Oregon is the Administrator of the Division of Child Support. The CSP includes the Division of Child Support and those district attorneys that contract to provide services described in ORS 25.080.

(7) "Class Order" means a support order for multiple children that does not specify an amount of support per child and requires the payment of the entire amount until the last child attains majority or until the order is prospectively modified.

(8) "Court Order" means any judgment or order of the court requiring an obligor to provide child or spousal and/or health care coverage, for specified beneficiaries.

(9) "Court-ordered Amount", or "COA", means the periodic payment amount, usually monthly, ordered by administrative process or by a court for support. The COA can be either the amount for each beneficiary on a support case, or the total amount for all beneficiaries in a single support case.

(10) "Department of Human Services", or "DHS", is the state's health and human services agency. DHS is responsible for public assistance programs such as: Temporary Assistance for Needy Families (TANF), Food Stamps, child-protective services, foster care and adoption programs, the Oregon Health Plan and Medicaid.

(11) "District Attorney", or "DA", means the district attorney for an Oregon county. In most Oregon counties, the DA is responsible for providing support enforcement services, when requested, on all support cases where no support is assigned to the state.

(12) "Division of Child Support, or ADCS", is the Division of Oregon's Department of Justice that is responsible for:

(a) Establishing paternity, obtaining judgments for arrears, and for establishing and enforcing support obligations, on behalf of all children who:

(A) Are receiving or have formerly received TANF cash assistance, foster care, or OYA services, or who have support assigned to the State of Oregon;

(B) Are receiving TANF, or who have support assigned to another state, in cases where an obligor or alleged father resides or works in Oregon.; or

(C) Are under the enforcement jurisdiction of an Oregon county that has contracted its support enforcement responsibilities to DCS, in lieu of having the county District Attorney perform these responsibilities.

(b) Accounting and distribution of child support payments as the state disbursement unit.

(13) "Guidelines" refers to the guidelines, the formula, and related provisions established by DCS, in Oregon Administrative Rules 137-050-0320 through 137-050-0490, for determining child support award amounts in Oregon.

(14) "Income Withholding" means a judicial or administrative process under which an obligor's employer, trustee, or other provider of income is ordered to withhold a specified percentage, or a specified amount, from each and every paycheck or benefit payment of an obligor, for the purpose of paying current and/or past-due support. Income withholding is distinguished from garnishment as follows: income withholding will occur continuously under a single order and is not subject to claim of exemption; a garnishment occurs for only a limited duration under a single writ and is subject to certain exemptions provided by law.

(15) "IV-A" refers to Title IV-A of the Social Security Act which is the specific provision that gives grants to states and Tribes for aid and services to needy families with dependent children (see "TANF"). Applicants for assistance from IV-A programs are automatically referred to their state IV-D agency in order to identify and locate the non-custodial parent, establish paternity and/or a child support order, and/or obtain child support payments.

(16) "IV-D" refers to Title IV-D of the Social Security Act which requires each state to create a program to locate non-custodial parents, establish paternity, establish and enforce child support obligations, and collect and distribute support payments. Recipients of IV-A (TANF), IV-E (foster care) and Oregon Youth Authority (OYA) assistance are referred to their state's IV-D child support program. States must also accept applications from families who do not receive assistance, if requested, to assist in collection of child support. Title IV-D also established the Federal Office of Child Support Enforcement.

(17) "IV-E" refers to Title IV-E of the Social Security Act which established a Federal-State program known as Foster Care that provides financial support to a person, family, or institution that is raising a child or children that is not their own. The funding for IV-E Foster Care programs is primarily from Federal sources.

(18) "Judgment Lien" means the effect of a judgment on real property for the county in which the judgment is entered, or such other county where the lien is recorded, and includes any support arrearage lien attaching to real property.

(19) "Judgment Remedy" means the ability of a judgment creditor to enforce a judgment, including enforcement through a judgment lien.

(20) "Legal proceeding" means any action related to the support order which requires service of documents on the parties.

(21) "Money Award" means a judgment or portion of a judgment that requires the payment of money. A money award will always refer to a sum certain and will not require a payment in installments.

(22) "Oregon Youth Authority", or "OYA", is the State of Oregon agency responsible for the supervision, management, and administration of state parole and probation services, community out-of-home placements, and youth correction facilities for youth offenders, and other functions related to state programs for youth corrections.

(23) "Party" means an obligor, obligee, a child attending school under ORS 107.108 and OAR 137-055-5110, and includes any person who has been joined to the proceeding.

(24) "Support" means cash payments, health care coverage, or other benefits that a person has been ordered by a court or by administrative process, or has voluntarily agreed, to provide for the benefit and maintenance of another person.

(25) "Support Arrearage Lien" means a lien that attaches to real property when an installment becomes due under the terms of a support award and is not paid.

(26) "Support Award" means a money award or administrative order that requires the payment of child or spousal support.

(27) "Support Order" means a judgment or order, whether temporary, final or subject to modification, which reflects an obligation to contribute to the support of a child, a spouse or a former spouse, and requires an obligor to provide monetary support, health care, arrears or reimbursement. A Support Order may include related costs and fees, interest, income withholding, attorney fees and other relief.

(28) "TANF" means "Temporary Assistance for Needy Families", a public assistance program which provides case management and cash assistance to low-income families with minor children. It is designed to promote personal responsibility and accountability for parents. The goal of the program is to reduce the number of families living in poverty through employment services and community resources. Title IV-A of the Social Security Act is the specific provision that gives grants to states and Tribes for aid and services to needy families with dependent children.

(29) ATiered order" means an order that includes an amount of support to be paid if an adult child becomes a child attending school under ORS 107.108 and OAR 137-055-5110.

(30) "Title XIX", popularly known as Medicaid, refers to Title XIX of the Social Security Act which mandates health care coverage by states for TANF recipients and certain other means-tested categories of persons. Within broad national guidelines which the federal government provides, each state: establishes its own eligibility standards; determines the type, amount, duration, and scope of services; sets the rate of payment for services; and administers its own program.

Stat. Auth.: ORS 18.005, 180.345
Stats. Implemented: ORS 25.080
Hist.: AFS 10-1990, f. 3-14-90, cert. ef. 4-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0001; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1020; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-1140
Confidentiality of Records in the Child Support Program

(1)(a) As used in this rule, "employee" means a person employed by the Department of Justice (DOJ) or a district attorney office that provides Child Support Program (CSP) services;

(b) "Party" has the meaning given in OAR 137-055-1020, or a party's attorney.

(2) For purposes of this rule, and subject to the limitations set forth in section (3) of this rule, the contents of a case record include, but are not limited to:

(a) The names of the obligor, beneficiary and obligee or other payee;

(b) The addresses of the obligor, beneficiary and obligee or other payee;

(c) The address of record and address of service of the obligee, beneficiary or obligor;

(d) The name and address of the obligor's employer;

(e) The social security numbers of the obligor, the obligee and beneficiaries;

(f) The record of all legal and collection actions taken on the case;

(g) The record of all accrual and billings, payments and distribution of payments;

(h) The narrative record; and

(i) The contents of any paper file maintained for purposes of establishment and/or enforcement of a child support order or for accounting purposes.

(3) Any data listed in section (2) of this rule or any other data that resides on the Child Support Enforcement Automated System (CSEAS) that is extracted from computer interfaces with other agencies' computer systems is not considered to be child support information until or unless the data is used for child support purposes. Until such data is used for child support purposes it is not subject to any exceptions to confidentiality and it may not be released to any other person or agency in any circumstance, except as provided in ORS 25.260(5) and as may be provided in other agency rule.

(4) Child support case related records, files, papers and communications are confidential and may not be disclosed or used for purposes other than those directly connected to the administration of the CSP except:

(a) Information may be shared as provided in ORS 25.260(5), OAR 137-055-1320 and 137-055-1360 and as may be provided in other agency rule;

(b) Information may be shared for purposes of any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of:

(A) Title IV-D of the Social Security Act, child support programs in Oregon and other states;

(B) Title IV-A of the Social Security Act, Temporary Assistance to Needy Families; or

(C) Title XIX of the Social Security Act, Medicaid programs;

(c) Information may be shared as required by state or federal statute or rule;

(d)(A) Elected federal and state legislators and the Governor are considered to be within the chain of oversight of the CSP. Information about a child support case may be shared with these elected officials and their staff in response to issues brought by constituents who are parties to the case;

(B) County commissioners exercise a constituent representative function in county government for county administered programs. District attorney offices that operate child support programs may respond to constituent issues brought by county commissioners of the same county if the constituent is a party in a case administered by that office. District attorneys are DOJ sub-recipients. CSP Administration may also respond to constituent issues brought by county commissioners on district attorney administered child support cases where the constituent is a party;

(C) Information disclosed under paragraphs (A) and (B) of this subsection is subject to the restrictions in subsections (6)(a) and (b) of this rule;

(e) When a party requires the use of an interpreter in communicating with the administrator, information given to such an interpreter is not a violation of any provision of this rule; and

(f) A person who is the executor of the estate or personal representative of a deceased party is entitled to receive any information that the deceased party would have been entitled to receive.

(5)(a) The CSP may release information to a private industry council as provided in 42 USC 654a(f)(5).

(b) The information released under subsection (a) of this section may be provided to a private industry council only for the purpose of identifying and contacting noncustodial parents regarding participation of the noncustodial parents in welfare-to-work grants under 42 USC 603(a)(5).

(c) For the purposes of this section, "private industry council" means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to Title I of the Workforce Investment Act (29 USC 2801, et seq.). "Private industry council" includes workforce centers and one-stop career centers.

(6)(a) Information from a case record may be disclosed to a party in that case outside a legal proceeding, except for the following personal information about the other party:

(A) The residence or mailing address of the other party if that other party is not the state;

(B) The social security number of the other party;

(C) The name, address and telephone number of the other party's employers;

(D) The telephone number of the other party;

(E) Financial institution account information of the other party;

(F) The driver's license number of the other party; and

(G) Any other information which may identify the location of the minor child or other party, such as day care provider's name and address.

(b) Except for personal information described in subsection (a) of this section, information from a case record may be provided to a party via the CSP web page if appropriate personal identifiers, such as social security number, case number or date of birth are required to be provided in order to access such information.

(7) Notwithstanding the provisions of subsections (6)(a) and (b) of this rule, a party's personal information may be released to a state agency when the state agency is the other party or obligee and the state agency complies with the provisions of OAR 137-055-1145(3) and (4).

(8) Notwithstanding the provisions of subsection (6)(a), an employee may disclose personal information described in paragraphs (6)(a)(A) through (6)(a)(G) to a party, if disclosure of the information is otherwise required by rule or statute.

(9) Any information from the case record, including any information derived from another agency, that was used for any calculations or determinations relevant to the legal action may be disclosed to a party. Where there is a finding of risk and order for nondisclosure of information pursuant to OAR 137-055-1160, all nondisclosable information must be redacted before documents are released.

(10) Requestors may be required to pay for the actual costs of staff time and materials to produce copies of case records before documents are released.

(11)(a) Information from case records may be disclosed to persons not a party to the child support case who are making contact with the CSP on behalf of a party, if the following conditions are met:

(A) The person who is not a party to the case provides the social security number of the party for whom they are making the inquiry or the child support case number;

(B) The person who is not a party to the case making the contact on behalf of the party is the current spouse or domestic partner of the party and residing with the party or a parent or legal guardian of the party; and

(C) The CSP determines that the person is making case inquiries on behalf of the party and disclosure of such information would normally be made to the party in reply to such an inquiry.

(b) Disclosure of information is limited to the specific inquiries made on behalf of the party and is subject to the restrictions in subsections (6)(a) and (b) of this rule.

(12) Except as provided in subsections (11)(a) and (b) of this rule, information from a case record may not be disclosed to a person who is not a party to the case unless:

(a) The party has granted written consent to release the information to the person; or

(b) The person has power of attorney for the party, the duration and scope of which authorizes release of information from a case record at the time that the person requests such information. The power of attorney remains in effect until a written request to withdraw the power of attorney is submitted by the party or by the person, unless otherwise noted on the power of attorney.

(13) A child support case account balance is derived from the child support judgment, which is public information, and from the record of payments, which is not. Therefore, the case balance is not public information, is confidential and may not be released to persons not a party except as otherwise provided in this rule.

(14) Information obtained from the Internal Revenue Service and/or the Oregon Department of Revenue is subject to confidentiality rules imposed by those agencies even if those rules are more restrictive than the standards set in this rule, and may not be released for purposes other than those specified by those agencies.

(15) Criminal record information obtained from the Law Enforcement Data System or any other law enforcement source may be used for child support purposes only and may not be disclosed to parties or any other person or agency outside of the CSP. Information about the prosecution of child support related crimes initiated by the administrator may be released to parties in the child support case.

(16) Employees with access to computer records or records of any other nature available to them as employees may not access such records that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee may perform casework on their own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.

(17) When an employee receives information that gives reasonable cause to believe that a child has suffered abuse as defined in ORS 419B.005(1)(a) the employee must make a report to the Department of Human Services as the agency that provides child welfare services and, if appropriate, to a law enforcement agency if abuse is discovered while providing program services.

(18) Employees who are subject to the Disciplinary Rules of the Oregon Code of Professional Responsibility must comply with those rules regarding mandatory reporting of child abuse. To the extent that those rules mandate a stricter standard than required by this rule, the Disciplinary Rules also apply.

(19) If an employee discloses or uses the contents of any child support records, files, papers or communications in violation of this rule, the employee is subject to progressive discipline, up to and including dismissal from employment.

(20) To ensure knowledge of the requirements of this rule, employees with access to computer records, or records of any other nature available to them as employees, are required annually to:

(a) Review this rule and the CSP Director's automated tutorial on confidentiality;

(b) Complete with 100 percent success the CSP Director's automated examination on confidentiality; and

(c) Sign a certificate acknowledging confidentiality requirements. The certificate must be in the form prescribed by the CSP Director.

(21)(a) For DOJ employees, each signed certificate must be forwarded to DOJ Human Resources, with a copy kept in the employee's local office drop file;

(b) For district attorney employees, each signed certificate must be kept in accordance with county personnel practices.

(22) Notwithstanding any other provision of this rule, an employee may release a party's name and address to a local law enforcement agency when necessary to prevent a criminal act that is likely to result in death or substantial bodily harm.

Stat. Auth.: ORS 25.260, 180.345, 180.380
Stats. Implemented: ORS 25.260
Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0291; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1160; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-1145
Access to Child Support Records

(1) When information may be shared pursuant to ORS 25.260, this rule clarifies the type of information which may be accessed through automation or contact and who is authorized to access the information.

(2)(a) Information which may be accessed from the Child Support Enforcement Automated System (CSEAS) records by an agency administering programs under Title IV-A of the Social Security Act may include:

(A) Obligor name, social security number, date of birth, address and phone number;

(B) Obligee name, social security number, date of birth and address;

(C) Title IV-A case number;

(D) Whether the case carries identifiers indicating:

(i) There is a finding or determination of good cause under OAR 137-055-1090, 413-100-0830, 461-120-0350, 461-120-0360, 461-135-1200 or 461-135-1205;

(ii) There is an order for nondisclosure of information pursuant to OAR 137-055-1160; or

(iii) There is an address of record pursuant to OAR 137-055-1180;

(E) Obligor employer name, address, federal identification number and wages;

(F) Obligor unemployment compensation benefits;

(G) Obligor's gross quarterly compensation;

(H) The name(s) of any state(s) with a child support case or order;

(I) Child's name, date of birth and social security number;

(J) The date(s) and amount(s) of any support payment distributed and to whom or where it was distributed; and

(K) Any information which is not considered confidential, including but not limited to the child support case number, caseload assignment and Child Support Program (CSP) employee roster.

(b) Information which may be accessed from CSEAS records by an agency administering programs under Title XIX of the Social Security Act may include:

(A) Obligor name, social security number, date of birth, address and phone number;

(B) Obligee name, social security number, date of birth and address;

(C) Title IV-A case number;

(D) Whether the case carries identifiers indicating:

(i) There is a finding or determination of good cause under OAR 137-055-1090, 413-100-0830, 461-120-0350, 461-120-0360, 461-135-1200 or 461-135-1205;

(ii) There is an order for nondisclosure of information pursuant to OAR 137-055-1160; or

(iii) There is an address of record pursuant to OAR 137-055-1180;

(E) Obligor's employer name, address, federal identification number and wages;

(F) Obligor's unemployment compensation benefits;

(G) Obligor's gross quarterly compensation;

(H) The name(s) of any state(s) with a child support case or order;

(I) Child's name, date of birth and social security number;

(J) Whether health care coverage is ordered;

(K) Whether health care coverage is provided;

(L) Insurer name, address and health insurance policy number;

(M) The date(s) and amount(s) of any support payment made to the obligee; and

(N) Any information which is not considered confidential, including but not limited to the child support case number, caseload assignment and CSP employee roster.

(c) Information which may be accessed from CSEAS records by an agency administering programs under Title I, X, XIV or XVI of the Social Security Act, an agency administering the Food Stamp program, the State Employment Services Agency (including agencies which administer the unemployment compensation program), and agencies administering workers' compensation programs is limited to obligor name, social security number and address and employer name, address and federal identification number.

(A) Notwithstanding the provisions of subsection (2)(c), if an agency identified in that subsection receives a written consent to release information as provided in OAR 137-055-1140(12), the agency may have access to information that may be released to a party.

(B) In addition to the information listed in subsection (2)(c), the State Employment Services Agency (including agencies which administer the unemployment compensation program) may have access to the history of the obligor's employers' names, addresses and federal identification numbers.

(d) Information which may be accessed from CSEAS records by a private industry council, as defined in OAR 137-055-1140, is limited to obligor name, address, phone number and Title IV-A case number.

(3) An agency administering a program identified in section (2) of this rule may obtain access for its employees to CSEAS records by entering into an interagency agreement with the Child Support Program (CSP). Any agreement must include provisions under which the agency seeking access agrees to put into place a process that ensures:

(a) Each employee given access has read and understands the CSP rules and Division of Child Support conflict of interest policy;

(b) Each employee given access agrees to abide by the terms of the CSP rules and policy;

(c) Each employee given access agrees to access and use information only for the purposes for which access is allowed as described in this rule;

(d) Employees can identify and be screened from conflict of interest cases;

(e) The agency, on a regular basis, audits access by employees, including verification of the purpose for which information is accessed and provides the CSP with the results of the audit;

(f) Violations are reported to the CSP, including the steps taken by the agency to prevent future violation;

(g) Access is revoked as provided in section (4) of this rule; and

(h) Access rights are updated, including notifying the CSP when an employee terminates or is transferred.

(4) If an employee of an agency described in section (2) of this rule discloses or inappropriately uses the information covered by this rule:

(a) The CSP Director, after consulting with the employee's agency, will determine whether the disclosure or usage occurred or likely occurred; and

(b) The employee's access to information from CSEAS records will be revoked:

(A) Temporarily, if a determination by the CSP Director is pending; or

(B) Permanently, if a determination by the CSP Director is made that disclosure or usage occurred or likely occurred.

(c) The provisions of this section are in addition to any other penalty for disclosure or usage of confidential information imposed by the employee's agency or by any other provision of law.

(5) CSP staff may disclose case information to an employee of an agency described in subsection (2)(a) when:

(a) That agency's employee requests specific information from a branch office;

(b) The employee's agency has entered into an agreement as provided in section (3) of this rule; and

(c) The source of the information is not the Internal Revenue Service.

(6) CSP staff may disclose information to an employee of an agency described in subsection (2)(b) when:

(a) That agency's employee requests specific information from a branch office;

(b) The employee's agency has entered into an agreement as provided in section (3) of this rule; and

(c) The source of the information is not:

(A) The Internal Revenue Service;

(B) The National Directory of New Hires; or

(C) The Federal Case Registry.

(7) Information for which disclosure is allowed under section (5) or (6) of this rule may be accessed from CSEAS records if feasible.

Stat. Auth.: ORS 25.260, 180.345 & 180.380
Stats. Implemented: ORS 25.260
Hist.: DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-2160
Requests for Hearing

(1) A request for hearing must be in writing and signed by the party, the party's authorized representative, or the administrator.

(2) A request for hearing may be made on a form provided by the Child Support Program (CSP) and must contain the party's residence, mailing or contact address, a telephone number where the party can be contacted and the reasons for objection to the contested case notice.

(3) A request for hearing must be received by the CSP office which issued the action within the time provided by law or notice.

(4) A new or amended request for hearing is not required if the administrator amends the order appealed from.

(5) When a party requests a hearing after the time specified by the administrator, the administrator shall handle the request pursuant to OAR 137-003-0528, except that the administrator may accept the late request only if:

(a) The request is received before or within 60 days after entry of a final order by default;

(b) The circuit court has not approved the final order or there is no appeal of the final order pending with the circuit court, and

(c) The cause for failure to timely request the hearing was beyond the reasonable control of the party, unless other applicable statutes or Oregon Child Support Program administrative rules provide a different time frame or standard.

(6) Notwithstanding the provisions of section (5) of this rule, a request for hearing is not considered a late hearing request when:

(a) Parentage testing has been conducted pursuant to OAR 137-055-3020(7)(b) which includes the man as the biological father of the child; and

(b) A request for hearing has been received from a party within 14 days from the date of service of the Notice of Intent to Enter Order/Judgment which contained notice of the parentage testing results.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 183.415
Hist.: AFS 5-1995, f. & ef. 2-6-95; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0830; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2160; DOJ 2-2006(Temp), f. & cert. ef. 1-3-06 thru 6-30-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-3020
Paternity Establishment Procedures

For purposes of this rule, the following definition applies:

(1) "Marital Presumption" means the presumption in ORS 109.070 that a man married to a mother of a child at the time of conception or at the time of birth of a child is the biological father of the child.

(2) When a case involves a child who is not yet born, the administrator will take no action to establish paternity or to provide locate services until such time as the child is born.

(3) (a) In all cases in which a child was conceived in Oregon, the administrator will initiate legal proceedings to establish paternity under ORS chapter 109 or ORS chapter 416.

(b) Except for proceedings filed under ORS chapter 109, past support will be established as provided by ORS chapter 416 and OAR 137-055-3220.

(4) When the administrator initiates legal action to establish paternity, if the child was born in this state, the administrator will file the Notification of Filing of Petition in Filiation Proceedings with the Center for Health Statistics.

(5) In applying the marital presumption of paternity, the administrator will follow the law in effect at the time the child was born.

(6) The administrator will handle disputes to the presumption of paternity under ORS 109.070 in the following manner:

(a) For children born before January 1, 2006, where paternity was established by conclusive presumption, the administrator will provide notice to the parties that:

(A) The parties have the right to challenge paternity under ORS 109.070 by filing a petition in the circuit court;

(B) The administrator will delay any initiated support action for 30 days;

(C) If a party provides proof within 30 days that he/she filed a petition, the administrator will suspend the support action pending the outcome of the court's decision.

(D) If no proof is received within 30 days that a party has filed a petition, the administrator will proceed with the legal action to establish support.

(b) For children born at any time where paternity was established by disputable presumption, the administrator will seek to establish paternity against the man named by the mother to be the most likely alleged father except as provided in sections (7) and (8).

(7) If the husband and mother are still married and the husband is on the child's birth record:

(a) If only one party disputes paternity, the administrator will give notice to the parties as provided in subsection (6)(a) and proceed with the legal action to establish support if no petition is filed within 30 days.

(b) If both the husband and mother dispute the child's paternity, the administrator will order the husband, mother and child to appear for parentage testing.

(8) If the husband and mother are still married, no father is listed on the birth record, and the mother names another man as the father of the child, the administrator will provide notice and an opportunity to object to the husband.

(a) If an objection is received from the husband within 30 days of the date of the notice, an action to establish paternity will be initiated against the husband.

(b) If no objection is received from the husband within 30 days of the date of the notice, an action to establish paternity will be initiated against the most likely alleged father named in the mother's paternity affidavit.

(9) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have excluded a man as the father of the child, the following provisions apply:

(a) If there is only one remaining untested possible biological father, that man is constructively included as the father by virtue of the other man's exclusion as the father.

(b) If there are more than one remaining untested possible biological fathers, the administrator will initiate action against each man, either simul-

taneously or one at a time, to attempt to obtain parentage tests which either exclude or include the man.

(10) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have included a man as the father of the child at a cumulative paternity index of at least 99, any other untested possible father(s) will be considered to be constructively excluded by virtue of the first man's inclusion.

(11)(a) The Child Support Program may initially pay the costs of parentage tests, and will seek reimbursement of those costs, but may agree to waive the costs.

(b) If an alleged father fails to appear as ordered for parentage tests, but the mother and child have appeared, reimbursement will be sought from the alleged father for the costs incurred.

(c) The maximum amount allowed to be entered as a parentage test judgment against a party is the amount the Child Support Program agrees to pay a parentage testing laboratory used to perform the tests.

(d) A judgment for parentage test costs reimbursement will not be sought:

(A) Against a person who has been excluded as a possible father of a subject child;

(B) If the mother stated that more than one man could be the father of the child, and has been unable to name a most likely alleged father, and the man tested has not objected to the entry of an order establishing paternity; or

(C) If the alleged father has applied for services under ORS 25.080 and requested paternity establishment in accordance with OAR 137-055-3080.

(12) A judgment for parentage test costs reimbursement will not be sought against any person found to be the legal father for costs attributable to testing other alleged fathers in any case in which the mother stated that more than one man could be the father of the child.

(13) When a party requests additional parentage testing as provided in ORS 109.252(2), the following provisions apply:

(a) The laboratory selected for additional testing must be a laboratory approved by accreditation bodies designated by the Department of Human Services; and

(b) The party making the request must advance the costs of the additional tests to the accredited laboratory.

(14) Upon receipt of a party's request for additional parentage testing and proof that payment has been advanced to an accredited laboratory, the administrator or the court will order additional testing.

(15) If a non-requesting party fails to appear for the additional parentage testing, the administrator will take appropriate steps to compel obedience to the order for additional testing.

(16) If a requesting party fails to appear for the additional parentage testing, the administrator may enter an order in accordance with OAR 137-055-3100.

(17) The administrator may dismiss or terminate a proceeding to establish paternity after sending written notice to the parties that the case is being considered for dismissal or termination and that any comments or objections must be made within 10 days.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 416.430
Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1020; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3020; DOJ 2-2006(Temp), f. & cert. ef. 1-3-06 thru 6-30-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-3060
Establishing Paternity in Multiple Alleged Father Cases

(1) In any action to establish paternity initiated under ORS 416.400 to 416.470, when the mother of the child for whom paternity is being established states that the father of the child could be more than one man, the administrator may initiate action against those men who are named by the mother as possible fathers as provided for in this rule.

(2)(a) If mother is able to name one of the possible fathers as the most likely father based upon the date of conception, the physical characteristics the child shares with that man, or other factors, the administrator may initiate action against that man only.

(b) If the administrator is unable to locate the man identified by mother as the most likely father, the administrator will not proceed with establishment of paternity until the man is located.

(3) If mother cannot identify one of the men who may be the father as the most likely father, the administrator may gather additional information, including information from the mother and from any physician or other licensed health care provider of obstetrical care to mother, which may assist the mother in identifying the most likely father.

(4) If mother remains unable to identify one of the possible fathers as the most likely father, the administrator may initiate legal action against any one or more possible fathers, as named by the mother, upon whom the administrator can apparently effect personal service based on the information it has available.

(5) The administrator will provide notice to any possible father described in this rule and served in an action to establish paternity that the mother of the child for whom the administrator seeks to establish paternity has named another man or men as a possible father unless that other man (or men) has been excluded by parentage tests.

(6) The administrator will enter no order establishing paternity with respect to a man who has not been named by mother as the most likely father unless the provisions of either subsection (a) or (b) of this section apply.

(a) The man has been subjected to parentage tests which have not excluded him as a possible father of the child in question; or,

(b) All other men named by mother as possible fathers have been excluded as possible fathers by parentage tests.

(7) Notwithstanding any other provision of this rule, its requirements do not apply when there is conclusive presumption of paternity pursuant to ORS 109.070 for a child born prior to January 1, 2006, or when one of the possible fathers is entitled to reasonable notice under ORS 109.096.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 416.400B, 416.470
Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1040; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3060; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 2-2006(Temp), f. & cert. ef. 1-3-06 thru 6-30-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-3100
Order Establishing Paternity for Failure to Comply with an Order for Parentage Testing

(1) In an action to establish paternity initiated pursuant to ORS 416.415, the administrator may serve simultaneously the Notice and Finding of Financial Responsibility and an administrative order for parentage tests.

(2) An administrative order for parentage tests may require either the mother of the child(ren) in question or a person who is a possible father of the child(ren) to file a denial of paternity in order to receive a parentage test, or it may allow testing prior to a the party filing a responsive answer to the allegation of paternity.

(3) The administrator will enter an order establishing paternity based upon a party's failure to appear for parentage testing, provided that all parties have been served with a Notice and Finding of Financial Responsibility and with an order requiring parentage tests if:

(a) The mother of the subject child(ren) has named the male party who failed to appear for parentage tests in a sworn statement as a possible father of the child(ren) in question; or

(b) A male party has claimed in a sworn statement to be the father of the child(ren) in question and the mother and her child(ren) have failed to appear for such tests.

(4) An order establishing paternity based on a failure to submit to parentage tests may be entered:

(a) Whether or not a responsive answer has been filed; and

(b) Whether or not corroboration exists to support a sworn statement of a party naming a male party as a father or possible father of the child(ren) in question, provided that the male party has either:

(A) Been named in a sworn statement by the mother as a possible father of the child; or

(B) Has named himself in a sworn statement as the father of the child.

(5) The provisions of this rule do not apply to the additional parentage tests described in OAR 137-055-3020(13) through 137-055-3020(16).

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 109.252 & 416.430
Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1030; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3100; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-3140
Reopening of Paternity Cases

(1) When a party claims that a man established as the father of a child in fact is not the biological father of the child, the administrator will open or reopen the issue of paternity when all of the provisions of subsections (a) through (f) apply:

(a) The administrator initiated the action administratively which established paternity or paternity was established by a signed voluntary acknowledgment in Oregon;

(b) Parentage tests have not been conducted;

(c) The order was entered with the circuit court one year ago or less, or the voluntary acknowledgment as described in ORS 432.287 was filed with the Center for Health Statistics one year ago or less;

(d) Neither party asserts that the conclusive presumption of paternity created by ORS 109.070 applies for a child born prior to January 1, 2006;

(e) The party applying has completed and returned to the administrator a request for reopening prior to expiration of the one year period;

(f) The administrator has jurisdiction over the parties.

(2) If at any point during the process, the administrator obtains information and verifies that the criteria in subsections (1)(a), (b), (d), (e) or (f) are no longer met, the administrator will make a determination and will send the affected parties written notification within 10 days of verifying the information.

(3) The party who requested parentage tests must reimburse the administrator for the costs incurred by the Child Support Program for such tests, unless the male party in question is excluded.

(4) An order establishing paternity will not be vacated, dismissed or set aside under this rule unless parentage tests exclude the male party in question as the father of the child, or a party fails to comply and the issue of paternity is resolved against that party. The administrator will not submit for the court's approval, any order granting relief which requires repayment to the debtor of money paid by that debtor under the order.

(5) If a reopening initiated by the administrator results in an order of nonpaternity, the administrator will satisfy any state debt owing on the case and file credit arrears owed to any other party.

(6) Any judgment of nonpaternity under this rule will be by circuit court order.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 416.443
Hist.: AFS 29-1995, f. 11-6-95, cert. ef. 11-15-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1000; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3140; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3140; DOJ 2-2006(Temp), f. & cert. ef. 1-3-06 thru 6-30-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-3420
Periodic Review and Modification of Child Support Order Amounts

(1) For the purposes of this rule, the following definitions apply:

(a) "Determination" means an order resulting from a periodic review which finds that the current order of support is in "substantial compliance" with the Oregon guidelines.

(b) "Guidelines" means the formula, the scale, and related provisions in OAR 137-050-0320 through 137-050-0490.

(c) "Periodic Review" means proceedings initiated under ORS 25.287.

(d) "Review" means an objective evaluation by the administrator of the information necessary for application of the guidelines to determine:

(A) The presumptively correct child support amount; and

(B) The need to provide in the order for the child's health care needs through health care coverage or other means, not to include Medicaid, regardless of whether an adjustment in the amount of child support is necessary.

(e) "Substantial compliance" means that the current support order is within at least 15 percent or $50, whichever is less, of the presumptively correct child support amount as calculated using the guidelines. When making this determination, the 15 percent or $50 formula will be applied to the currently ordered support amount.

(2) For all child support cases receiving support enforcement services under ORS 25.080, the Child Support Program will annually notify the parties of their right to request a periodic review of the amount of support ordered.

(3) The purpose of a periodic review is to determine, based on information from the parties and other sources as appropriate, whether the current child support order should be modified to assure substantial compliance with Oregon's child support guidelines, or to order health care coverage for the child(ren).

(4) The administrator may initiate a periodic review if a written request for periodic review is received from any party and 24 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted.

(5) The administrator must complete the determination that the order is in substantial compliance with the guidelines or complete the modification of the existing order within 180 days of receiving a written request for a periodic review, or locating the non-requesting party(ies), if necessary, whichever occurs later.

(6) The administrator is responsible for conducting a periodic review in this state or for requesting that another state conduct a review pursuant to OAR 137-055-7190. As provided in ORS 110.429 and 110.432, the law of the state reviewing the order applies in determining if a basis for modification exists.

(7) Upon receipt of a written request for a periodic review, the administrator will notify the non-requesting party(ies) of the review in writing and provide a copy of the notice to the requesting party. The notice must advise the parties:

(a) Of the opportunity to provide information, with regard to themselves and the other party(ies) if known, which might affect the administrator's calculation of the presumed correct support amount under the child support guidelines, and that each party has 30 days from the date of the notice to provide such information in writing to the administrator;

(b) That the administrator will consider written information received from any party prior to calculating the presumed correct amount of support;

(c) That the administrator will not conduct a review or calculate a presumed correct child support amount until 30 days has passed since the date of the notice unless documentation or written information is received from the parties before the 30 days have passed; and

(d) That a modification to the support amount will affect only support owing on or after the date of service on the last non-requesting party.

(8) The administrator will notify the parties in writing of the presumed correct support amount under the child support guidelines. This notification:

(a) May be by service of a proposed determination that the existing order is in substantial compliance with the guidelines, or

(b) May be by service of a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(c) Must advise the parties that each party has 30 days from the date of service of the notice to object to the determination or proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has passed;

(d) Must include the request for hearing form for each of the parties if the administrator uses an administrative determination or motion form; and

(e) Must be sent to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108.

(9) If the administrator determines that the support order should be modified and there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

(10) If a party wishes to object to the proposed determination or modification, the party must file a written request for hearing with the administrator or court before the 30 day period has passed.

(11) Upon receipt of a written request for hearing opposing the proposed determination or modification, the administrator will:

(a) Review the case to determine whether the support should be recalculated and, if so, notify the parties of the new presumed amount;

(b) Seek a consent order; or

(c) Ensure that the matter is set for hearing if no other resolution is achieved; and

(d) Send a copy of the proposed determination and hearing request to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108

(12) If no request for hearing is filed within the 30 day period, the administrator will submit the determination or modification of the support order to the circuit court for entry in the court register.

(13) If a hearing is held on a determination and the administrative law judge makes a finding that the order is not in substantial compliance with the guidelines, the administrative law judge must enter a modified order with the support amount that complies with the guidelines.

(14) An appeal under this rule will be as provided in ORS 25.287.

(15) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

Stat. Auth.: ORS 416.455 & 180.345
Stats. Implemented: ORS 25.080, 25.287, 107.135 & 416.425
Hist.: AFS 65-1989, f. 10-31-89, cert. ef. 11-1-89; AFS 11-1992(Temp), f. & cert. ef. 4-30-92; AFS 26-1992, f. & cert. ef. 9-30-92; AFS 20-1993, f. 10-11-93, cert. ef. 10-13-93; AFS 21-1994, f. 9-13-94, cert. ef. 12-1-94; AFS 17-1997(Temp), f. & cert. ef. 9-16-97; AFS 17-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 75-1998, f. 9-11-98, cert. ef. 9-15-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 9-2000, f. 3-13-00, cert. ef. 4-1-00; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0072; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3420; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3420; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-3430
Substantial Change in Circumstance Review and Modification of Child Support Order Amounts

(1) For purposes of this rule the definitions provided in OAR 137-055-3420 apply.

(2) Notwithstanding OAR 137-055-3420, proceedings may be initiated at any time to review and modify a support obligation based upon a substantial change in circumstances.

(3) The administrator will conduct a review based upon a request for a change of circumstances modification only when:

(a) Oregon has jurisdiction to modify; and

(b) The administrator receives a written request for modification based upon a change of circumstances and at least 60 days have passed from the date the existing support order was entered, except for those cases where a review is requested pursuant to paragraphs (3)(c)(H) or (I); and

(c) At least one of the following criteria are met:

(A) A change in the written parenting time agreement or order has taken place;

(B) The financial or household circumstances of one or more of the parties are different now than they were at the time the order was entered;

(C) Social Security benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before October 23, 1999;

(D) Veterans' benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before October 23, 1999;

(E) Survivors' and Dependents' Education Assistance benefits received by the child or on behalf of the child were not previously considered in the order;

(F) Since the date of the last order, the obligor has been incarcerated, as defined in OAR 137-055-3300;

(G) The needs of the child(ren) have changed;

(H) There is a need to provide health care coverage for the child(ren);

(I) A change in the physical custody of the child(ren) has taken place;

(J) An order is being modified to include a subsequent child of the parties; or

(K) A child no longer qualifies as a child attending school under ORS 107.108 and OAR 137-055-5110 and the order is being modified pursuant to ORS 107.108(10) as a tiered order. Tiered order has the meaning given in OAR 137-055-1020.

(d) And the requesting party (if other than the administrator):

(A) Completes a written request for modification based upon a substantial change of circumstances;

(B) Pursuant to ORS 416.425(6), provides appropriate documentation for the criteria in subsection (c) of this section showing that a substantial change of circumstances has occurred; and

(C) Completes a Uniform Income Statement or Uniform Support Affidavit.

(4) Upon receipt of a written request for a review and modification, or upon the administrator's own initiative, the administrator will notify the non-requesting party(ies) of the review in writing and provide a copy of the notice to the requesting party (if any). The notice will inform the parties:

(a) Of the opportunity to provide information, with regard to themselves and the other party if known, which might affect the administrator's calculation of the presumed correct support amount under the child support guidelines, and that each party has 30 days from the date of the notice to provide such information in writing to the administrator;

(b) That the administrator will consider written information received from any party prior to calculating the presumed correct amount of support;

(c) That the administrator will not conduct a review or calculate a presumed correct child support amount until 30 days have passed since the date of the notice unless documentation or written information is received from all parties before the 30 days have passed; and

(d) That a modification to the support amount will affect only support owing on or after the date of service on the last non-requesting party.

(5) A request for review will be granted unless:

(a) The conditions in section (3) have not been met; or

(b) The review was requested due to one of the criteria in paragraphs (3)(c)(A) through (3)(c)(G), and the order is in substantial compliance with the guidelines. The determination of substantial compliance will be made as outlined in OAR 137-055-3420(1)(e).

(6) If the request for review is granted, the administrator will:

(a) Initiate a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules. If there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020;

(b) Advise the parties in writing of the presumed correct support amount under the child support guidelines. This notification:

(A) Must be by service of a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(B) Must advise the parties that each party has 30 days from the date of service of the notice to object to the proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has elapsed; and

(C) Must include the request for hearing form for each of the parties as provided in OAR 137-055-2160, if the administrator uses an administrative motion form.

(c) Send a copy to the adult child who has requested notification of any modification proceeding pursuant to ORS 107.108.

(7) If a party wishes to object to the proposed modification, the party must file a written request for hearing with the administrator or court before the 30 day period has passed.

(8) Upon receipt of a written request for hearing opposing the proposed modification, the administrator will:

(a) Review the case to determine whether the support should be recalculated and, if so, notify the parties of the new presumed amount;

(b) Seek a consent order; or

(c) Ensure that the matter is set for hearing if no other resolution is achieved.

(9) If a party submits, in writing, newly acquired information after a proposed modification has been served, the administrator will review the case pursuant to subsection (8)(a).

(10) If no request for hearing is filed within the 30 day period, the administrator will submit the modification of the support order to the circuit court for entry in the court register.

(11) If the request for review is denied, the administrator will notify the requesting party of the denial in writing within 30 days and inform the party of their right to file a motion for modification as provided in ORS 416.425. The administrator will advise the party on how to obtain the Oregon Judicial Department packet which has been prescribed for this purpose.

(12) An appeal under this rule will be as provided in ORS 416.427.

(13) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

(14) If a request for review and modification is received because a change in the physical custody of the child(ren) has taken place, a party may also request a credit back to the date the change in physical custody took place in accordance with OAR 137-055-5510.

Stat. Auth.: ORS 180.345, 416.455

Stats. Implemented: ORS 25.080, 25.287, 107.135 & 416.425

Hist.: DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-5110
Child Attending School

The purpose of this rule is to provide additional information as to how the Child Support Program (CSP) will apply the provisions of ORS 107.108 when the order or modification provides for support until the child is age 21, so long as the child is a child attending school in accordance with ORS 107.108.

(1) In addition to the definitions found in ORS 107.108, as used in OAR chapter 137, division 55, the following terms have the meanings given below:

(a) "Active member of the military" means:

(A) A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard (collectively known as the "armed forces"), who is serving on active duty; or

(B) A member of the National Guard who is serving full-time National Guard state or federal active duty; or

(C) A cadet at a federal service academy.

(b) "Adult child" means a child over the age of 18 and under the age of 21, who is not married or otherwise emancipated, and is not currently a child attending school.

(c) "Child attending school" has the meaning given in ORS 107.108, except a child attending school does not include an active member of the military.

(d) "Satisfactory academic progress" means:

(A) For a child attending high school who is over age 18 but under age 21, enrollment in school and meeting attendance requirements or as defined by the school; or

(B) For a child attending post high school classes, as defined by the higher educational institution.

(2) If the obligor has not provided the child attending school with an address to send the documents required by ORS 107.108 to, the administrator, pursuant to OAR 137-055-1140(8), may release the address of record of the obligor to the child attending school. If the obligor does not provide an address to the CSP or to the child, the obligor's failure to receive required documents is not a basis for objecting that a child does not qualify as a child attending school.

(3) If there has been a finding and order of nondisclosure on behalf of the child attending school pursuant to ORS 25.020;

(a) The child may send the obligor's copy of the initial notice of intent to attend or continue to attend school to the administrator for the administrator to forward to the obligor. The child must submit a copy of the documents to the administrator within the time periods set out in ORS 107.108. The administrator will redact the following information prior to sending a copy of the documents otherwise required to be provided to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

(C) Telephone number including the school telephone number;

(D) Driver's license number;

(E) Employer's name, address and telephone number; and

(F) Name of registrar or school official.

(b) The child attending school must contact the school each term or semester and submit to the administrator the information that the obligor could obtain from the school if there wasn't a finding and order of nondisclosure on the case. The administrator will redact the information set out in subsection (a) of this section prior to sending a copy of the documents to the obligor.

(4) If a child attending school is in the care of the Oregon Youth Authority (OYA), any and all reporting duties of the child attending school will be the duty of OYA.

(5) DOJ will distribute support directly to the child attending school, unless good cause is found to distribute support in some other manner. For purposes of this section "good cause" may include:

(a) The child is in the care of OYA;

(b) The child provides written notarized authorization for distribution to the obligee;

(c) The court, administrative law judge or administrator orders otherwise; or

(d) The administrator is enforcing the Oregon order at the request of another state and that state has indicated they are unable to distribute support directly to the child.

(6)(a) If the administrator makes a finding that the support payment should be distributed to the obligee under subsection (5)(b), the administrator will send a notice of redirection of support to the parties.

(b) A party may contest the administrator's finding as provided in ORS 183.484.

(7) An objection based on the requirements of ORS 107.108 may be made by any party to the support order. Unless new supporting documentation can be provided, an objection can only be made once per semester or term as defined by the school, or three months from the date of a previous objection if the school does not have semesters or terms.

(8) When support has been suspended under ORS 107.108 and the adult child subsequently complies with the requirements for reinstatement, the written confirmation and proof of written consent will be considered as an application for services if the case has been closed pursuant to OAR 137-055-1120.

(9) When the administrator has suspended or reinstated a support obligation pursuant to ORS 107.108, a party may request an administrative review of the action within 30 days after the date of the notice of suspension or reinstatement.

(a) The only issues which may be considered in the review are whether:

(A) The child meets the requirements of a child attending school;

(B) The written notice of the child's intent to attend or continue to attend school was sent to the parent ordered to pay support;

(C) The written consent was sent or proof of written consent was received.

(b) The burden of proof for the administrative review is on the requesting party to provide documentation supporting the allegation(s).

(10) When support has been suspended under ORS 107.108, the adult child may request to receive notice of future modifications and may request to be a party to the modification as outlined in ORS 107.108 and OAR 137-055-3430. The adult child does not have any party status on the case until the request has been received by the administrator.

(11) In addition to the rights afforded under ORS 107.108, if the obligee claims good cause under OAR 137-055-1090, the child attending school may apply for services to enforce the existing support obligation on behalf of the child attending school only.

(a) The application will be handled in the same manner as outlined in OAR 137-055-1090(9)(a)-(c).

(b) If the child attending school applies for services, and services are provided under ORS 25.080, all arrears for that child will accrue to the child attending school as provided for in OAR 137-055-6021, until the child's 21st birthday or is otherwise emancipated and then will be file credited off the case.

(12) If a court orders payment from a higher education savings plan in lieu of support under ORS 107.108;

(a) The administrator will cease collection and billing actions on behalf of that child at age 18. If the support order is for a single or last remaining child the department will close the case unless there are arrears on the case.

(b) If payments are ordered from a higher education savings plan and the court has not provided for a modification of the support amount for any remaining children of the order, this is a substantial change of circumstances for purposes of modifying the support order.

(c) If payment from a higher education savings plan has been ordered, the administrator will not take action to subsequently modify the support order to include child attending school support provisions for that child.

(13) Except for support orders originally issued by a state other than Oregon and being enforced under the provisions of ORS 110.303 to 110.452, if the most recent order or modification for support cites ORS 107.108 or otherwise provides for support of a "child attending school," the administrator will follow the provisions of ORS 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 25.020, 107.108 & 180.345

Stats. Implemented: ORS 25.020, 25.080, 107.108 & 416.407

Hist.: AFS 23-2001, f. 10-2-01, cert. 10-6-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5110; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5110; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 5-2005, f. & cert. ef. 7-15-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-5120
Child Attending School — Arrears

(1) For purposes of this rule "arrears" means past due support which has accrued but does not include support for the current month even if the due date for that month has passed.

(2) Unless otherwise provided by a support judgment, a child attending school is not a judgment creditor to the support order and the provisions of this rule apply.

(3)(a) Notwithstanding section (2), support for a child attending school that is not paid when due will accrue to a child attending school account and any arrears payment received prior to the child turning age 21 or otherwise emancipated, will be distributed to the child attending school or adult child as outlined in OAR 137-055-6021.

(b) When the child attending school turns age 21 or is otherwise emancipated, any arrears in the child attending school account will be transferred to the obligee as the judgment creditor.

(4)(a) When an obligee requests establishment of arrears for any time period during which a child was a child attending school and services were being provided under ORS 25.080, the arrears will be established to the child=s account.

(b)(A) If the child attending school is the only or last remaining child on the case, the administrator will not establish arrears for any time period when services were not being provided and support is only being paid for the child attending school. Arrears may only accrue to the child attending school account from the date the administrator begins providing child support services.

(B) Notwithstanding subsection (b)(A), the administrator may establish arrears for any time period when services were not being provided if the judicial order found that the child qualified as a child attending school during the time period for which arrears are being established.

(5) A child attending school may not satisfy arrears but may agree to a credit for direct payment, pursuant to OAR 137-055-5240, against arrears which have accrued to the child attending school account only.

Stat. Auth.: ORS 25.020 & 180.345

Stats. Implemented: ORS 107.108

Hist.: AFS 21-1991, f. 10-23-91, cert. ef. 11-1-91; AFS 26-1991, f. 12-31-91, cert. ef. 1-1-92; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 31-1992, f. 10-29-92, cert. ef. 11-1-92; AFS 18-1997(Temp), f. 9-23-97, cert. ef. 10-4-97; AFS 18-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0136; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 17-2002(Temp), f. 10-30-02, cert. ef. 11-1-02 thru 4-29-03; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5120; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 5-2005, f. & cert. ef. 7-15-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-5220
Satisfaction of Support Awards

The purpose of this rule is to define how the Division of Child Support (DCS) will credit "satisfactions of support award" in certain

circumstances. This rule must not be construed as limiting the authority of DCS to approve or credit a satisfaction of support award in other lawful circumstances not specified in this rule.

(1) When support payment records are kept by the Department of Justice, an obligee may satisfy amounts indicated on the case records as past due by filing a properly-completed "satisfaction of support award" form with the administrator, subject to approval by DCS under the provisions of this rule; or in accordance with OAR 137-055-5240.

(2) When current support or arrears are assigned to the State of Oregon or to another state, and the obligor is seeking credit for support payments not made through DCS:

(a) DCS and its attorneys have authority to approve and sign satisfactions.

(b) This authority may be exercised only when the obligee has signed a satisfaction of support award form which acknowledges that the support payment was received.

(3) DCS and its attorneys have authority to sign and approve satisfactions of support award for money paid through DCS as payment of assigned support.

(4) DCS will record, on the case record, all properly-completed satisfactions of support award not assigned, and all satisfactions ordered by a court or a hearing order, and all satisfactions for assigned support that are approved in accordance with this rule. DCS will also promptly forward the satisfaction form to the appropriate court administrator, together with a certificate stating the amount of support satisfaction entered on the case record.

(5) Except when satisfied and approved by DCS and its attorneys or by a court or hearing order, DCS will not enter a satisfaction on a case record for support that has been assigned to the State of Oregon or another state.

(6) When DCS rejects a satisfaction in part or in full as provided in section (5) above, DCS will send written notice to the obligor and obligee, by regular mail to the most recent address of record. Such notice will indicate the reason for the rejection.

(7) All satisfactions must contain the following:

(a) The full names of both the obligor and the obligee;

(b) The name of the Oregon county where the support award was entered;

(c) The Oregon Child Support Program support case number, or the circuit court case number;

(d) Either:

(A) The total dollar amount to be satisfied; or

(B) The period of time for which past due support is satisfied;

(e) A statement that the satisfaction is only for child support or spousal support;

(f) The signature of the obligee, except for those satisfactions approved under sections

(2) and (3) of this rule, where the obligee's signature is not required; and

(g) The date the form is signed.

(8) All signatures on "satisfactions of support award" must be notarized, except on court orders.

(9) Notwithstanding any other provision of this rule, DCS has the authority to file and execute a satisfaction, without the need to notarize such satisfaction, when all of the following are true:

(a) The obligor provides a sworn affidavit that the support award has been paid in full, and

(b) DCS certifies that it has a complete payment record for the support award and that the payment records shows no arrears. DCS will be considered to have a complete pay record if DCS has kept the pay record for the support judgment from the date of the first support payment required under the award, or if the obligee or the administrator established arrears for the time period when DCS did not keep the pay record on the case.

(10) When DCS receives a sworn affidavit under the provisions of subsection (9)(a) of this rule, DCS will examine its support records and determine if it has the authority under section (9) of this rule to execute and file a satisfaction of support award. DCS will promptly notify the obligor if DCS determines that it does not have authority to execute and file a satisfaction of support award. DCS will also determine if any amounts due for support were not assigned to the state. If DCS determines that any amounts were not assigned to the state, DCS will give notice to the obligee in the manner provided by ORS 25.085. The notice must inform the obligee that DCS will execute and file the satisfaction of support award unless DCS receives an objection and request for hearing within 30 days after the date of mailing the notice.

(11) If the obligee requests a hearing under section (10) of this rule, a contested case hearing will be conducted under ORS 183.310 to 183.502 before an administrative law judge.

(12) If support is owed to a child attending school the obligee may only satisfy arrears as defined in OAR 137-055-5120.

Stat. Auth.: ORS 18.225 & 180.345

Stats. Implemented: ORS 18.225 - 238 & 25.020

Hist.: AFS 21-1978, f. & ef. 5-30-78; AFS 26-1979(Temp), f. & ef. 8-16-79; AFS 22-1980, f. & ef. 4-3-80; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89, Renumbered from 461-035-0005; AFS 17-1991, f. & cert. ef. 8-29-91; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 19-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 14-1996, f. 4-24-96, cert. ef. 5-1-96; AFS 28-1996, f. & cert. ef. 7-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0155; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5220; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5220; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 9-2005, f. & cert. ef. 10-3-05; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-6021
Distribution: General Provisions

The terms used in this rule have the meanings set out in OAR 137-055-6020.

(1) The Department of Justice (DOJ) will distribute support payments within two business days after receipt if sufficient information identifying the payee is provided, except:

(a) Support payments received as a result of tax refund intercepts or administrative offsets will be distributed within thirty calendar days of receipt or, if applicable, within fifteen calendar days of an administrative review or hearing. If the state is notified by the Secretary of the U.S. Treasury (the Secretary) or the Oregon Department of Revenue (DOR) that an offset on a non-assistance case is from a refund based on a joint return, distribution may be delayed, up to a maximum of six months, until notified by the Secretary or DOR that the obligor's spouse has been paid their share of the refund;

(b) Support payments received from a garnishment, issued pursuant to ORS chapter 18, will be held for 40 days if the garnishee is making a payment of other than wages or 120 days if the garnishee is making a payment of wages unless the obligor waives the right to make a challenge to a garnishment as set out in OAR 137-055-4520 or, if the obligor or any person who has an interest in the garnished property makes a challenge to garnishment, the support payment will be sent to the court where the challenge to garnishment has been filed;

(c) Support payments for future support will be distributed as provided in section (10) of this rule;

(d) Support payments for less than five dollars:

(A) May be delayed until a future payment is received which increases the payment amount due the family to at least five dollars; or

(B) May be retained by DOJ if case circumstances are such that there is no possibility of a future payment, unless the obligee requests issuance of a check.

(e) When an obligor contests an order to withhold, funds will be disbursed pursuant to OAR 137-055-4160(5).

(2) DOJ will distribute support payments received on behalf of a family who has never received assistance to the family, first toward current support, then toward support arrears, not to exceed the amount of arrears.

(3)(a) DOJ may send support payments designated for the obligee to another person or entity caring for the child(ren) if physical custody has changed from the obligee to the other person or entity; however, prior to doing so, DOJ will require a notarized statement of authorization from the obligee or a court order requiring such distribution.

(b) DOJ will change the payee to a private collection agent that the obligee has retained for support enforcement services only in accordance with OAR 137-055-6025.

(c) DOJ will redirect payments from the child who qualifies as a child attending school under ORS 107.108 and OAR 137-055-5110 only in accordance with 137-055-5110.

(4) Child support and spousal support have equal priority in the distribution of payments.

(5)(a) For Oregon support orders or modifications, a prorated share (unless otherwise ordered) of current support payments received within the month due will be distributed directly to the child who qualifies as a child attending school under ORS 107.108 and OAR 137-055-5110.

(b) Any arrears resulting from unpaid current support to the child attending school will accrue to the child until the child reaches the age of 21 or is otherwise emancipated, at which time arrears will revert to, and be owed to, the obligee.

(c) Any payment received on arrears, except for a federal tax offset, will be distributed in equal shares to the obligee and the child attending school until the child reaches the age of 21 or is otherwise emancipated.

(6) If the obligor has a current support obligation for multiple children on a single case, those children have different assistance status and the order does not indicate a specified amount per child, current support payments will be prorated based upon the number of children and their assis-

tance status. Support payments in excess of current support for these cases will be distributed as provided in OAR 137-055-6022.

(7) DOJ will retain the fee charged by the Secretary for cases referred for Full Collection Services per OAR 137-055-4360 from any amount subsequently collected by the Secretary under this program. DOJ will credit the obligor's case for the full amount of collection and distribute the balance as provided in OAR 137-055-6022.

(8) Within each arrears type in the sequence of payment distribution in OAR 137-055-6022, 137-055-6023 or 137-055-6024, DOJ will apply the support payment to the oldest debt in each arrears type.

(9) Any excess funds remaining after arrears are paid in full will be processed as provided in OAR 137-055-6260 unless the obligor has elected in writing to apply the credit balance toward future support as provided in section (10) of this rule.

(10) DOJ will distribute support payments representing future support on a monthly basis when each such payment actually becomes due in the future. No amounts may be applied to future months unless current support and all arrears have been paid in full.

Stat. Auth.: ORS 25.020, 25.610 & 180.345
Stats. Implemented: ORS 18.645, 25.020 & 25.610
Hist.: DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-6210
Advance Payments of Child Support

(1) "Advance payment" means:

(a) The Department of Justice (DOJ) has transmitted money to an obligee or to a person or entity authorized to receive support payments;

(b) The amount does not exceed the total arrears available for assignment to the state;

(c)(A) DOJ has applied the money incorrectly through no fault or error of the payee; or

(B) The amount transmitted by DOJ is attributable in whole or in part to a tax refund offset collection, all or part of which has been reclaimed by the Internal Revenue Service or the Oregon Department of Revenue; and

(d) The payment is not the result of a dishonored check.

(2) If the obligor is deceased and without assets or an estate the provisions of OAR 137-055-6220 apply.

(3) The person who receives an advance payment owes the amount of the advance payment to DOJ.

(4) Instead of directly collecting the amount of the advance payment from the person who received it, the amount will be removed from the arrears owed to the payee and will be assigned to the state as permanently-assigned arrears under OAR 137-055-6020. DOJ will notify the payee in writing of the:

(a) Amount to be collected as permanently-assigned arrears;

(b) Right to object and request an administrative review.

(5) When an objection is received, DOJ will conduct an administrative review and notify the payee in writing of the:

(a) Determination resulting from the review; and

(b) Right to challenge the determination by judicial review under ORS 183.484.

(6) Notwithstanding the provisions of section (4) of this rule, designation of permanently-assigned arrears to recover advance payments does not affect whether a case is assigned to DOJ as provided in OAR 137-055-2020 or a district attorney office as provided in OAR 137-055-2040.

(7) For the purposes of this rule, a "dishonored check" is not one which has been paid or made negotiable.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 25.020
Hist.: DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 9-2005, f. & cert. ef. 10-3-05; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

137-055-6260
Return of Overcollected Support Amounts

(1) When the Division of Child Support (DCS) receives a support payment on an account for which no current order exists for ongoing support, DCS will apply the payment to any arrears the obligor may owe on the account. If any excess funds remain from the payment after any arrears are paid in full, and DCS has not forwarded the excess amount to the payee, DCS will return the excess amount to the obligor within 30 days of discovering the overcollection.

(2) On any account for which an ongoing support obligation exists, and DCS receives a payment that exceeds the total amount due for current support and arrears and has not forwarded the excess amount to the payee, DCS will return the excess amount to the obligor under the following circumstances:

(a) When an income withholding order exists and the withholder does not receive or implement a notice from the administrator to reduce withholding to the amount of the current ongoing support obligation in a timely manner, such as may occur after all arrears are collected or after the ongoing support obligation is modified downward;

(b) When a state or federal tax refund is intercepted in an amount exceeding the amount owed for arrears; or

(c) When TANF cash assistance is being granted to the obligee or children on the support case, unless the obligor and the administrator agree otherwise.

(3) Notwithstanding section (1), on any account for which no current order exists for ongoing support, when a withholder sends a payment that exceeds the total amount that should have been withheld under ORS 25.414(1)(d), there is no order for expanded withholding under ORS 25.387, and DCS has not forwarded the excess amount to the obligee, DCS will return the excess amount to the obligor.

(4) When DCS receives a payment that exceeds the total amount due for current support and arrears and has forwarded the excess amount to the payee, DCS will notify the parties in writing within 30 days of discovering the overcollection that:

(a) A credit balance in the obligor's favor has resulted from the overcollection; and

(b) The obligee or child attending school under ORS 107.108 and OAR 137-055-5110 may, within 14 days of the date of the notice from DCS, submit a written request to DCS for an administrative review to determine if DCS's record-keeping and accounting related to calculation of the credit balance is correct.

(5) DCS will conduct the administrative review within 30 days of receiving the party's written request, and will send written notification to the parties of the results of the review.

(6) In any case where DCS is required to return overcollected funds to an obligor under section (2) of this rule, the obligor may elect to forego the return of some or all of the overcollected funds and to instead use any credit balance amount thus established under this rule to offset the obligor's future ongoing support obligation. An obligor wishing to elect this option must notify DCS in writing before DCS has returned such funds to the obligor.

Stat. Auth.: ORS 25.020, 25.125, 180.345
Stats. Implemented: ORS 25.020 & 25.125
Hist.: AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0272; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6260; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6260; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06

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Department of Oregon State Police
Chapter 257

Rule Caption: Relating to the methods of operation and approval of breath-alcohol testing devices.
Adm. Order No.: OSP 2-2006(Temp)
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 7-5-06 thru 12-31-06
Notice Publication Date:
Rules Adopted: 257-030-0105, 257-030-0110, 257-030-0120, 257-030-0130, 257-030-0140, 257-030-0150, 257-030-0160, 257-030-0170
Rules Amended: 257-030-0060, 257-030-0070
Rules Suspended: 257-050-0075
Subject: Establishes the approval and methods of operation for the Intoxilyzer 8000. Amends methods of operation for Intoxilyzer 5000. Repeals the approval and methods of operation for the Intoxilyzer 1400.
Rules Coordinator: Loree Fogleman—(503) 378-3720, ext. 4105

257-030-0060
Approved Breath Testing Equipment

The following breath testing equipment is approved under OAR 257-030-0040 for performing chemical analysis of a person's breath: The Intoxilyzer 5000:

(1) Reports of correlation studies furnished by the manufacturer(s) are maintained by the Oregon State Police.

(2) Correlation studies performed with the Intoxilyzer 5000 by Oregon State Police technician(s) are incorporated as **Appendix 1**.

[ED. NOTE: Appendicies referenced are available from the agency.]
Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-1992, f. 7-20-92, cert. ef. 9-1-92; OSP 1-1993, f. 1-19-93, cert. ef. 1-20-93; OSP 3-1993, f. & cert. ef. 11-8-93; OSP 2-1996, f. & cert. ef. 3-22-96; OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0070
Approved Methods for Operating the Intoxilyzer 5000

The following method of performing Chemical Analysis of a subject's breath is approved for the Intoxilyzer 5000:

(1) Test Identification: A check list containing an outline of the approved procedures shall be used and completed by all operators of this instrument.

(2) Pre-Test Requirement:

(a) The operator is certain that the subject has not taken anything by mouth (drinking, smoking, eating, taking medication, etc.), vomited, or regurgitated liquid from the stomach into mouth, for at least fifteen minutes before taking the test;

(b) There is no requirement that the operator be the person who makes observation of the subject. The person performing the Pre-Test Requirement (observation period) need not possess a permit to test the alcoholic content of blood.

(c) There is no requirement that the subject rinse the mouth or remove dentures.

(3) Test Procedure:

(a) Ensure that the "Power" switch is on and the instrument is out of the "Not Ready" stage;

(b) Push "Start Test" button to initiate testing sequence;

(c) Insert test record card;

(d) After instructing the subject on how to give a proper breath sample, have the subject provide a breath sample when "Please Blow" appears on the display;

(e) Remove the test record card with printout of test results.

(4) Testing Sequence: The testing sequence the instrument follows will be:

(a) Diagnostics: The instrument will perform a complete diagnostic check on its components and operational standards. If all the operational parameters are proper, the instrument will proceed to the next step;

(b) Air Blank: The instrument will draw in outside air to purge the unit of any alcohol or other material which may be present in the sample cell. It is also looking at the operational environment and analyzing for any possible contaminant which may be present in the room air. If all parameters are met, the instrument will proceed to the next step;

(c) Subject Test: At this time the instrument will display "Please Blow". The subject is instructed on how to give a proper breath sample. The subject has approximately three minutes to comply with this request. The subject test phase has been completed and will proceed to the next step when:

(A) The instrument has accepted the breath sample and displayed the result; or

(B) The subject test is aborted by action of the operator or by the instrument; or

(C) The three minute request period has lapsed; or

(D) The operator has depressed the Start Test button to indicate a refusal.

(d) Air Blank: This air blank is to purge the instrument of the collected sample and once again check the operational environment for any possible contaminants. If all parameters are proper the instrument will print the testing sequence information and display "Test Complete". If the post sample check is improper the instrument will abort the test and an error message will be displayed;

(e) Evidence Card: The final phase of the analysis is the printing of the evidence card. If all parameters and every operational aspect of the instrument were proper, a completed evidence card is received. If at any time there was a malfunction, error or condition that would affect the validity of the test, or any section of the instrument was not in perfect working order, the test would have been aborted and a completed evidence card would not be received.

(5) "Completed" Evidence Card: A "Completed" evidence card is one which indicates a breath test result, a refusal, or the presence of an interfering substance:

(a) An evidence card obtained using the "Reprint" option contains the identical information as would be printed on the original card and may be used in addition to or in place of the original test card;

(b) The operator shall record the following information on the evidence card: Name and date of birth of the subject tested, operator's name and breath test permit number;

(c) If the subject did not provide an adequate breath sample within the three minute request period, the instrument will indicate "Insufficient" and print an asterisk (*) before the "Subject Test" result, and "* Insufficient Sample – Value printed was highest obtained". The value printed is an accurate measurement of the sample provided and is equal to or less than the subject's actual blood alcohol value;

(d) If during the three minute request period the subject refuses, through some willful act, to follow the instructions to provide an adequate breath sample, the operator may depress the "Start Test" button to terminate the breath test request phase. The instrument will indicate "Refused" and print "Subject Test Refused". A printed test record card, as described in this subsection, is not required to document the operator's decision to terminate the breath test request phase as "Refused".

(e) If the instrument detects the presence of acetone or other substances which could interfere with the instrument's ability to accurately measure the amount of ethyl alcohol in the breath, the message "Interf Detected" will be displayed and the test will be aborted. The printout on the test record will indicate "Invalid Test *Interferant Detected". This is a completed test and the operator should not restart the testing sequence.

(6) Incomplete Evidence Card: The following conditions will result in an incomplete evidence card:

(a) If the subject did not provide a breath sample or blow with sufficient force to activate the breath pressure sensor at any time within the three minute request period, the instrument will indicate "No Sample Given" and print an asterisk (*) before "Subject Test" and "*No Sample Given". If the evidence card indicates "*No Sample Given", the operator should restart the testing sequence and proceed until a completed evidence card is obtained or until the subject refuses;

(b) If the operator receives an error message and print out from the instrument, such as "Invalid Test" (not to include "Invalid Test *Interferant Detected"), "Residual Alcohol Present", "Inhibited.RFI", "Invalid Mode", "Check Ambient Conditions", etc., the operator should take corrective action as outlined in the **Intoxilyzer 5000 Student Manual**, and restart the testing sequence. Nothing in this subsection precludes an operator from terminating the breath testing sequence as "Refused" if the subject refuses, through a willful act, to follow the instructions of the operator. A printed test record card, as described in section (5) (d), is not required to document the operator's decision to terminate the breath test sequence as "Refused".

(7) Failure to record information specified in section (1) and subsection (5)(b) of this rule does not invalidate the test result obtained if the procedures were followed.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.335 & 813
Stats. Implemented: ORS 813.160
Hist.: OSP 2-1992, f. 7-20-92, cert. ef. 9-1-92; OSP 1-1993, f. 1-19-93, cert. ef. 1-20-93; OSP 2-1993(Temp), f. & cert. ef. 9-23-93; OSP 3-1993, f. & cert. ef. 11-8-93; OSP 1-1996, f. & cert. ef. 3-22-96; OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0075
Approved Methods for Operating the Intoxilyzer 1400

The following method of performing Chemical Analysis of a subject's breath is approved for the Intoxilyzer 1400:

(1) Test Identification: A check list containing an outline of the approved procedures shall be used and completed by all operators of this instrument.

(2) Pre-Test Requirement:

(a) The operator is certain that the subject has not taken anything by mouth (drinking, smoking, eating, taking medication, etc.), vomited, or regurgitated liquid from the stomach into mouth, for at least fifteen minutes before taking the test;

(b) There is no requirement that the operator be the person who makes observation of the subject. The person performing the Pre-Test Requirement (observation period) need not possess a permit to test the alcoholic content of blood.

(c) There is no requirement that the subject rinse the mouth or remove dentures.

(3) Test Procedure:

(a) Ensure that the "Power" switch is on and the instrument is out of the "Not Ready" stage;

(b) If the instrument is in the "Standby" mode push the "Start Test" button to enter the "Ready to Test" mode;

(c) Push "Start Test" button to initiate testing sequence;

(d) After instructing the subject on how to give a proper breath sample, have the subject provide a breath sample when "Please Blow" appears on the display;

(e) Tear the test record paper, with printout of test results, from the instrument.

(4) Testing Sequence: The testing sequence the instrument follows will be:

(a) Diagnostics: The instrument will perform a complete diagnostic check on its components and operational standards. If all the operational parameters are proper, the instrument will proceed to the next step;

(b) Air Blank: The instrument will draw in outside air to purge the unit of any alcohol or other material which may be present in the sample cell. It is also looking at the operational environment and analyzing for any

possible contaminant which may be present in the room air. If all parameters are met, the instrument will proceed to the next step;

(c) Subject Test: At this time the instrument will display "Please Blow." The subject is instructed on how to give a proper breath sample. The subject has approximately three minutes to comply with this request. The subject test phase has been completed and will proceed to the next step when:

(A) The instrument has accepted the breath sample and displayed the result; or

(B) The subject test is aborted by action of the operator or by the instrument; or

(C) The three minute request period has lapsed; or

(D) The operator has depressed the Start Test button to indicate a refusal.

(d) Air Blank: This air blank is to purge the instrument of the collected sample and once again check the operational environment for any possible contaminants. If all parameters are proper the instrument will print the testing sequence information and display "Test Complete." If the post sample check is improper the instrument will abort the test and an error message will be displayed;

(e) Evidence Record: The final phase of the analysis is the printing of the evidence record on paper. If all parameters and every operational aspect of the instrument were proper, a completed evidence record is received. If at any time there was a malfunction, error or condition that would affect the validity of the test, or any section of the instrument was not in perfect working order, the test would have been aborted and a completed evidence record would not be received.

(5) "Completed" Evidence Record: A "Completed" evidence record is one which indicates a breath test result, a refusal, or the presence of an interfering substance:

(a) An evidence record obtained using the "Reprint" option contains the identical information as would be printed on the original record and may be used in addition to or in place of the original test record;

(b) The operator shall enter the following information on the evidence record: Name and date of birth of the subject tested, operator's name and breath test permit number;

(c) If the subject did not provide an adequate breath sample within the three minute request period, the instrument will indicate "Insufficient" and print an asterisk (*) before the "Subject Test" result, and "*Insufficient Sample — Value printed was highest obtained." The value printed is an accurate measurement of the sample provided and is equal to or less than the subject's actual blood alcohol value;

(d) If during the three minute request period the subject refuses, through some willful act, to follow the instructions to provide an adequate breath sample, the operator may depress the "Start Test" button to terminate the breath test request phase. The instrument will indicate "Refused" and print "Subject Test Refused."

(e) If the instrument detects the presence of acetone or other substances which could interfere with the instrument's ability to accurately measure the amount of ethyl alcohol in the breath, the message "Interferant Detected" will be displayed and the test will be aborted. The printout on the test record will indicate "+Invalid Test Interferant Detected." This is a completed test and the operator should not restart the testing sequence.

(6) Incomplete Evidence Record: The following conditions will result in an incomplete evidence record:

(a) If the subject did not provide a breath sample or blow with sufficient force to activate the breath pressure sensor at any time within the three minute request period, the instrument will indicate "No Sample Given" and print a number symbol "#" before "Subject Test" and "# No Sample Given." If the evidence record indicates "# No Sample Given," the operator should restart the testing sequence and proceed until a completed evidence record is obtained or until the subject refuses;

(b) If the operator receives an error message and print out from the instrument, such as "Invalid Test" (not to include "+Invalid Test Interferant Detected"), "Residual Alcohol Present," "Inhibited RFI," "Invalid Mode," "Check Ambient Conditions," etc., the operator should take corrective action as outlined in the Intoxilyzer 1400 Student Manual, and restart the testing sequence.

(7) Failure to record information specified in section (1) and subsection (5)(b) of this rule does not invalidate the test result obtained if the procedures were followed.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-1996, f. & cert. ef. 3-22-96; Suspended by OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0105
Definitions; Severability

(1) As used in these rules, "Chemical Test" and "Chemical Analysis" of a person's breath both mean the quantitative analysis for alcohol by means of direct or indirect measurement of physicochemical technique. Two valid breath samples, provided within a single testing sequence and culminating in a printed report with a completed test result shall constitute a "Chemical Test" of a person's breath.

(2) A "valid breath sample" means a sample of a person's breath provided in such a manner to be acceptable for analysis by the instrument.

(3) Severability: If any part or provision of OAR 257-030-0105 to 257-030-0170 or the application thereof is held invalid, the remaining part(s) or provision(s) shall remain in full force and effect.

Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0110
Criteria for Approval of Breath Testing Equipment

Any instrument or equipment to be used for the testing of a person's breath to determine the alcohol content of the blood may be approved by the Oregon State Police if one or more of the following criteria are met:

(1) Submission by the manufacturer or distributor of the instrument of at least two reports of studies correlating blood analysis and breath tests performed with this instrument, conducted by two separate laboratories of governmental health or law enforcement agencies, or independent organizations, financially unrelated to the manufacturer or distributor of such instruments.

(2) Provision of a production model of the instrument by the manufacturer or distributor to the Oregon State Police for a sufficient period of time to allow Oregon State Police technician(s) to conduct sufficient investigation and laboratory tests to adequately ascertain accuracy and reproducibility of the breath testing equipment.

(3) Those instruments which have been found by the National Highway Traffic Safety Administration to conform to the model specifications for evidential breath testing devices, and which are listed on the **Conforming Products List in the Federal Register**.

(4) Subsequent series of above instruments, so long as the subsequent changes and series do not diminish the instrument's ability to accurately determine blood alcohol content.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0120
Approved Breath Testing Equipment

(1) The following breath testing equipment is approved under OAR 257-030-0110 for performing chemical analysis of a person's breath: The Intoxilyzer 8000:

(2) Reports of correlation studies performed with the Intoxilyzer 8000 by Oregon State Police technician(s) or furnished by the manufacturer(s) are maintained by the Oregon State Police.

Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0130
Approved Methods for Operating the Intoxilyzer 8000

The following method of performing Chemical Analysis of a subject's breath is approved for the Intoxilyzer 8000:

(1) Test Identification: A check list containing an outline of the approved procedures shall be used and completed by all operators of this instrument. Failure to record information specified in this section does not invalidate the test result obtained if the testing procedures were otherwise followed.

(2) Pre-Test Requirement:

(a) The operator is certain that the subject has not taken anything by mouth (drinking, smoking, eating, taking medication, etc.), vomited, or regurgitated liquid from the stomach into mouth, for at least fifteen minutes before taking the test;

(b) There is no requirement that the operator be the person who makes observation of the subject. The person performing the Pre-Test Requirement (observation period) need not possess a permit for the testing of alcoholic content of blood;

(c) The Pre-Test Requirement (observation period) does not require that the subject rinse the mouth or remove dentures prior to providing a breath sample;

(d) The use of a mouthpiece by the subject during the testing sequence does not constitute a violation of the Pre-Test Requirement.

(3) Test Procedure: The operator shall administer the test (consisting of two valid breath samples, provided within a single testing sequence and culminating in a printed report with a completed test result) as follows:

(a) Ensure that the instrument display indicates "Ready to Start";

(b) Push "Start Test" button to initiate the test sequence;

(c) Once the operator initiates the testing sequence by pressing the "Start Test" button, the testing sequence shall be conducted without interruption until:

(A) The instrument completes the test sequence and the operator obtains a completed test report; or

(B) The operator depresses the "Start Test" button or the "R" key on the keyboard to indicate that the subject refused the test; or

(C) The operator or the instrument aborts the testing sequence.

(d) Using the instrument's bar code scanner and/or keyboard, the operator shall enter sufficient information to: (1) identify the operator conducting the test, and (2) establish that the operator possesses a valid operator permit and PIN combination. The operator should also enter sufficient information to link the test report to the test subject. The instrument will start the testing sequence when the operator's permit has been validated and the data entry process is complete;

(e) After instructing the subject on how to give a proper breath sample, have the subject provide a breath sample through the mouthpiece when "Please blow into mouthpiece to activate tone" appears on the display;

(f) Continued Observation Period: The operator shall continue to observe the subject and remain certain that the subject does not take anything by mouth (drink, smoke, eat, take medication(s), etc.), vomit, or regurgitate liquid from the stomach into mouth until the second breath sample request period is completed. The use of a mouthpiece by the subject during the testing sequence does not constitute a violation of the observation period.

(g) When "Please blow into mouthpiece to activate tone" again appears on the display, have the subject provide a second breath sample;

(h) Once the instrument accepts the second breath sample, it will automatically perform an analysis of a gaseous sample containing a known alcohol vapor concentration ("control sample") to test the accuracy and proper working order of the instrument. The operator does not need to take any action with the instrument at this time other than to monitor the progression of the instrument through the remainder of the test sequence. If all parameters are met, the instrument will proceed to the next step;

(i) When the instrument has successfully completed the test sequence, the operator will be afforded an opportunity to enter into and review comments added to the test report. The test report will then be printed with the test result.

(k) If at any time the operator has questions concerning the breath testing procedures or sequence, the operator should consult the Intoxilyzer 8000 Operator's Guide located near the instrument.

(4) Testing Sequence: The instrument will conduct the test as follows:

(a) Test Authorization: The operator shall enter into the instrument a permit and Personal Identification Number (PIN) information through the bar code scanner and/or keyboard for the purpose of: (1) identifying the operator conducting the test, and (2) establishing that the operator possesses a valid operator permit and PIN combination. Only operators who possess both a valid permit and PIN will be authorized to conduct a test sequence. If all parameters are met, the instrument will proceed to the next step;

(b) Data Entry: The operator should enter information into the instrument through the bar code scanner and/or keyboard for the purposes of linking a breath test document to the test subject. The instrument will proceed to the next step when the data entry process is complete;

(c) Air Blank: The instrument will draw in outside air to purge the unit of any alcohol or other material which may be present in the sample cell. It is also looking at the operational environment and analyzing for any possible contaminant which may be present in the room air. If all parameters are met, the instrument will proceed to the next step;

(d) Diagnostics: The instrument will perform a complete diagnostic check on its components and operational standards. If all the operational parameters are proper, the instrument will proceed to the next step;

(e) Air Blank: The instrument will draw in outside air to purge the unit of any alcohol or other material which may be present in the sample cell. It is also looking at the operational environment and analyzing for any possible contaminant which may be present in the room air. If all parameters are met, the instrument will proceed to the next step;

(f) Breath Sample: At this time the instrument will display "Please blow into mouthpiece to activate tone." The subject is instructed on how to give a proper breath sample. The subject has approximately three minutes to comply with this request. The breath sample collection phase has been completed and will proceed to the next step when:

(A) The instrument accepts the breath sample; or

(B) The operator depresses the "Start Test" button or the "R" key on the keyboard to indicate that the subject has refused the test; or

(C) The three minute request period lapses; or

(D) The operator or the instrument aborts the testing sequence.

(g) Air Blank: This air blank is to purge the instrument of the collected sample and once again check the operational environment for any possible contaminants. If all parameters are met, the instrument will proceed to the next step;

(h) Air Blank: The instrument will draw in outside air to purge the unit of any alcohol or other material which may be present in the sample cell. It is also looking at the operational environment and analyzing for any possible contaminant which may be present in the room air. If all parameters are met, the instrument will proceed to the next step;

(i) Breath Sample: At this time, the instrument will again display "Please blow into mouthpiece to activate tone." The subject has approximately three minutes to comply with this request. The breath sample collection phase is complete and the instrument will proceed to the next step when:

(A) The instrument accepts the breath sample; or

(B) The operator depresses the "Start Test" button or the "R" key on the keyboard to indicate that the subject refused the test; or

(C) The three minute request period lapses; or

(D) The operator or the instrument aborts the testing sequence.

(j) Air Blank: The instrument will draw in outside air to purge the unit of any alcohol or other material which may be present in the sample cell. It is also looking at the operational environment and analyzing for any possible contaminant which may be present in the room air. If all parameters are met, the instrument will proceed to the next step;

(k) Control Sample: The instrument will perform an analysis of a gaseous sample containing a known alcohol vapor concentration, the result of which must be within a range of 0.010 high to 0.020 low of the expected value, to test the accuracy and proper working order of the instrument. If all parameters are met, the instrument will proceed to the next step;

(l) Air Blank: This air blank is to purge the instrument of the collected sample and once again check the operational environment for any possible contaminants. If all parameters are met, the instrument will proceed to the next step;

(m) Comments: The instrument will display three (3) prompts for the operator to enter any observations made during the test sequence. This information will be printed on the test report by the instrument. Entry of comment information is not required and does preclude the operator from placing handwritten comments on the test report. The instrument will proceed to the next step when the comment entry process is complete.

(n) Test Report: The final phase of the testing sequence is the printing of the test report. If all parameters and every operational aspect of the instrument were proper, a completed test report is produced by the instrument. The test report will be titled "Analytical Report" with the result of the chemical test printed in the "Test Result" box. If at any time there was a malfunction, event, or condition that would affect the validity of the test, or any section of the instrument was not in perfect working order, the instrument would have aborted the test sequence and not produced a completed test report.

(5) Completed Test Report: A "Completed" test report is one which indicates a numeric test result, a refusal, or the presence of an interfering substance:

(a) An evidence report obtained using the "Reprint" option contains the identical information as would be printed on the original report and may be used in addition to or in place of the original test report. A "Reprint" may be performed either locally at the instrument location or remotely by the Oregon State Police;

(b) If during either of the breath sample collection periods, the subject refuses, through some willful act, to follow the instructions to provide an adequate breath sample, the operator may depress the "Start Test" button or the "R" key on the instrument keyboard to terminate the breath testing sequence. The instrument will indicate "Refused" on the display and a test result of "Refused" will be produced. A printed test record card, as described in this subsection, is not required to document the operator's decision to terminate the breath test request phase as refused.

(c) If the instrument detects the presence of acetone or other substances which could interfere with the instrument's ability to accurately measure the amount of ethyl alcohol in the breath, it will display the message "Interfering Substance Detected" abort the testing sequence. The printout on the test report will indicate "Interfering Substance" and "*Invalid Test — Interfering Substance Detected". This is a completed test and the operator should not restart the testing sequence.

(6) Incomplete Test Report: The following conditions will result in an incomplete test report:

(a) If the subject did not provide a breath sample or blow with sufficient force to activate the minimum breath flow requirements of the instrument at any time within either of the three minute breath sample collection periods, the instrument will indicate "No Sample Given" and print "*Invalid Test — No Sample Given". If the test report indicates "No Sample Given", the operator should restart the testing sequence and proceed until a completed evidence report is obtained;

(b) If the operator receives an exception message and print out from the instrument, such as "*Invalid Sample – Residual Alcohol Present", or "*Invalid Test —..." (not to include "*Invalid Test – Interfering Substance Detected"), etc., the operator should consult the "Suggested Corrective Action" outlined near the bottom of the test report, take appropriate action, and restart the testing sequence. Nothing in this subsection precludes an operator from terminating the breath testing sequence as "Refused" if the subject refuses, through a willful act, to follow the instructions of the operator. A printed test record card, as described in section (5)(b), is not required to document the operator's decision to terminate the breath test sequence as "Refused".

(7) Failure to record information specified in section (1) and subsection (4)(b) of this rule does not invalidate the test result obtained if the testing procedures were otherwise followed.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0140
Determining Agreement of Breath Samples Within a Testing Sequence

Agreement between two breath samples within a testing sequence is established when the subject sample measurements agree within plus or minus ten percent of their mean. If the instrument establishes agreement, the lower breath sample measurement shall be truncated to two decimal places and reported as the chemical test result. If the subject sample measurements do not agree, the instrument will abort the testing sequence and display "Sample Correlation Failure".

Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0150
Qualifications of Breath Test Equipment Operators

(1) No individual shall operate approved breath testing equipment to determine the alcoholic content of the blood of a person in accordance with the provisions of ORS 813.160 unless that individual has been issued a permit to operate such equipment by the Oregon State Police.

(2) To qualify for training and to obtain a permit for the operation of approved breath testing equipment, an individual must be a police officer as defined in ORS 801.395 or a trained technician of the Oregon State Police. The term police officer includes reserve police officer.

Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0160
Training for Operators of Breath Test Equipment

(1) The Oregon State Police, or instructors approved by the Oregon State Police will provide a course of instruction as provided in ORS 813.160.

(2) Upon completion of the course of instruction, a written examination will be given and a passing grade of 80 percent or above will be required. Each officer or technician obtaining a passing grade will be issued a permit by the Oregon State Police stating the method and equipment the officer or technician is qualified to operate.

(3) Upon issuance of a permit to operate by the Oregon State Police, the operator shall select a Personal Identification Number (PIN) to be used by the Oregon State Police to establish the operator's operator permit and PIN combination. The operator permit number shall be the operator's Department of Public Safety Standards and Training (DPSST) number. The operator's permit and PIN combination shall be unique and kept confidential by both the operator and the Oregon Department of State Police.

(4) Expiration:

(a) Permits shall expire at intervals not to exceed three (3) years from the original date of issue, unless renewed for an additional three (3) year period.

(5) Renewal:

(a) Operators that successfully complete the permit renewal process shall be issued a new expiration date not to exceed three years from the date of renewal. The issuance of a renewal date shall have the effect of extending the same authorizations granted under the original permit to operate breath testing equipment.

(6) Suspension and Re-instatement of Permits:

(a) Operators that do not successfully complete the permit renewal process before the expiration date assigned to the individual permit shall have their authorization to operate breath testing equipment suspended.

(b) Upon suspension of a permit, an operator shall be granted a "grace period" not to exceed ninety (90) days in which to complete the renewal process without further penalty or reduction in operator status. Upon successful completion of the renewal process, the operator's permit shall be reinstated with the same authorizations issued under the original permit.

(c) Failure to complete the renewal process within the ninety (90) day grace period shall result in termination of the operator's permit.

(7) Termination and Revocation of Permits:

(a) Pursuant to ORS 813.160, operator permits are subject to termination and revocation at the discretion of the Department of Oregon State Police.

(b) Termination of an operator permit shall occur at 12:01 a.m. upon the ninety-first (91st) day after the date of expiration assigned to the permit.

(c) Revocation of an operator permit shall occur for any of the following reasons including, but not limited to:

(A) Disqualification of operator status or eligibility for training under OAR 257-030-0150;

(B) Failure to adhere to approved methods and procedures for operating breath testing equipment under ORS 813.160;

(C) For any other conduct deemed contrary to the Implied Consent Program at the discretion of the Department of State Police.

(d) An operator whose permit has been terminated or revoked by the Department may be eligible for reinstatement of their permit upon successful completion of an approved course of instruction as provided in ORS 813.160.

Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

257-030-0170
Certification of Accuracy of Breath Test Equipment

Pursuant to ORS 813.160(b)(C), a trained technician of the Oregon State Police shall conduct an accuracy test of approved breath testing equipment and certify the accuracy of the equipment if accuracy test performance is within a range of 0.010 high to 0.020 low of the expected value. The testing can be performed by either an on site test, or by remote testing via telephone modem or internet connection utilizing a computer. The computerized testing will utilize a security system to ensure the integrity of the scientific testing of the breath test equipment.

Stat. Auth.: ORS 183.335 & 813.160
Stats. Implemented: ORS 813.160
Hist.: OSP 2-2006(Temp), f. 6-30-06, cert. ef. 7-5-06 thru 12-31-06

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Department of Oregon State Police, Office of State Fire Marshal
Chapter 837

Rule Caption: Updating effective date of Attorney General's Model Rules of Procedure under the Administrative Procedures Act.
Adm. Order No.: OSFM 11-2006
Filed with Sec. of State: 6-21-2006
Certified to be Effective: 6-21-06
Notice Publication Date:
Rules Amended: 837-001-0005
Subject: The rule is needed to update the effective date of Attorney General's Model Rules of Procedure under the Administrative Procedures Act to the latest publication's effective date of January 1, 2006.
Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-001-0005
Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the State Fire Marshal adopts by reference the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act effective January 1, 2006.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Fire Marshal.]
Stat. Auth.: ORS 183.341, 183.360 & 476.030
Stats. Implemented: ORS 183.335, 476.030 & 183.341
Hist.: FM 14a, f. 2-2-60, ef. 3-10-60; FM 82, f. & ef. 6-7-76; FM 2-1978, f. 4-27-78, ef. 5-1-78; FM 1-1980, f. & ef. 2-20-80; FM 1-1982, f. 1-22-82, ef. 2-1-82; FM 3-1983, f. 10-18-83, ef. 11-1-83; FM 4-1986, f. & ef. 3-20-86; FM 6-1988, f. & cert. ef. 7-28-88; FM 3-1990, f. & cert. ef. 7-3-90; FM 1-1992, f. & cert. ef. 1-7-92; OSFM 2-2000, f. 2-3-00, cert. ef. 3-22-00; OSFM 16-2000, f. 12-8-00, cert. ef. 1-26-01; OSFM 11-2006, f. & cert. ef. 6-21-06

Rule Caption: Correct OAR reference.
Adm. Order No.: OSFM 12-2006
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 6-29-06
Notice Publication Date:
Rules Amended: 837-039-0010
Subject: Rule is needed to correct the reference used in 837-039-0010(8)(a).
Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-039-0010
Applications for Exempt Status

(1) Local governmental subdivisions seeking exempt status shall submit a written request to the State Fire Marshal that describes in detail the scope of the proposed exemption.

(2) The request shall include a detailed explanation of the fire prevention and investigation programs to be provided by the requesting jurisdiction and how the programs will be provided. Such programs will include but are not limited to:

(a) Fire code enforcement.

(b) Fire cause determination.

(c) Juvenile firesetter intervention.

(d) Fire and life safety education.

NOTE: Submitting a business plan demonstrating measurable goals and objectives in each of the categories is the method of explaining the proposed programs preferred by the State Fire Marshal. However, other formats may be used and will be considered where they adequately demonstrate what will be done and how it is accomplished.

(3) The request shall include an explanation of the Delegated Appeals Process to be employed and how it generally conforms to ORS 476.113 and 476.115.

(4) The request shall include an explanation of how the jurisdiction satisfies the qualifications specified in these rules.

(5) The request shall include such documentation and supportive materials as may be necessary to support the exemption request, including a copy of any locally adopted fire code and intergovernmental agreements.

(6) The State Fire Marshal will distribute copies of the request(s) to each of the review board members, requesting an advisory by them within 60 days of receiving the material as to the sufficiency of the application. Such advisories, both individually and collectively, shall not be binding on the State Fire Marshal but will be considered by the State Fire Marshal in deciding whether to grant the exemption.

(7) The State Fire Marshal will make a determination as to granting the exemption and notify the applicant accordingly within 30 days of receipt of the board's written advisory.

(8) Once granted, exempt status shall remain in effect:

(a) Unless terminated by the State Fire Marshal for cause pursuant to ORS 476.030(3) and OAR 837-039-0055; or

(b) Upon 90 days written termination notice to the State Fire Marshal at the discretion of the local jurisdiction; or

(c) Unless there is an unsatisfactory biennial review by the State Fire Marshal of the exempt authority's program and administration.

Stat. Auth.: ORS 476.030
Stats. Implemented: ORS 476.030(3)
Hist.: FM 3-1978, f. & ef. 6-16-78; FM 5-1978, f. & ef. 9-29-78; FM 2-1988, f. & cert. ef. 2-17-88; FM 5-1992, f. 6-15-92, cert. ef. 7-15-92; OSFM 9-2000, f. & cert. ef. 8-22-00; OSFM 8-2006 f. & cert. ef. 5-22-06; OSFM 12-2006, f. & cert. ef. 6-29-06

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Update Standards and Qualifications for Fire Fighters and Fire Officers; Define Airport Fire Fighters.
Adm. Order No.: DPSST 9-2006
Filed with Sec. of State: 7-7-2006
Certified to be Effective: 7-7-06
Notice Publication Date: 6-1-06
Rules Amended: 259-009-0005, 259-009-0062
Subject: Defines NFPA Airport Fire Fighter

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

Revises provisions of the NFPA Standard 1020 from 1997 Edition to 2003 Edition to 2003 Edition for Fire Fight Professional Qualifications.
Rules Coordinator: Bonnie Salle—(503) 378-2361

259-009-0005
Definitions

(1) "Authority having jurisdiction" shall mean the Department of Public Safety Standards and Training.

(2) "Agency Head" means the chief officer of a fire service agency directly responsible for the administration of that unit.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Chief Officer" means an individual of an emergency fire agency at a higher level of responsibility than a company officer. A chief officer supervises two or more fire companies in operations or manages and supervises a particular fire service agency program such as training, communications, logistics, prevention, emergency medical services provisions and other staff related duties.

(5) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

(6) "Company Officer" means a fire officer who supervises a company of fire fighters assigned to an emergency response apparatus.

(7) "Content Level Course" is a course that includes an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(8) "Department" means the Department of Public Safety Standards and Training.

(9) "Director" means the Director of the Department of Public Safety Standards and Training.

(10) "Entry Level Fire Fighter" means an individual at the beginning of his/her fire service involvement. During the probationary period an entry level fire fighter is in a training and indoctrination period under constant supervision by a more senior member of a fire service agency.

(11) "Field Training Officer" means an individual who is authorized by a fire service agency of by the Department to sign as verifying completion of tasks required by task books.

(12) "Fire Company" means a group of fire fighters, usually 3 or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

(13) "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(14) "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(15) "Fire Service Agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire protection services.

(16) "Fire Service Professional" means a paid (career) or volunteer fire fighter, an officer or a member of a public or private fire protection agency who is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(17) "Fire Training Officer" means a fire service member assigned the responsibility for administering, providing, and managing and/or supervising a fire service agency training program.

(18) "NFPA" stands for National Fire Protection Association which is a body of individuals representing a wide variety of professions, including fire protection, who develop consensus standards and codes for fire safety by design and fire protection agencies.

(19) "NFPA Airport Firefighter" means a member of a Fire Service Agency who has met job performance requirements of NFPA Standard 1003.

(20) "NFPA Driver-Operator" means a member of a fire service agency licensed to operate a fire service agency vehicle/apparatus in accordance with the job performance requirements of NFPA 1002 and who have met the Entry Level Fire Fighter requirements. Fire service agency vehicle/apparatus operators are required to be certified at NFPA 1001 fire fighter I standard prior to driver operator duties. Additional requirements are involved for those driver operators of apparatus equipped with an attack or fire pump, aerial devices, a tiller, aircraft firefighting and rescue vehicles, wildland fire apparatus, and mobile water supply apparatus (tanker/tender).

(21) "NFPA Fire Fighter I" means a member of a fire service agency who has met the level I job performance requirements of NFPA standard 1001. Sometimes referred to as a journeyman fire fighter.

(22) "NFPA Fire Fighter II" means a member of a fire service agency who met the more stringent level II job performance requirements of NFPA Standard 1001. Sometimes referred to as a senior fire fighter.

(23) "NFPA Fire Inspector I" means an individual who conducts basic fire code inspections and has met the level I job performance requirements of NFPA Standard 1031.

(24) "NFPA Fire Inspector II" means an individual who conducts complicated fire code inspections, reviews plans for code requirements, and recommends modifications to codes ands standards. This individual has met the level II job performance requirements of NFPA standard 1031.

(25) "NFPA Fire Investigator" means an individual who conducts post fire investigations to determine the cause and the point of origin of fire. This individual has met the job performance requirements of NFPA Standard 1033.

(26) "NFPA Fire Officer I" means the fire officer, at the supervisory level, who has met the job performance requirements specified in NFPA 1021 Standard Fire Officer Professional Qualifications. (Company officer rank)

(27) "NFPA Fire Officer II" means the fire officer, at the supervisory/managerial level, who has met the job performance requirements in NFPA Standard 1021. (Station officer, battalion chief rank)

(28) "NFPA Fire Officer III" means the fire officer, at the managerial/administrative level, who has met the job performance requirements in NFPA Standard 1021. (District chief, assistant chief, division chief, deputy chief rank)

(29) "NFPA Fire Officer IV" means the fire officer, at the administrative level, who has met the job performance requirements in NFPA Standard 1021. (Fire Chief)

(30) "Service Delivery" means to be able to adequately demonstrate, through job performance, the knowledge, skills, and ability of a certification level.

(31) "Staff" are those employees occupying full-time, part-time, and/or temporary positions with the Department.

(32) "Task Performance" means to be able to demonstrate the ability to perform the tasks, of a certification level, in a controlled environment while being evaluated.

(33) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.705).

(34) "Topical Level Course" is a course that does not include an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(35) "Track" means a field of study required for certification.

(36) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 423-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006 f. & cert. ef. 7-7-06

259-009-0062
Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by satisfactorily completing the requirements specified in section (2) of this rule: through participation in a fire service agency training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance evaluations if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2002 Edition, entitled "Fire Fighter Professional Qualifications;

(A) "Authority having jurisdiction" shall mean the Department of Public Safety Standards and Training.

(B) Delete section 1.3.1 (Note: this references NFPA 1500).

(C) Delete section 2.2 (Note: this references NFPA 1500 and 1582).

(D) Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

(E) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for Fire Fighter I and Fire Fighter II, signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(b) The provisions of the NFPA Standard No. 1002, Edition of 1998, entitled "Fire Department Vehicle Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications hereinafter stated:

(A) Delete Section 1-3.2.

(B) 3-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 3-1 through 3-2, shall be met prior to certification as a fire service agency driver/operator-pumper.

(C) 4-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 4-1 through 4-2, shall be met prior to certification as a fire service agency driver/operator-aerial.

(D) 5-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Chapter 4 and Section 5-2, shall be met prior to certification as a fire service agency driver/operator-tiller.

(E) 6-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 6-1 through 6-2, shall be met prior to certification as a fire service agency driver/operator-wildland fire apparatus.

(F) 7-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 7-1 through 7-2, shall be met prior to certification as a fire service agency driver/operator-aircraft rescue and fire-fighting apparatus (ARFF).

(G) 8-1 General. The requirements of Fire Fighter I, as specified by the Board on Public Safety Standards and Training and the job performance requirements defined in Sections 8-1 through 8-2, shall be met prior to certification as a fire service agency driver/operator-mobile water supply apparatus.

(H) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program, Section 4-2" from Sections 2-3.1, 3-1.3, 4-1.3, 5-2.2, 6-1.3, 6-1.4-1.3, and 8-1.3.

(I) Either a Task Performance Evaluation must be completed or a Task Book for Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire-Fighting Apparatus Operator or Mobile Water Supply Apparatus Operator must be completed and signed off by the Agency head or Training Officer before an applicant can qualify for certification as a Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire-Fighting Apparatus Operator or Mobile Water Supply Apparatus Operator.

(J) An individual who completes the requirements of Chapter 2 and meets the requirements of Entry Level Fire Fighter, may be certified as a Driver.

(c) The provisions of the NFPA Standards 1003, 2005 Edition, entitled "Standard for Airport Fire Fighter Professional Qualifications,"

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Aircraft Rescue and Fire Fighting Apparatus Operator (ARFF), as specified by the Department, and the job performance requirements defined in sections 6.1 through 6.4 must be met.

(B) All applicants for certification must complete either a Task Performance Evaluation or a Department-approved Task Book for: Airport Fire Fighter and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of the NFPA Standard No. 1031, Edition of 1998, entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) November 1, 2000, all new certifications will be based on NFPA 1031.

(ii) November 1, 2000, through January 1, 2005, any certified Fire Prevention/Investigation Officer I may become certified at NFPA Fire Inspector I.

(iii) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer II will be certified as an NFPA Fire Inspector II.

(iv) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer III will be certified as an NFPA Fire Inspector III.

(v) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until January 1, 2005.

(B) All applicants for certification as an NFPA Fire Inspector I shall:

(i) Successfully complete a Department approved Task Book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(C) All applicants for certification as an NFPA Fire Inspector II shall:

(i) Hold a certification as a Fire Inspector I; and

(ii) Successfully complete a Department approved Task Book.

(D) All applicants for certification as an NFPA Fire Inspector III shall:

(i) Hold a certification as a Fire Inspector II; and

(ii) Successfully complete a Department approved Task Book.

(E) Task books shall be monitored by a Field Training Officer approved by the Department. The Field Training Officer shall be certified at or above the level being monitored and have at least 5 years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department Staff.

(e) The provisions of the NFPA Standard No. 1033, Edition of 1998, entitled "Professional Qualifications for Fire Investigator" are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) Beginning November 1, 2000, all new certifications will be based on NFPA 1033.

(ii) November 1, 2000, anyone certified as an Oregon Fire Investigator II will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator II. No new Oregon Fire Investigator II certificates will be issued after January 1, 2005.

(iii) November 1, 2000, anyone certified as an Oregon Fire Investigator III will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator III. No new Oregon Fire Investigator III certificates will be issued after January 1, 2005.

(iv) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until January 1, 2005.

(B) All applicants for certification as a Fire Investigator shall successfully complete a Department approved Task Book prior to passing a written certification exam administered by the Department. Exception: Anyone holding a valid IAAI Fire Investigator Certification is exempt from taking the Department's Fire Investigator written exam.

(C) Task books shall be monitored by a Field Training Officer approved by the Department. The Field Training Officer shall be certified at or above the level being monitored and have at least 5 years fire investigation experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department Staff.

(f) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II," Oregon-amended, shall be adopted with the following changes:

(i) Change the following definitions:

(I) 1-4.4 Change the definition of "Assessment" to read: "A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional."

(II) 1-4.11 Change the title of "Fire Screener" to "Fire Screening" and the definition to read "The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior."

(III) 1-4.14 Include "insurance" in list of agencies.

(IV) 1-4.15 Change the definition to read: "...that may include screening, education and referral for assessment for counseling, medical services&"

(V) 1-4.16 Change "person" to "youth" and change age from 21 to 18.

(VI) 1-4.17 Add "&using state-approved prepared forms and guidelines&"

(VII) 1-4.22 Add "...or by authority having jurisdiction."

(VIII) 1-4.24 Add "...or as defined by the authority having jurisdiction."

(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person shall meet the requirements for Public Fire and Life Safety Educator I prior to being certified as a Juvenile Firesetter Intervention Specialist I."

(iii) Bridging will be available for 12 months after adoption of the standard. To bridge to Juvenile Firesetter Intervention Specialist I, a person will be eligible to take an 8-hour update class if s/he documents all of the following:

(I) Involvement in three fire investigations;

(II) Use of the 10-J and Oregon Screen Tool forms three times;

(III) Five years experience in fire service or a related field;

(IV) Attendance in the current Juvenile Firesetter Intervention class or show participation in the Juvenile Firesetter Network by having the application signed off by the local network.

(B) A task book shall be completed prior to certification as a Public Fire and Life Safety Educator I, II or III.

(C) A task book shall be completed prior to certification as a Public Information Officer.

(D) A task book shall be completed prior to certification as a Juvenile Firesetter Intervention Specialist I and II.

(g) The provisions of the NFPA Standard No. 1041, Edition of 1996, entitled "Standard for Fire Service Instructor Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) "Fundamentals of Instruction" shall mean a 16-hour instructor training course for those instructors used for in-house training. This course includes a task book. This course does not lead to certification.

(B) Successfully complete an approved task book for Fire Service Instructor I and II.

(i) This requirement is effective for any application for certification after January 4, 2002.

(h) The provisions of the NFPA Standard 1021, 2003 Edition, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.2 through 4.7 of this Standard.

(i) Amend section 4.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Written Communication, Advanced Speech, Technical Writing/Business Writing, Math, and Physics or Chemistry.

(ii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for; NFPA Fire Officer I and signed off by the Agency Head or Training Officer before an applicant can qualify for certification..

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.2 through 5.7 of the Standard.

(i) Amend section 5.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Psychology or Sociology.

(ii) Amend section 5.3 Community and Government Relations to include State and Local Government or Department approved equivalent courses.

(iii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for NFPA Fire Officer II, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II, NFPA, NFPA 1041 Fire Instructor II, as defined by the Department, and meet the job performance requirements defined in Sections 6.2 through 6.7 of the Standard.

(i) Amend section 6.1 to allow individuals certified as NFPA 1033 Fire Investigator, NFPA 1035 Public Fire and Life Safety Educator, or NFPA 1031 Fire Inspector III to apply for certification without attaining NFPA 1001 Fire Fighter II.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.2 through 7.7 of the Standard.

(i) 5-1.2 General requisite Skill: the ability to effectively apply prerequisite knowledge.

(ii) 5-1.3 Existing Curricula — Advanced Institute Classes which would meet Fire Protection Executive Course Requirements: Master Planning; Advanced Legal Aspects; Advanced Fiscal Management; Local Government and Community Politics; Organizational Psychology; Management Information Systems; Labor Management Relations.

(i) Hazardous Materials Responder (DPSST-P-12 1/96).

(j) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader shall first be certified as an NFPA Fire Fighter II.

(C) An applicant would need to document training in seven areas:

(i) Fire Resistive Building Construction;

(ii) Ordinary Building Construction;

(iii) Incident Safety Officer or Fire Fighter Safety;

(iv) Water Supplies;

(v) Strategy and Tactics I, II, and III;
(vi) Incident Command System;
(vii) Fire Investigation.
(D) A task book shall be completed before certification is awarded.
(k) Wildland Interface Fire Fighter, Wildland Interface Engine Boss/Officer, Wildland Strike Team leader, Wildland Division/Group Supervisor (DPSST Wildland Interface Certification Guide, Revised September, 2003).
(l) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book.
(A) Historical Recognition:
(i) The application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.
(ii) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.
(iii) All applications received after October 1, 2004, will need to show completion of the approved task book.
(m) Certification guide for Wildland Fire Investigator (August, 2005).
(n) The provisions of the NFPA Standard No. 1006, Edition of 2000, entitled, "Professional Qualifications for Rescue Technician" are adopted subject to the following modifications:
(A) The Authority Having Jurisdiction shall mean the local or regional fire service agency.
(B) Historical Recognition:
(i) Application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.
(ii) The application to use historical recognition shall be submitted to DPSST on or before March 31, 2003.
(C) Instructors:
(i) Curriculum must be certified by DPSST to meet NFPA 1006.
(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.
(D) Task Books:
(i) A task book must be completed for each of the six specialty rescue areas applied for.
(ii) Only a certified technician in that specialty rescue area can sign off the task book.
(iii) The requirements in Chapters 2 and 3 need to be met only one time for all six specialty rescue areas.
(o) Urban Search and Rescue.
(A) This is a standard that is Oregon-specific.
(B) The following eleven (11) specialty Urban Search and Rescue (USAR) certifications are adopted:
(i) Task Force Leader;
(ii) Safety Officer;
(iii) Logistics Manager;
(iv) Rescue Team Manager;
(v) Rescue Squad Officer;
(vi) Rescue Technician;
(vii) Medical Technician;
(viii) Rigging Technician;
(ix) Search Team Manager;
(x) Search Squad Officer;
(xi) Search Technician.
(C) An applicant applying for any USAR certification(s) must complete the appropriate application(s) attesting to completion of the required training.
(3) Task performance evaluations, where prescribed, shall be required prior to certification. Such examinations shall be conducted in the following manner:
(a) Task performance competency shall be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.
(b) The employing fire service agency's equipment and operational procedures shall be used in accomplishing the task performance to be tested.
(c) Specific minimum testing procedures, as provided by the Department, shall be used for administration of the evaluation.
(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a Task Performance Evaluation.
(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire service agency whose training program is not accredited.
Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006 f. & cert. ef. 7-7-06

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Rule Caption: Revise current list of mandatory and and discretionary disqualifying crimes.
Adm. Order No.: DPSST 10-2006
Filed with Sec. of State: 7-6-2006
Certified to be Effective: 7-6-06
Notice Publication Date: 6-1-06
Rules Amended: 259-008-0070
Subject: In January 2001, a list of mandatory disqualifying crimes was proposed and adopted by rule. All other crimes were considered discretionary disqualifying crimes. Since the inception of the rule, numerous law changes have occurred which require updating the current list of disqualifying crimes. Housekeeping amendments to the rules were also made to improve formatting, readability and consistency.
Rules Coordinator: Bonnie Salle—(503) 378-2431

259-008-0070
Denial/Revocation
(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to insure the highest levels of professionalism and discipline. These standards shall be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.
(2) Mandatory Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor:
(a) The Department must deny or revoke the certification of any public safety professional or instructor after written notice and hearing, based upon a finding that:
(A) The public safety professional has been discharged for cause from employment as a public safety professional. For purposes of this rule, "discharged for cause," means an employer-initiated termination of employment for any of the following reasons:
(i) Gross Negligence: means the public safety professional's act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance;
(ii) Insubordination: means a refusal by a public safety professional to comply with a rule or order where the rule or order was reasonably related to the orderly, efficient, or safe operation of the public or private safety agency and where the public safety professional's refusal to comply with the rule or order constitutes a substantial breach of that person's duties; or
(iii) Incompetence or Gross Misconduct: in determining what constitutes "incompetence or gross misconduct," sources the Department may take into account include but are not limited to practices generally followed in the profession, current teaching at public safety training facilities, and technical reports and literature relevant to the fields of law enforcement, telecommunications, or emergency medical dispatch.
(B) The public safety professional or instructor has been convicted 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 year may be imposed;
(C) The public safety professional or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or
(D) The public safety professional or instructor has been convicted in this state of any of the following offenses, or of their statutory counterpart(s) in any other jurisdiction, designated under the law where the conviction occurred as being punishable as a crime:
162.075 (False swearing),
162.085 (Unsworn falsification),
162.145 (Escape in the third degree),
162.175 (Unauthorized departure),
162.195 (Failure to appear in the second degree),
162.235 (Obstructing governmental or judicial administration),
162.247 (Interfering with a peace officer),
162.257 (Interfering with a firefighter or emergency medical technician),
162.295 (Tampering with physical evidence),
162.305 (Tampering with public records),
162.315 (Resisting arrest),
162.335 (Compounding),

162.365 (Criminal impersonation),
162.369 (Possession of false law enforcement identification),
162.375 (Initiating a false report),
162.385 (Giving false information to a peace officer for a citation or arrest warrant),
162.415 (Official misconduct in the first degree),
163.200 (Criminal mistreatment in the second degree),
163.687 (Encouraging child sexual abuse in the third degree),
163.732 (Stalking),
164.045 (Theft in the second degree),
164.085 (Theft by deception),
164.095 (Theft by receiving),
164.125 (Theft of services),
164.235 (Possession of a burglary tool or theft device),
164.877 (Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment)
165.007 (Forgery in the second degree),
165.017 (Criminal possession of a forged instrument in the second degree),
165.037 (Criminal simulation),
165.042 (Fraudulently obtaining a signature),
165.047 (Unlawfully using slugs),
165.055 (Fraudulent use of a credit card),
165.065 (Negotiating a bad check),
165.080 (Falsifying business records),
165.095 (Misapplication of entrusted property),
165.100 (Issuing a false financial statement),
165.102 (Obtain execution of documents by deception),
165.825 (Sale of drugged horse),
166.065(1)(b) (Harassment),
166.155 (Intimidation in the second degree),
166.270 (Possession of weapons by certain felons),
166.350 (Unlawful possession of armor-piercing ammunition),
166.416 (Providing false information in connection with a transfer of a firearm),
166.418 (Improperly transferring a firearm),
166.470 (Limitations and conditions for sales of firearms),
167.007 (Prostitution),
167.065 (Furnishing obscene materials to minors),
167.070 (Sending obscene materials to minors),
167.075 (Exhibiting an obscene performance to a minor),
167.080 (Displaying obscene materials to minors),
167.132 (Possession of gambling records in the second degree),
167.147 (Possession of a gambling device),
167.222 (Frequenting a place where controlled substances are used),
167.262 (Adult using minor in commission of controlled substance offense),
167.320 (Animal abuse in the first degree),
167.330 (Animal neglect in the first degree),
167.332 (Prohibition against possession of domestic animal),
167.333 (Sexual assault of animal),
167.337 (Interfering with law enforcement animal),
167.355 (Involvement in animal fighting),
167.370 (Participation in dogfighting),
167.431 (Participation in cockfighting),
167.820 (Concealing the birth of an infant),
475.525 (Sale of drug paraphernalia),
475.950 (Failure to report precursor substances transaction),
475.955 (Failure to report missing precursor substances),
475.960 (Illegally selling drug equipment),
475.965 (Providing false information on precursor substances report or record),
475.969 (Unlawful possession of phosphorus),
475.971 (Unlawful possession of anhydrous ammonia),
475.973 (Unlawful possession of ephedrine, pseudoephedrine or phenylpropanolamine; unlawful distribution),
475.975 (Unlawful possession of iodine in its elemental form),
475.976 (Unlawful possession of iodine matrix),
475.981 (Falsifying drug test results),
475.982 (Providing drug test falsification equipment),
475.986 (Application of controlled substance to the body of another person),
475.991 (Unlawful delivery of imitation controlled substance),
475.992 (Manufacture or deliver a controlled substance),
475.993 (Unlawful acts, registrant delivering or dispensing controlled substance),
475.994 (Prohibited acts involving records and fraud),
475.995 (Distribution of controlled substance to minors),
475.999 (Manufacture or delivery of controlled substance within 1,000 feet of school),
807.520 (False swearing to receive license),
807.620 (Giving false information to police officer),
Any offense involving any acts of domestic violence as defined in ORS 135.230.

(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(a) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(b) The public safety professional or instructor has been convicted of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in subsection (2), in this state or any other jurisdiction. In determining whether to take action on a conviction, the Department must use the following guidelines:

(A) In making a decision on a discretionary denial or revocation, the Department will consider the implementation dates relating to new mandatory conviction notification requirements adopted in 2003 and statutory changes dealing with lifetime disqualifier convictions for public safety officers adopted in 2001.

(B) The Department will not take action on a discretionary conviction that occurred prior to January 1, 2001. However, the Department may consider such conviction as evidence that a public safety professional or instructor does not meet the established moral fitness guidelines.

(C) The Department may take action on any discretionary disqualifying conviction that occurred after January 1, 2001.

(D) The Board may reconsider any mandatory conviction which subsequently becomes a discretionary conviction, upon the request of the public safety professional or instructor.

(E) The length of ineligibility for training or certification based on a conviction begins on the date of conviction.

(F) Notwithstanding subsection (2)(b) of this section, all denial and revocation standards must apply to public safety professionals and instructors.

(G) A public safety professional or agency will not be held accountable for failing to report a discretionary conviction that occurred prior to January 1, 2003.

(c) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640.

(4) Scope of Revocation. Whenever the Department denies or revokes the certification of any public safety professional, the denial or revocation will encompass all certificates the Department has issued to that person.

(5) Denial and Revocation Procedure.

(a) Employer Request: When a public safety professional's employer requests that a public safety professional's certification be denied or revoked, the employer must submit the reason for the requested denial or revocation and all factual information supporting the request, in writing, to the Department.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the public safety professional's certification be denied or revoked.

(c) Department Staff Review: When the Department receives information, from any source, that a public safety professional may not meet the established standards for Oregon public safety professionals, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information, the Department will request further information from the employer or conduct its own investigation of the matter.

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

(d) Policy Committee and Board Review: The Policy Committees and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct, including the following:

(A) Was a conviction a felony, misdemeanor, or violation?

(B) How long ago did a conviction occur?

(C) Was the public safety professional a minor at the time and tried as an adult?

(D) When did the conduct occur in relation to the public safety professional's employment in law enforcement (i.e., before, during, after)?

(E) Did the public safety professional serve time in prison/jail? If so, how long?

(F) If restitution was involved, has the public safety professional met all obligations?

(G) Was the public safety professional on parole or probation? If so, when did the parole or probation end? Is the public safety professional still on parole or probation?

(H) Do the actions violate the established moral fitness standards for Oregon public safety officers identified in OAR 259-008-0010(5), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct

prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that would cause a reasonable person to have substantial doubts about the public safety professional's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation?

(I) How many other convictions does this public safety professional have? Over what period of time?

(J) Has the public safety professional been convicted of the same conduct more than once? Is this a repeated violation or a single occurrence?

(K) Does the conduct involve domestic violence?

(L) Did the public safety professional self report the conduct?

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(f) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional.

(g) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file with the Department a written request for hearing.

(h) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0075(5).

(i) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(j) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(k) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(l) Final Order: A final order will be issued pursuant to OAR 137-003-0070 if a public safety professional fails to file exceptions and arguments in a timely manner.

(m) Stipulated Order Revoking Certification: Any public safety professional who wishes to voluntarily terminate an administrative proceeding to revoke a certification, or voluntarily relinquish a certification, may enter a stipulated order with the Department, at any time, revoking his or her certification under the terms and conditions outlined in the stipulated order.

(6) Appeal and Reapplication.

(a)A public safety professional or instructor, aggrieved by the findings and order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final order of the department.

(b) Any public safety professional or instructor who has had a certification revoked pursuant to ORS 181.661 and 181.662 or subsection (a) of this section, may reapply for certification but not sooner than four years after the date on which the Order of the Department revoking certification became final.

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181664 & 183.341
Stats. Implemented: ORS 181.64, 181.661, 181.662 & 181.664
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; 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; Renumbered from 259-010-0055, 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 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 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(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. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04; DPSST 10-2006, f. & cert. ef. 7-6-06

Department of State Lands
Chapter 141

Rule Caption: Rules adopt the Department of State Lands' revised state agency land use coordination program.
Adm. Order No.: DSL 3-2006
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 7-13-06
Notice Publication Date: 7-1-06
Rules Adopted: 141-095-0005, 141-095-0010, 141-095-0015
Rules Repealed: 141-095-0000
Subject: These rules adopt and implement the Department of State Lands' revised state agency land use coordination program pursuant to the requirements of ORS 197.180 and OAR 660, Division 030.
Rules Coordinator: Nicole Kielsmeier—(503) 378-3805, ext. 239

141-095-0005
Purpose

(1) This division adopts the Department of State Lands state agency coordination program entitled "A Program for Coordinating DSL's Activities with Oregon's Cities and Counties, Tribal Governments, Federal and State Agencies, and Special Districts" pursuant to ORS 197.180 and OAR chapter 660, divisions 030 and 031.

(2) The four required elements of a state agency coordination program listed in ORS 197.180(3)(a)–(d) and OAR 660-030-0060(2)(a)–d) are an agency's:

(a) Rules and summaries of programs determined to affect land use (i.e., land use programs);

(b) Exempt and compatible land use programs and procedures for assuring that such programs will comply with the statewide planning goals and be compatible with acknowledged comprehensive plans and land use regulations;

(c) Procedures for coordinating its land use programs with state and federal agencies, and special districts; and

(d) Program for cooperation with and technical assistance to local governments.

(3) Upon adoption by the State Land Board, this state agency coordination program replaces the department's previous state agency coordination adopted by the State Land Board on October 23, 1990.

(4) This division becomes effective upon approval by the Department of Land Conservation and Development or upon certification by the Land Conservation and Development Commission.

(5) Copies of the department's state agency coordination program are available at the following locations:

(a) Department of State Lands, 775 Summer Street, Suite 100, Salem, Oregon 97301-1279; DSL website: www.oregonstatelands.us; and

(b) Department of Land Conservation and Development, 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 196, 197, 273 & 274
Stats. Implemented: ORS 196, 197.180, 273 & 274
Hist.; DSL 3-2006, f. & cert. ef. 7-13-06

141-095-0010
Definitions

For the purposes of this division, the definitions contained in ORS 197.015, 273.006 and 274.005 shall apply. In addition, the following definitions shall apply:

(1) "Acknowledgment" means that a local government comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the statewide planning goals.

(2) "Board" means the State Land Board consisting of the Governor of Oregon, State Treasurer and Secretary of State.

(3) "Certification" is an order issued by the Land Conservation and Development Commission finding that a state agency's coordination program satisfies the requirements of ORS 197.180(3)(a)-(d) and OAR 660-030.

(4) "Commission" means the Land Conservation and Development Commission (LCDC). The staff of LCDC is the Department of Land Conservation and Development (DLCD).

(5) "Compatibility with Comprehensive Plans" as used in ORS 197.180 means that a state agency has taken actions pursuant to OAR 660-030-0070, including following procedures in its coordination program where certified, and there are no remaining land use conflicts between the adoption, amendment or implementation of the agency's land use program and an acknowledged comprehensive plan.

(6) "Compliance with the Goals" means that a state agency's land use programs and actions must comply with the applicable requirements of the statewide planning goals pursuant to OAR 660-030-0065.

(7) "Consistency with Comprehensive Plans" shall have the same meaning as the term "compatibility" as provided in section (5) of this rule and OAR 660-030-0070.

(8) "Coordination" as used in ORS 197.015(5) means the needs of all levels of government, semipublic and private agencies and the citizens of the State of Oregon have been considered and accommodated as much as possible.

(9) "Department" means the Department of State Lands (DSL).

(10) "Director" means the director of the Department of State Lands

(11) "Goals" or "Statewide Planning Goals" means the mandatory statewide planning standards adopted by the Land Conservation and Development Commission pursuant to ORS chapters 195, 196 and 197.

(12) "Rules and Programs Affecting Land Use" or "State Agency Land Programs":

(a) Are a state agency's rules and programs which are:

(A) Specifically referenced in the statewide planning goals; or

(B) Reasonably expected to have significant effects on:

(i) Resources, objectives or areas identified in the statewide planning goals; or

(ii) Present or future land use identified in acknowledged comprehensive plans.

(b) Do not include state agency rules and programs, including any specific activities or functions which occur under the rules and programs listed in paragraph (12)(a)(A) of this rule, if:

(A) An applicable statute, constitutional provision or appellate court decision expressly exempts the requirement of compliance with the statewide goals and compatibility with acknowledged comprehensive plans; or

(B) The rule, program, or activity is not reasonably expected to have a significant effect on:

(i) Resources, objectives or areas identified in the statewide goals; or

(ii) Present or future land uses identified in acknowledged comprehensive plans; or

(C) A state agency transfers or acquires ownership or an interest in real property without making any changes in the use or area of the property. Action concurrent with or subsequent to a change of ownership that will affect land use or the area of the property is subject to either the statewide goals or applicable city or county land use regulations.

(c) A final determination of whether or not an agency program affects land use will be made by the Commission pursuant to ORS 197.180 and OAR Chapter 660, Division 030.

(13) "State Agency Coordination Program" or "SAC Program" is the program adopted by a state agency and submitted to the Department of Land Conservation and Development pursuant to ORS 197.180(3)(a)–(d) and OAR 660-030.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 196, 197, 273 & 274
Stats. Implemented: ORS 196, 197.180, 273 & 274
Hist.; DSL 3-2006, f. & cert. ef. 7-13-06

141-095-0015
Applicability of State Agency Coordination Program to Department Rules and Programs

(1) This division and the applicable provisions of ORS 197.180 and OAR Chapters 660, Division 030 shall apply to all department land use programs referenced in the department's state agency coordination program adopted pursuant to OAR 141-095-005(1) and to any future or subsequently amended department rule or program determined to affect land use in accordance with OAR 141-095–0010(12).

(2) Before taking any action to adopt, amend or implement a department land use program, the director shall confirm whether the proposed action will affect land use, and if so assure that all applicable provisions of the department's state agency coordination program are followed. Of particular importance is for the director to assure that the proposed action affecting land use is compatible with the affected local government(s) acknowledged comprehensive plan(s) and land use regulations, and where necessary, complies with the statewide planning goals and applicable rules in OAR Chapter 660.

(3) The director shall review and take other actions as needed to ensure that all department land use programs, including applicable administrative rules in OAR Chapters 141 and 142, are consistent with and will be carried out in accordance with the department's state agency coordination program and the provisions OAR 141-095.

(4) The director where necessary shall recommend revisions and other appropriate actions to the State Land Board to revise existing department land use programs and applicable administrative rules to comply with OAR 141-095-0015(3).

(5) The director as needed shall consult with and request assistance from the Department of Land Conservation and Development in carrying out OAR 141-095-0015(2)–(4) and any related sections of the department's state agency coordination program.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 196, 197, 273 & 274
Stats. Implemented: ORS 196, 197.180, 273 & 274
Hist.; DSL 3-2006, f. & cert. ef. 7-13-06

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Department of Veterans' Affairs
Chapter 274

Rule Caption: New Appropriations Program for Services Provided to Veterans
Adm. Order No.: DVA 6-2006
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 6-16-06
Notice Publication Date: 2-1-06
Rules Adopted: 274-030-0600, 274-030-0605, 274-030-0610, 274-030-0615, 274-030-0620, 274-030-0621, 274-030-0630, 274-030-0640
Rules Repealed: 274-030-0600(T), 274-030-0605(T), 274-030-0610(T), 274-030-0615(T), 274-030-0620(T), 274-030-0621(T), 274-030-0630(T), 274-030-0640(T)
Subject: This rule replaces and supersedes the Temporary OAR filed on December 22, 2005 and effective December 23, 2005 through June 21, 2006.

The 73rd Oregon Legislative Assemble-2005 Regular Session Passed Senate Bill (SB) 5629 which appropriated funds to be expended for purposes described in SB 1100 which mandates that the Director of Veterans' Affairs adopt rules to establish a program to enhance and expand the services provided by county veterans' service officers. These rules are to include the development and implementation of a distribution formula, and to establish the requirements for reporting and data collection.
Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-030-0600
Expansion and Enhancement Appropriations Program

(1) This program's objective is to provide designated funds which are to be utilized to expand and enhance the services provided by county veterans' service programs.

(2) The Department of Veterans Affairs has the responsibility to establish, revise, or add to this program's rules.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462 & 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462 & 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

274-030-0605
County Programs

(1) The governing body of counties which have qualified for funds on the basis of the Department of Veterans' Affairs approval of the county's plan, shall submit quarterly reports of expenses of their county veterans' service officer programs on forms provided by the Department.

(2) County service officers shall submit quarterly reports of their activities on forms provided by the Department before reimbursement shall be authorized.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

274-030-0610
Formula For and the Disbursement of Funds

(1) The Department, after consultation with the Advisory Committee, shall determine the maximum amount of funds payable to each county.

(2) Payment amounts will be calculated using a formula based on, but not limited to, the following:

(a) A base amount;

(b) The number of veterans residing in each county;

(c) The existing veterans' service resources available in each county;

(d) The rehabilitation of the greatest number of Oregon veterans; and

(e) The elimination, as much as possible, of any duplication of effort and inefficient expenditure of funds.

(3) Upon approval by the Department, funds will be disbursed for the submitted expansion or enhancement plan.

(4) Disbursements will not be allowed for capital outlay.
Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.215, 406.450 - 462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

274-030-0615
Fiscal Division of Funds

Of the funds available for the biennium for disbursement to counties, not more than one-half shall be disbursed during the first fiscal year of the biennium.
Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

274-030-0620
Quarterly Reports and Audits

(1) Quarterly disbursements to counties shall be approved for payment only after the service officer's report and the county report of expenditures have been received by the Veterans Services Division on forms prescribed by the Department.

(2) Completed reports must be received by the Department within 30 days after the end of each fiscal quarter.

(3) The Department may audit and examine the activities and expenditures of counties in connection with their programs of service to war veterans before approving reimbursements. Results, including any findings, will be provided to the director approximately 90 days after the start of an audit.

(3) Audits may require refunds of prior disbursements if no expansion or enhancement activities can be verified.
Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

274-030-0621
Payments and Adjustments

Payments shall be made quarterly at the rate of disbursement as established in OAR 274-030-0610, Formula For and the Disbursement of Funds.
Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

274-030-0630
Withholding Funds

Funds may be withheld by the Department of Veterans' Affairs due, but not limited, to the following conditions:

(1) Reports are not submitted in the timeline established in OAR 274-030-0620, Quarterly Reports and Audits.

(2) Reports do not contain accurate or verifiable information.

(3) Lack of evidence that previous funds were used in a manner established in OAR 274-030-0621, Payments and Adjustments.

(4) Lack of evidence that acceptable progress has been made in accomplishing the timelines, goals, and objectives as contained in the county's approved plan.

(5) Any funds being withheld will be distributed according to ORS 406.454(2)(a) and (b).
Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

274-030-0640
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, 406.310 -340, 406.450 -462, 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 -462, 408.410
Hist.: DVA 7-2005(Temp), f. 12-22-05, cert. ef. 12-23-05 thru 6-21-06; DVA 6-2006, f. & cert. ef. 6-16-06

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Rule Caption: Updating Effective Date of the Attorney General's Model Rules of Procedure Manual.
Adm. Order No.: DVA 7-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 6-27-06
Notice Publication Date: 6-1-06
Rules Amended: 274-001-0005
Subject: The changes reflect the current Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act (Manual) which is dated January 1, 2006, and more specifically the rules contained in Appendix G of the Manual.
Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-001-0005
Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Director of Veterans' Affairs adopts the **Uniform and Model Rules of Procedure as contained in Appendix G** of the "Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure" dated January 1, 2006. A copy of this manual is on file with the Oregon Department of Veterans' Affair, 700 Summer Street NE, Salem, Oregon, and is available for public review Monday through Friday between the hours of 8 a.m. and 5 p.m.
[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 Department of Veterans' Affairs.]
Stat. Auth.: ORS 183.341 & 406
Stats. Implemented: ORS 406, 407 & 408
Hist.: DVA 41, f. 12-1-71, ef. 12-15-71; DVA 43, f. 10-22-73, ef. 11-11-73; DVA 46, f. & ef. 4-20-76; DVA 1-1978, f. & ef. 4-20-78; DVA 2-1980, f. & ef. 5-16-80; DVA 9-1981, f. & ef. 11-19-81; DVA 12-1983, f. & ef. 10-7-83; DVA 3-1986, f. & ef. 2-18-86; DVA 5-1988, f. & cert. ef. 10-27-88; DVA 4-1990, f. 7-13-90, cert. ef. 8-20-90; DVA 8-1991, f. & cert. ef. 12-3-91; DVA 4-1996, f. & cert. ef. 7-22-96; DVA 4-1998, f. & cert. ef. 3-26-98; DVA 11-2000, f. & cert. ef. 12-14-00; DVA 1-2002, f. & cert. ef. 1-18-02; DVA 6-2004, f. & cert. ef. 4-16-04; DVA 7-2006, f. & cert. ef. 6-27-06

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Employment Department
Chapter 471

Rule Caption: OAR 471-030-0076 Benefits for Athletes.
Adm. Order No.: ED 7-2006
Filed with Sec. of State: 7-5-2006
Certified to be Effective: 7-9-06
Notice Publication Date: 6-1-06
Rules Amended: 471-030-0076
Subject: Inserting the word "or" and deleting "multi-year" to 471-003-0076(4)(b) for appropriate application of law.
Rules Coordinator: Lynn M. Nelson—(503) 947-1724

471-030-0076
Benefits for Athletes

(1) As used in ORS 657.186, "any services, substantially all of which consist of participating in sports or athletic events" means all services performed by an individual in any subject employment during their base year if such individual was engaged in remunerative sports or athletic events for 90 percent or more of the total time spent in subject employment during such base year.

(2) As used in this section, "participating in sports or athletic events" means any services performed in an athletic activity by an individual as:

(a) A regular player or team member;

(b) An alternate player or team member;

(c) An individual in training to become a regular player or team member;

(d) An individual who, although performing no active services, is retained as a player or team member while recuperating from illness or injury.

(3) The beginning and ending dates of any sport season and the beginning and ending dates of the time period between two successive sport seasons shall be determined by the Director after taking into consideration factors of custom and practice within a particular sport, published dates for beginning and ending of a season and any other information bearing upon such determination.

(4) For the purposes of ORS 657.186, a reasonable assurance that an individual will perform services in sports or athletic events in a subsequent season is presumed to exist if:

(a) The individual has an express or implied multi-year contract which extends into the subsequent sport season; or

(b) The individual is free to negotiate with other teams or employers for employment as a participant in the subsequent sport season; and

(c) There is reason to believe that one or more employers of participants in athletic events is considering or would be desirous of employing the individual in an athletic capacity in the subsequent sport season; and

(d) The individual has not clearly and affirmatively withdrawn from participating in remunerative and competitive sports or athletic events.
Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.186

Hist.: 1DE 151, f. 9-28-77, ef. 10-4-77; 1DE 5-1979, f. & ef. 8-27-79; ED 2-2003, f. 2-7-03 cert. ef. 2-9-03; ED 2-2006(Temp), f. & cert. ef. 1-12-06 thru 7-11-06; ED 7-2006, f. 7-5-06, cert.ef. 7-9-06

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Employment Department, Child Care Division Chapter 414

Rule Caption: OAR 414-061-0070 Procedures for Conducting State Police Criminal Records Check.
Adm. Order No.: CCD 4-2006
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 7-14-06
Notice Publication Date: 6-1-06
Rules Amended: 414-061-0070
Subject: Amending language to remove (5)(a). the Criminal History fee will no longer be included in the application fee for family child care registration.
Rules Coordinator: Lynn M. Nelson—(503) 947-1724

414-061-0070
Procedures for Conducting Oregon State Police Criminal Records Checks and Department of Human Services Child Protective Services Record Checks

(1) Subject individuals shall consent to a criminal records check of the Oregon State Police Computerized Criminal History (CCH) System and a child protective services check at the time they request enrollment in the Criminal History Registry.

(2) Criminal History Registry enrollment forms shall contain notice that criminal records checks will be conducted as required by ORS 181.537 and 657A.030. The form shall also contain notice that child protective services checks will be conducted.

(3) Subject individuals shall provide all information required for a criminal records check and a child protective services check. Information includes:

(a) A properly completed and signed form CCD 199, Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry;

(b) For a subject individual who acknowledges a prior conviction of a criminal offense, as listed in OAR 414-061-0050, an explanation of the relationship of the facts which support the conviction and all intervening circumstances. On request of CCD, the subject individual must authorize CCD to verify information provided by the individual; and

(c) On the application for enrollment in the Criminal History Registry, CCD may request subject individuals to consent to the use of their social security numbers for criminal and child protective services records checks, for identifying enrollees in the Criminal History Registry, for sharing information with other agencies to verify child care licensing status for child care payments, and for compiling statistical information for program planning and evaluation.

(4) CCD will review the criminal records information, child protective services information, and any additional information and will determine whether or not a subject individual may be enrolled in the Criminal History Registry.

(5) Fees for each name checked through OSP CCH and child protective services systems are as follows:

(a) No charge for CCD employees; and

(b) All other requests for criminal record checks and child protective services checks and enrollment in the Criminal History Registry will cost $3 per person.

[ED. NOTE: Forms referenced in this rule are available from the agency.]
Stat. Auth.: ORS 657A.030(7)
Stats. Implemented: ORS 657A.030
Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2006(Temp), f. & cert. ef. 3-16-06 thru 9-12-06; CCD 4-2006, f. 7-13-06, cert. ef. 7-14-06

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Land Conservation and Development Department Chapter 660

Rule Caption: Require newly incorporated cities to use the acknowledgement process in ORS 197.251.
Adm. Order No.: LCDD 5-2006
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 7-14-06
Notice Publication Date: 6-1-06
Rules Amended: 660-014-0000, 660-014-0010
Rules Repealed: 660-001-0300
Subject: Require newly incorporated cities to use the acknowledgment process in ORS 197.251 rather than post-acknowledgment procedures provided in ORS 197.610 to 197.650. Amend Purpose statement and administrative rule division title to reflect these and previous amendments.

Repeal OAR 660-001-0300 regarding the "purpose" of annexation rules in this division (all other annexation rules in this division were renumbered in 2004 to OAR 660-014-0060 and 660-014-0070, and are currently described in a purpose statement under OAR 660-014-0000). Also repeal sub-heading for annexation rules in this section of the division (since there are no longer any annexation rules in this division).
Rules Coordinator: Shelia Preston—(503) 373-0050, ext. 222

660-014-0000
Purpose

ORS 197.175 requires cities and counties to exercise their planning and zoning responsibilities in compliance with the Statewide Planning Goals. This includes, but is not limited to, new or amended plans as a result of a city or special district boundary change including the incorporation or annexation of unincorporated territory. The purpose of this rule is to clarify the requirements of Goal 14 and to provide guidance to cities, counties and local government boundary commissions regarding urban development on rural lands, planning and zoning of newly incorporated cities, and the application of statewide goals during annexation proceedings.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.251 & 197.757
Hist.: LCDC 5-1983(Temp), f. & ef. 7-20-83; LCDC 11-1983, f. & ef. 12-30-83; LCDD 4-2004, f. & cert. ef. 5-17-04; LCDD 5-2006, f. 7-13-06, cert. ef. 7-14-06

660-014-0010
Application of the Statewide Planning Goals to Newly Incorporated Cities

(1) Incorporation of a new city within an acknowledged urban growth boundary does not require an exception to Goals 3, 4, 11, or 14. Incorporation of a new city within an acknowledged urban growth boundary must be consistent with relevant provisions of acknowledged city and county plans and land use regulations for the area to be incorporated.

(2) The following are land use decisions which must comply with applicable Statewide Planning Goals or the acknowledged comprehensive plan:

(a) A county order that authorizes an incorporation election pursuant to ORS 221.040;

(b) A resolution adopted by a city approving an incorporation within three miles of its city limits pursuant to ORS 221.031(4);

(c) An order adopted by a local government boundary commission authorizing incorporation of a new city pursuant to ORS 199.461. Incorporation decisions under this section include consolidations that include unincorporated lands.

(3) A city or county decision listed in subsection (2)(a) and (b) of this rule may also require a plan amendment. If the area proposed for incorporation is subject to an acknowledged comprehensive plan, the amendments shall be reviewed through the post acknowledgment plan amendment review process specified in ORS 197.610 to 197.650 and 197.757. If the area proposed for incorporation is not subject to an acknowledged plan, a plan amendment is subject to review upon appeal as a "land use decision" as defined in ORS 197.015(10).

(4) A newly incorporated city must adopt a comprehensive plan and implementing ordinances for all land in its planning area. Cities incorporated after January 1, 1982, shall have their comprehensive plans and land use regulations acknowledged no later than four years after the date of incorporation or as extended in accordance with a compliance schedule adopted by the commission. Comprehensive plans prepared and adopted by newly incorporated cities shall be reviewed through the plan acknowledgment review process set forth in ORS 197.251 and OAR chapter 660, division 3.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.251 & 197.757
Hist.: LCDC 5-1983(Temp), f. & ef. 7-20-83; LCDC 11-1983, f. & ef. 12-30-83; LCDD 4-2004, f. & cert. ef. 5-17-04;LCDD 5-2006, f. 7-13-06, cert. ef. 7-14-06

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Rule Caption: Amendments address coordination between metropolitan planning organziations requirements under federal law/local government under state law.
Adm. Order No.: LCDD 6-2006
Filed with Sec. of State: 7-13-2006
Certified to be Effective: 7-14-06
Notice Publication Date: 11-1-05

Rules Adopted: 660-012-0016
Rules Amended: 660-004-0000, 660-004-0022, 660-012-0000, 660-012-0005, 660-012-0020, 660-012-0025, 660-012-0030, 660-012-0035, 660-012-0045, 660-012-0050, 660-012-0055, 660-012-0065, 660-012-0070
Subject: The amendments revise provisions of the Transportation Planning Rule (TPR) that direct local governments to prepare and adopt transportation system plans. Amendments clarify the rule to better express and achieve the Statewide Planning Goals and the rule's objective for coordination of land use and transportation planning. The amendments revise the TPR purpose statement and modify provisions related to metropolitan transportation planning, transportation project development, and other provisions of the rule. The amendments to the TPS and the Interpretation of Goal 2 Exception Process Rule also consolidate rule requirements for goal exceptions for transportation facilities and improvements on rural lands in the TPR.
Rules Coordinator: Shelia Preston—(503) 373-0050, ext. 222

660-004-0000
Purpose

(1) The purpose of this rule is to explain the three types of exceptions set forth in Goal 2 "Land Use Planning, Part II, Exceptions." Except as provided for in OAR chapter 660, division 14, "Application of the Statewide Planning Goals to Newly Incorporated Cities and to Urban Development on Rural Lands" and OAR chapter 660, division 12, "Transportation Planning", section 0070, "Exceptions for Transportation Improvements on Rural Land", this division interprets the exception process as it applies to statewide Goals 3 to 19.

(2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met. The conclusion shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons which explain why the proposed use not allowed by the applicable goal should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.

(3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:

(a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and

(b) Assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide Goal.

(4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.012, 197.040, 197.712,197.717, 197.732
Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-004-0022
Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or OAR chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.

(4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:

(a) A demonstrated need for additional land in the community to accommodate a specific rural use based on Goals 3-19 and a demonstration that either:

(A) The use requires a location near a resource located on rural land; or

(B) The use has special features necessitating its location in an expanded area of an existing unincorporated community, including:

(i) For industrial use, it would have a significant comparative advantage due to its location (i.e., near a rural energy facility, or near products available from other activities only in the surrounding area; or it is reliant on an existing work force in an existing unincorporated community);

(ii) For residential use, the additional land is necessary to satisfy the need for additional housing in the community generated by existing industrial, commercial, or other economic activity in the surrounding area. The plan must include an economic analysis showing why the type and density of planned housing cannot be accommodated in an existing exception area or UGB, and is most appropriate at the particular proposed location. The reasons cannot be based on market demand for housing, nor on a projected continuation of past rural population distributions.

(b) Need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and UGBs in the area. "Area" encompasses those communities, exception areas, and UGBs which may be affected by an expansion of a community boundary, taking into account market, economic, and other relevant factors;

(c) Expansion requires demonstrated ability to serve both the expanded area and any remaining infill development potential in the community at time of development with the level of facilities determined to be appropriate for the existing unincorporated community.

(5) Expansion of Urban Unincorporated Communities: Expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.

(6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:

(a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;

(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;

(c) The use will provide a significant public benefit; and

(d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322.

(7) Goal 16 — Water Dependent Development: To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period considering the following:

(a) Factors of Goal 9 or for recreational uses the factors of Goal 8;

(b) The generally predicted level of market demand for the proposed use;

(c) The siting and operational requirements of the proposed use including land needs, and as applicable, moorage, water frontage, draft, or similar requirements; and

(d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use;

(e) The economic analysis must be based on Goal 9 element of the County Comprehensive Plan and consider and respond to all economic needs information available or supplied to the jurisdiction. The scope of this analysis will depend on the type of use proposed, the regional extent of the market and the ability of other areas to provide for the proposed use.

(8) Goal 16 — Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:

(a) Dredging to obtain fill for maintenance of an existing functioning dike where an analysis of alternatives demonstrates that other sources of fill material including adjacent upland soils or stockpiling of material from approved dredging projects can not reasonably be utilized for the proposed project or that land access by necessary construction machinery is not feasible;

(b) Dredging to maintain adequate depth to permit continuation of present level of navigation in the area to be dredged;

(c) Fill or other alteration for a new navigational structure where both the structure and the alteration are shown to be necessary for the continued functioning of an existing federally authorized navigation project such as a jetty or a channel;

(d) An exception to allow minor fill, dredging, or other minor alteration of a natural management unit for a boat ramp or to allow piling and shoreline stabilization for a public fishing pier;

(e) Dredge or fill or other alteration for expansion of an existing public nonwater- dependent use or a nonsubstantial fill for a private nonwater-dependent use (as provided for in ORS 541.625) where:

(A) A Countywide Economic Analysis based on the factors in Goal 9 demonstrates that additional land is required to accommodate the proposed use; and

(B) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and

(C) That the size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.

(f) In each of the situations set forth in subsections (7)(a) to (e) of this rule, the exception must demonstrate that proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner which minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.

(9) Goal 17 — Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas:

(a) These Coastal Shoreland Areas include:

(A) Major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historic and archaeological sites;

(B) Shorelands in urban and urbanizable areas, in rural areas built upon or irrevocably committed to non-resource use and in unincorporated communities pursuant to OAR Chapter 660, Division 022 (Unincorporated Communities) that are suitable for water dependent uses;

(C) Designated dredged material disposal sites;

(D) Designated mitigation sites.

(b) To allow a use which is incompatible with Goal 17 requirements for coastal shoreland areas listed in subsection (9)(a) of this rule the exception must demonstrate:

(A) A need, based on the factors in Goal 9, for additional land to accommodate the proposed use;

(B) Why the proposed use or activity needs to be located on the protected site considering the unique characteristics of the use or the site which require use of the protected site; and

(C) That the project cannot be reduced in size or redesigned to be consistent with protection of the site and where applicable consistent with protection of natural values.

(c) Exceptions to convert a dredged material disposal site or mitigation site to another use must also either not reduce the inventory of designated and protected sites in the affected area below the level identified in the estuary plan or be replaced through designation and protection of a site with comparable capacity in the same area;

(d) Uses which would convert a portion of a major marsh, coastal headland, significant wildlife habitat, exceptional aesthetic resource, or historic or archaeological site must use as little of the site as possible, be designed and located and, where appropriate, buffered to protect natural values of the remainder of the site.

(e) Exceptions to designate and protect for water-dependent uses an amount of shorelands less than is required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate compliance with the following:

(A) Based on the factors of Goals 8 and 9, there is no need during the next 20-year period for the amount of water-dependent shorelands required by Goal 17 Coastal Shoreland Uses Requirement 2 for all cities and the county in the estuary. The Goal 8 and Goal 9 analyses must be conducted for the entire estuary and its shorelands, and must consider the water-dependent use needs of all local government jurisdictions along the estuary, including the port authority if any, and be consistent with the Goal 8 and Goal 9 elements of the comprehensive plans of those jurisdictions.

(B) There is a demonstrated need for additional land to accommodate the proposed use(s), based on one or more of the requirements of Goals 3 to 18.

(10) Goal 18 — Foredune Breaching: A foredune may be breached when the exception demonstrates an existing dwelling located on the foredune is experiencing sand inundation and the grading or removal of sand is:

(a) Only to the grade of the dwelling;

(b) Limited to the immediate area in which the dwelling is located;

(c) Sand is retained in the dune system by placement on the beach in front of the dwelling; and

(d) The provisions of Goal 18 Implementation Requirement 1 are met.

(11) Goal 18 — Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:

(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or is of minimal value; and

(b) The use is designed to minimize adverse environmental effects;

(c) The provisions of OAR 660-004-0020 shall also be met.

(12) Goal 12 — Transportation Improvements on Rural Lands. Transportation improvements not allowed on rural lands as provided for in OAR 660-012-0065 require an exception pursuant to OAR 660-012-0070 and this division.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.012, 197.040, 197.712,197.717,and 197.732
Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 4-1985, f. & ef. 8-8-85; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 7-1999, f. & cert. ef. 8-20-99; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0000
Purpose

(1) This division implements Statewide Planning Goal 12 (Transportation) to provide and encourage a safe, convenient and economic transportation system. This division also implements provisions of other statewide planning goals related to transportation planning in order to plan and develop transportation facilities and services in close coordination with urban and rural development. The purpose of this division is to direct transportation planning in coordination with land use planning to:

(a) Promote the development of transportation systems adequate to serve statewide, regional and local transportation needs and the mobility needs of the transportation disadvantaged;

(b) Encourage and support the availability of a variety of transportation choices for moving people that balance vehicular use with other transportation modes, including walking, bicycling and transit in order to avoid principal reliance upon any one mode of transportation;

(c) Provide for safe and convenient vehicular, transit, pedestrian, and bicycle access and circulation;

(d) Facilitate the safe, efficient and economic flow of freight and other goods and services within regions and throughout the state through a variety of modes including road, air, rail and marine transportation;

(e) Protect existing and planned transportation facilities, corridors and sites for their identified functions;

(f) Provide for the construction and implementation of transportation facilities, improvements and services necessary to support acknowledged comprehensive plans;

(g) Identify how transportation facilities are provided on rural lands consistent with the goals;

(h) Ensure coordination among affected local governments and transportation service providers and consistency between state, regional and local transportation plans; and

(i) Ensure that changes to comprehensive plans are supported by adequate planned transportation facilities.

(2) In meeting the purposes described in section (1), coordinated land use and transportation plans should ensure that the planned transportation system supports a pattern of travel and land use in urban areas that will avoid the air pollution, traffic and livability problems faced by other large urban areas of the country through measures designed to increase transportation choices and make more efficient use of the existing transportation system.

(3) The extent of planning required by this division and the outcome of individual transportation plans will vary depending on community size, needs and circumstances. Generally, larger and faster growing communities and regions will need to prepare more comprehensive and detailed plans, while smaller communities and rural areas will have more general plans. For all communities, the mix of planned transportation facilities and services should be sufficient to ensure economic, sustainable and environmentally sound mobility and accessibility for all Oregonians. Coordinating land use and transportation planning will also complement efforts to meet other state and local objectives, including containing urban development, reducing the cost of public services, protecting farm and forest land, reducing air, water and noise pollution, conserving energy and reducing emissions of greenhouse gases that contribute to global climate change.

(a) In all urban areas, coordinated land use and transportation plans are intended to provide safe and convenient vehicular circulation and to enhance, promote and facilitate safe and convenient pedestrian and bicycle travel by planning a well-connected network of streets and supporting improvements for all travel modes.

(b) In urban areas that contain a population greater than 25,000 persons, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting the provision of transit service where feasible and more efficient performance of existing transportation facilities through transportation system management and demand management measures.

(c) Within metropolitan areas, coordinated land use and transportation plans are intended to improve livability and accessibility by promoting changes in the transportation system and land use patterns. A key outcome of this effort is a reduction in reliance on single occupant automobile use, particularly during peak periods. To accomplish this outcome, this division promotes increased planning for alternative modes and street connectivity and encourages land use patterns throughout urban areas that make it more convenient for people to walk, bicycle, use transit, use automobile travel more efficiently, and drive less to meet their daily needs. The result of applying these portions of the division will vary within metropolitan areas. Some parts of urban areas, such as downtowns, pedestrian districts, transit-oriented developments and other mixed-use, pedestrian-friendly centers, will be highly convenient for a variety of modes, including walking, bicycling and transit, while others will be auto-oriented and include more modest measures to accommodate access and circulation by other modes.

(3) This division sets requirements for coordination among affected levels of government and transportation service providers for preparation, adoption, refinement, implementation and amendment of transportation system plans. Transportation system plans adopted pursuant to this division fulfill the requirements for public facilities required under ORS 197.712(2)(e), Goal 11 and OAR chapter 660, division 11, as they relate to transportation facilities. The rules in this division are not intended to make local government determinations "land use decisions" under ORS 197.015(10). The rules recognize, however, that under existing statutory and case law, many determinations relating to the adoption and implementation of transportation plans will be land use decisions.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.012, 197.040, 197.712,197.717, 197.732
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDD 6-1998 f. & cert. ef. 10-30-98; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0005
Definitions

(1) "Access Management" means measures regulating access to streets, roads and highways from public roads and private driveways. Measures may include but are not limited to restrictions on the siting of interchanges, restrictions on the type and amount of access to roadways, and use of physical controls, such as signals and channelization including raised medians, to reduce impacts of approach road traffic on the main facility.

(2) "Accessway" means a walkway that provides pedestrian and or bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees and lighting. Where accessways cross driveways, they are generally raised, paved or marked in a manner which provides convenient access for pedestrians.

(3) "Affected Local Government" means a city, county or metropolitan service district that is directly impacted by a proposed transportation facility or improvement.

(4) "Approach Road" means a legally constructed, public or private connection that provides vehicular access either to or from or to and from a highway and an adjoining property.

(5) "At or near a major transit stop: "At" means a parcel or ownership which is adjacent to or includes a major transit stop generally including portions of such parcels or ownerships that are within 200 feet of a transit stop. "Near" generally means a parcel or ownership that is within 300 feet of a major transit stop. The term "generally" is intended to allow local governments through their plans and ordinances to adopt more specific definitions of these terms considering local needs and circumstances consistent with the overall objective and requirement to provide convenient pedestrian access to transit.

(6) "Committed Transportation Facilities" means those proposed transportation facilities and improvements which are consistent with the acknowledged comprehensive plan and have approved funding for construction in a public facilities plan or the Six-Year Highway or Transportation Improvement Program.

(7) "Demand Management" means actions which are designed to change travel behavior in order to improve performance of transportation facilities and to reduce need for additional road capacity. Methods may include but are not limited to the use of alternative modes, ride-sharing and vanpool programs, and trip-reduction ordinances.

(8) "Influence area of an interchange" means the area 1,320 feet from an interchange ramp terminal measured on the crossroad away from the mainline.

(9) "Local streets" means streets that are functionally classified as local streets to serve primarily local access to property and circulation within neighborhoods or specific areas. Local streets do not include streets functionally classified as collector or arterials.

(10) "Local Street Standards" include but are not limited to standards for right-of-way, pavement width, travel lanes, parking lanes, curb turning radius, and accessways.

(11) "Major" means, in general, those facilities or developments which, considering the size of the urban or rural area and the range of size, capacity or service level of similar facilities or developments in the area, are either larger than average, serve more than neighborhood needs or have significant land use or traffic impacts on more than the immediate neighborhood:

(a) "Major" as it modifies transit corridors, stops, transfer stations and new transportation facilities means those facilities which are most important to the functioning of the system or which provide a high level, volume or frequency of service;

(b) "Major" as it modifies industrial, institutional and retail development means such developments which are larger than average, serve more than neighborhood needs or which have traffic impacts on more than the immediate neighborhood;

(c) Application of the term "major" will vary from area to area depending upon the scale of transportation improvements, transit facilities and development which occur in the area. A facility considered to be major in a smaller or less densely developed area may, because of the relative significance and impact of the facility or development, not be considered a major facility in a larger or more densely developed area with larger or more intense development or facilities.

(12) "Major transit stop" means:

(a) Existing and planned light rail stations and transit transfer stations, except for temporary facilities;

(b) Other planned stops designated as major transit stops in a transportation system plan and existing stops which:

(A) Have or are planned for an above average frequency of scheduled, fixed-route service when compared to region wide service. In urban areas of 1,000,000 or more population major transit stops are generally located

along routes that have or are planned for 20 minute service during the peak hour; and

(B) Are located in a transit oriented development or within 1/4 mile of an area planned and zoned for:

(i) Medium or high density residential development; or

(ii) Intensive commercial or institutional uses within 1/4 mile of subsection (i); or

(iii) Uses likely to generate a relatively high level of transit ridership.

(13) "Metropolitan area" means the local governments that are responsible for adopting local or regional transportation system plans within a metropolitan planning organization (MPO) boundary. This includes cities, counties, and, in the Portland Metropolitan area, Metro.

(14) "Metropolitan Planning Organization (MPO)" means an organization located within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state including such designations made subsequent to the adoption of this rule. The Longview-Kelso-Rainier MPO is not considered an MPO for the purposes of this rule.

(15) "Minor transportation improvements" include, but are not limited to, signalization, addition of turn lanes or merge/deceleration lanes on arterial or collector streets, provision of local streets, transportation system management measures, modification of existing interchange facilities within public right of way and design modifications located within an approved corridor. Minor transportation improvements may or may not be listed as planned projects in a TSP where the improvement is otherwise consistent with the TSP. Minor transportation improvements do not include new interchanges; new approach roads within the influence area of an interchange; new intersections on limited access roadways, highways or expressways; new collector or arterial streets, road realignments or addition of travel lanes.

(16) "ODOT" means the Oregon Department of Transportation.

(17) "Parking Spaces" means on and off street spaces designated for automobile parking in areas planned for industrial, commercial, institutional or public uses. The following are not considered parking spaces for the purposes of OAR 660-012-0045(5)(c): park and ride lots, handicapped parking, and parking spaces for carpools and vanpools.

(18) "Pedestrian connection" means a continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges. On developed parcels, pedestrian connections are generally hard surfaced. In parks and natural areas, pedestrian connections may be soft-surfaced pathways. On undeveloped parcels and parcels intended for redevelopment, pedestrian connections may also include rights of way or easements for future pedestrian improvements.

(19) "Pedestrian district" means a comprehensive plan designation or implementing land use regulations, such as an overlay zone, that establish requirements to provide a safe and convenient pedestrian environment in an area planned for a mix of uses likely to support a relatively high level of pedestrian activity. Such areas include but are not limited to:

(a) Lands planned for a mix of commercial or institutional uses near lands planned for medium to high density housing; or

(b) Areas with a concentration of employment and retail activity; and

(c) Which have or could develop a network of streets and accessways which provide convenient pedestrian circulations.

(20) "Pedestrian plaza" means a small semi-enclosed area usually adjoining a sidewalk or a transit stop which provides a place for pedestrians to sit, stand or rest. They are usually paved with concrete, pavers, bricks or similar material and include seating, pedestrian scale lighting and similar pedestrian improvements. Low walls or planters and landscaping are usually provided to create a semi-enclosed space and to buffer and separate the plaza from adjoining parking lots and vehicle maneuvering areas. Plazas are generally located at a transit stop, building entrance or an intersection and connect directly to adjacent sidewalks, walkways, transit stops and buildings. A plaza including 150-250 square feet would be considered "small."

(21) "Pedestrian scale" means site and building design elements that are dimensionally less than those intended to accommodate automobile traffic, flow and buffering. Examples include ornamental lighting of limited height; bricks, pavers or other modules of paving with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the height of walls; and signage and signpost details that can only be perceived from a short distance.

(22) "Planning Period" means the twenty-year period beginning with the date of adoption of a TSP to meet the requirements of this rule.

(23) "Preliminary Design" means an engineering design which specifies in detail the location and alignment of a planned transportation facility or improvement.

(24) "Reasonably direct" means either a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

(25) "Refinement Plan" means an amendment to the transportation system plan, which resolves, at a systems level, determinations on function, mode or general location which were deferred during transportation system planning because detailed information needed to make those determinations could not reasonably be obtained during that process.

(26) "Regional Transportation Plan" or "RTP" means the long-range transportation plan prepared and adopted by a metropolitan planning organization for a metropolitan area as provided for in federal law.

(27) "Roads" means streets, roads and highways.

(28) "Rural community" means areas defined as resort communities and rural communities in accordance with OAR 660-022-0010(6) and (7). For the purposes of this division, the area need only meet the definitions contained in the Unincorporated Communities Rule although the area may not have been designated as an unincorporated community in accordance with OAR 660-022-0020.

(29) "Transit-Oriented Development (TOD)" means a mix of residential, retail and office uses and a supporting network of roads, bicycle and pedestrian ways focused on a major transit stop designed to support a high level of transit use. The key features of transit oriented development include:

(a) A mixed-use center at the transit stop, oriented principally to transit riders and pedestrian and bicycle travel from the surrounding area;

(b) High density of residential development proximate to the transit stop sufficient to support transit operation and neighborhood commercial uses within the TOD;

(c) A network of roads, and bicycle and pedestrian paths to support high levels of pedestrian access within the TOD and high levels of transit use.

(30) "Transportation Facilities" means any physical facility that moves or assist in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage and water systems.

(31) "Transportation System Management Measures" means techniques for increasing the efficiency, safety, capacity or level of service of a transportation facility without increasing its size. Examples include, but are not limited to, traffic signal improvements, traffic control devices including installing medians and parking removal, channelization, access management, ramp metering, and restriping of high occupancy vehicle (HOV) lanes.

(32) "Transportation Needs" means estimates of the movement of people and goods consistent with acknowledged comprehensive plan and the requirements of this rule. Needs are typically based on projections of future travel demand resulting from a continuation of current trends as modified by policy objectives, including those expressed in Goal 12 and this rule, especially those for avoiding principal reliance on any one mode of transportation.

(33) "Transportation Needs, Local" means needs for movement of people and goods within communities and portions of counties and the need to provide access to local destinations.

(34) "Transportation Needs, Regional" means needs for movement of people and goods between and through communities and accessibility to regional destinations within a metropolitan area, county or associated group of counties.

(35) "Transportation Needs, State" means needs for movement of people and goods between and through regions of the state and between the state and other states.

(36) "Transportation Project Development" means implementing the transportation system plan (TSP) by determining the precise location, alignment, and preliminary design of improvements included in the TSP based on site-specific engineering and environmental studies.

(37) "Transportation Service" means a service for moving people and goods, such as intercity bus service and passenger rail service.

(38) "Transportation System Plan (TSP)" means a plan for one or more transportation facilities that are planned, developed, operated and maintained in a coordinated manner to supply continuity of movement between modes, and within and between geographic and jurisdictional areas.

(39) "Urban Area" means lands within an urban growth boundary, two or more contiguous urban growth boundaries, and urban unincorporated communities as defined by OAR 660-022-0010(9). For the purposes of this division, the area need only meet the definition contained in the Unincorporated Communities Rule although the area may not have been designated as an unincorporated community in accordance with OAR 660-022-0020.

(40) "Urban Fringe" means:

(a) Areas outside the urban growth boundary that are within 5 miles of the urban growth boundary of an MPO area; and

(b) Areas outside the urban growth boundary within 2 miles of the urban growth boundary of an urban area containing a population greater than 25,000.

(41) Vehicle Miles of Travel (VMT): means automobile vehicle miles of travel. Automobiles, for purposes of this definition, include automobiles, light trucks, and other similar vehicles used for movement of people. The definition does not include buses, heavy trucks and trips that involve commercial movement of goods. VMT includes trips with an origin and a destination within the MPO boundary and excludes pass through trips (i.e., trips with a beginning and end point outside of the MPO) and external trips (i.e., trips with a beginning or end point outside of the MPO boundary). VMT is estimated prospectively through the use of metropolitan area transportation models.

(42) "Walkway" means a hard surfaced area intended and suitable for use by pedestrians, including sidewalks and surfaced portions of accessways.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.012, 197.040, 197.712,197.717, 197.732
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 3-1995, f. & cert. ef. 3-31-95; LCDC 4-1995, f. & cert. ef. 5-8-95; LCDD 6-1998, f. & cert. ef. 10-30-98; LCDD 3-2005, f. & cert. ef. 4-11-05; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0016
Coordination with federally-required regional transportation plans in metropolitan areas

(1) In metropolitan areas, local governments shall prepare, adopt, amend and update transportation system plans required by this division in coordination with regional transportation plans (RTPs) prepared by MPOs required by federal law. Insofar as possible, regional transportation system plans for metropolitan areas shall be accomplished through a single coordinated process that complies with the applicable requirements of federal law and this division. Nothing in this rule is intended to make adoption or amendment of a regional transportation plan by a metropolitan planning organization a land use decision under Oregon law.

(2) When an MPO adopts or amends a regional transportation plan that relates to compliance with this division, the affected local governments shall review the adopted plan or amendment and either:

(a) Make a finding that the proposed regional transportation plan amendment or update is consistent with the applicable provisions of adopted regional and local transportation system plan and comprehensive plan and compliant with applicable provisions of this division; or

(b) Adopt amendments to the relevant regional or local transportation system plan that make the regional transportation plan and the applicable transportation system plans consistent with one another and compliant with applicable provisions of this division. Necessary plan amendments or updates shall be prepared and adopted in coordination with the federally-required plan update or amendment. Such amendments shall be initiated no later than 30 days from the adoption of the RTP amendment or update and shall be adopted no later than one year from the adoption of the RTP amendment or update or according to a work plan approved by the commission. A plan amendment is "initiated" for purposes of this subsection where the affected local government files a post-acknowledgement plan amendment notice with the department as provided in OAR chapter 660, division 18.

(c) In the Portland Metropolitan area, compliance with this section shall be accomplished by Metro through adoption of required findings or an amendment to the regional transportation system plan.

(3) Adoption or amendment of a regional transportation plan relates to compliance with this division for purposes of section (2) if it does one or more of the following:

(a) Changes plan policies;

(b) Adds or deletes a project from the list of planned transportation facilities, services or improvements or from the financially-constrained project list required by federal law;

(c) Modifies the general location of a planned transportation facility or improvement;

(d) Changes the functional classification of a transportation facility; or

(e) Changes the planning period or adopts or modifies the population or employment forecast or allocation upon which the plan is based.

(4) The following amendments to a regional transportation plan do not relate to compliance with this division for purposes of section (2):

(a) Adoption of an air quality conformity determination;

(b) Changes to a federal revenue projection;

(c) Changes to estimated cost of a planned transportation project; or

(d) Deletion of a project from the list of planned projects where the project has been constructed or completed.

(5) Adoption or amendment of a regional transportation plan that extends the planning period beyond that specified in the applicable acknowledged comprehensive plan or regional transportation system plan is consistent with the requirements of this rule where the following conditions are met:

(a) The future year population and employment forecasts are consistent with those adopted by the relevant county or counties for the metropolitan area. Where a county's adopted population or employment forecast is for a period of time shorter than the federally-required planning period, an MPO forecast is consistent with the county's adopted forecast if it extrapolates the adopted county forecast consistent with:

(A) The adopted forecast for long-term growth rate for the county, and

(B) A continuation of metropolitan area share of county population and employment growth;

(b) Land needed to accommodate future urban density population and employment and other urban uses is identified in a manner consistent with Goal 14 and relevant rules;

(c) Urban density population and employment are allocated to designated centers and other identified areas to provide for implementation of the metropolitan area's integrated land use and transportation plan or strategy; and

(d) Urban density population and employment or other urban uses are allocated to areas outside of an acknowledged urban growth boundary only where:

(A) The allocation is done in conjunction with consideration by local governments of possible urban growth boundary amendments consistent with Goal 14 and relevant rules, and

(B) The RTP clearly identifies the proposed UGB amendments and any related projects as illustrative and subject to further review and approval by the affected local governments.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.012, 197.040, 197.712,197.717,and 197.732
Hist.; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0020
Elements of Transportation System Plans

(1) A TSP shall establish a coordinated network of transportation facilities adequate to serve state, regional and local transportation needs.

(2) The TSP shall include the following elements:

(a) A determination of transportation needs as provided in OAR 660-012-0030;

(b) A road plan for a system of arterials and collectors and standards for the layout of local streets and other important non-collector street connections. Functional classifications of roads in regional and local TSP's shall be consistent with functional classifications of roads in state and regional TSP's and shall provide for continuity between adjacent jurisdictions. The standards for the layout of local streets shall provide for safe and convenient bike and pedestrian circulation necessary to carry out OAR 660-012-0045(3)(b). New connections to arterials and state highways shall be consistent with designated access management categories. The intent of this requirement is to provide guidance on the spacing of future extensions and connections along existing and future streets which are needed to provide reasonably direct routes for bicycle and pedestrian travel. The standards for the layout of local streets shall address:

(A) Extensions of existing streets;

(B) Connections to existing or planned streets, including arterials and collectors; and

(C) Connections to neighborhood destinations.

(c) A public transportation plan which:

(A) Describes public transportation services for the transportation disadvantaged and identifies service inadequacies;

(B) Describes intercity bus and passenger rail service and identifies the location of terminals;

(C) For areas within an urban growth boundary which have public transit service, identifies existing and planned transit trunk routes, exclusive transit ways, terminals and major transfer stations, major transit stops, and park-and-ride stations. Designation of stop or station locations may allow for minor adjustments in the location of stops to provide for efficient transit or traffic operation or to provide convenient pedestrian access to adjacent or nearby uses.

(D) For areas within an urban area containing a population greater than 25,000 persons, not currently served by transit, evaluates the feasibility of developing a public transit system at buildout. Where a transit system is determined to be feasible, the plan shall meet the requirements of paragraph (2)(c)(C) of this rule.

(d) A bicycle and pedestrian plan for a network of bicycle and pedestrian routes throughout the planning area. The network and list of facility improvements shall be consistent with the requirements of ORS 366.514;

(e) An air, rail, water and pipeline transportation plan which identifies where public use airports, mainline and branchline railroads and railroad facilities, port facilities, and major regional pipelines and terminals are located or planned within the planning area. For airports, the planning area shall include all areas within airport imaginary surfaces and other areas covered by state or federal regulations;

(f) For areas within an urban area containing a population greater than 25,000 persons a plan for transportation system management and demand management;

(g) A parking plan in MPO areas as provided in OAR 660-012-0045(5)(c);

(h) Policies and land use regulations for implementing the TSP as provided in OAR 660-012-0045;

(i) For areas within an urban growth boundary containing a population greater than 2500 persons, a transportation financing program as provided in OAR 660-012-0040.

(3) Each element identified in subsections (2)(b)-(d) of this rule shall contain:

(a) An inventory and general assessment of existing and committed transportation facilities and services by function, type, capacity and condition:

(A) The transportation capacity analysis shall include information on:

(i) The capacities of existing and committed facilities;

(ii) The degree to which those capacities have been reached or surpassed on existing facilities; and

(iii) The assumptions upon which these capacities are based.

(B) For state and regional facilities, the transportation capacity analysis shall be consistent with standards of facility performance considered acceptable by the affected state or regional transportation agency;

(C) The transportation facility condition analysis shall describe the general physical and operational condition of each transportation facility (e.g., very good, good, fair, poor, very poor).

(3)(b) A system of planned transportation facilities, services and major improvements. The system shall include a description of the type or functional classification of planned facilities and services and their planned capacities and performance standards;

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.012, 197.040, 197.712,197.717, 197.732
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 4-1995, f. & cert. ef. 5-8-95; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-066

660-012-0025
Complying with the Goals in Preparing Transportation System Plans; Refinement Plans

(1) Except as provided in section (3) of this rule, adoption of a TSP shall constitute the land use decision regarding the need for transportation facilities, services and major improvements and their function, mode, and general location.

(2) Findings of compliance with applicable statewide planning goals and acknowledged comprehensive plan policies and land use regulations shall be developed in conjunction with the adoption of the TSP.

(3) A local government or MPO may defer decisions regarding function, general location and mode of a refinement plan if findings are adopted that:

(a) Identify the transportation need for which decisions regarding function, general location or mode are being deferred;

(b) Demonstrate why information required to make final determinations regarding function, general location, or mode cannot reasonably be made available within the time allowed for preparation of the TSP;

(c) Explain how deferral does not invalidate the assumptions upon which the TSP is based or preclude implementation of the remainder of the TSP;

(d) Describe the nature of the findings which will be needed to resolve issues deferred to a refinement plan; and

(e) Set a deadline for adoption of a refinement plan prior to initiation of the periodic review following adoption of the TSP.

(4) Where a Corridor Environmental Impact Statement (EIS) is prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the development of the refinement plan shall be coordinated with the preparation of the Corridor EIS. The refinement plan shall be adopted prior to the issuance of the Final EIS.

Stat. Auth.: ORS 183 & 197.040
Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.712, 197.717
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0030
Determination of Transportation Needs

(1) The TSP shall identify transportation needs relevant to the planning area and the scale of the transportation network being planned including:

(a) State, regional, and local transportation needs;

(b) Needs of the transportation disadvantaged;

(c) Needs for movement of goods and services to support industrial and commercial development planned for pursuant to OAR 660-009 and Goal 9 (Economic Development).

(2) Counties or MPO's preparing regional TSP's shall rely on the analysis of state transportation needs in adopted elements of the state TSP. Local governments preparing local TSP's shall rely on the analyses of state and regional transportation needs in adopted elements of the state TSP and adopted regional TSP's.

(3) Within urban growth boundaries, the determination of local and regional transportation needs shall be based upon:

(a) Population and employment forecasts and distributions that are consistent with the acknowledged comprehensive plan, including those policies that implement Goal 14. Forecasts and distributions shall be for 20 years and, if desired, for longer periods; and

(b) Measures adopted pursuant to OAR 660-012-0045 to encourage reduced reliance on the automobile.

(4) In MPO areas, calculation of local and regional transportation needs also shall be based upon accomplishment of the requirement in OAR 660-012-0035(4) to reduce reliance on the automobile.

Stat. Auth.: ORS 183 & 197.040
Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.712, 197.717
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-9; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0035
Evaluation and Selection of Transportation System Alternatives

(1) The TSP shall be based upon evaluation of potential impacts of system alternatives that can reasonably be expected to meet the identified transportation needs in a safe manner and at a reasonable cost with available technology. The following shall be evaluated as components of system alternatives:

(a) Improvements to existing facilities or services;

(b) New facilities and services, including different modes or combinations of modes that could reasonably meet identified transportation needs;

(c) Transportation system management measures;

(d) Demand management measures; and

(e) A no-build system alternative required by the National Environmental Policy Act of 1969 or other laws.

(2) Local governments in MPO areas of larger than 1,000,000 population shall, and other governments may also, evaluate alternative land use designations, densities, and design standards to meet local and regional transportation needs. Local governments preparing such a strategy shall consider:

(a) Increasing residential densities and establishing minimum residential densities within one quarter mile of transit lines, major regional employment areas, and major regional retail shopping areas;

(b) Increasing allowed densities in new commercial office and retail developments in designated community centers;

(c) Designating lands for neighborhood shopping centers within convenient walking and cycling distance of residential areas; and

(d) Designating land uses to provide a better balance between jobs and housing considering:

(A) The total number of jobs and total of number of housing units expected in the area or subarea;

(B) The availability of affordable housing in the area or subarea; and

(C) Provision of housing opportunities in close proximity to employment areas.

(3) The following standards shall be used to evaluate and select alternatives:

(a) The transportation system shall support urban and rural development by providing types and levels of transportation facilities and services appropriate to serve the land uses identified in the acknowledged comprehensive plan;

(b) The transportation system shall be consistent with state and federal standards for protection of air, land and water quality including the State Implementation Plan under the Federal Clean Air Act and the State Water Quality Management Plan;

(c) The transportation system shall minimize adverse economic, social, environmental and energy consequences;

(d) The transportation system shall minimize conflicts and facilitate connections between modes of transportation; and

(e) The transportation system shall avoid principal reliance on any one mode of transportation by increasing transportation choices to reduce principal reliance on the automobile. In MPO areas this shall be accomplished by selecting transportation alternatives which meet the requirements in section (4) of this rule.

(4) In MPO areas, regional and local TSPs shall be designed to achieve adopted standards for increasing transportation choices and reducing reliance on the automobile. Adopted standards are intended as means of measuring progress of metropolitan areas towards developing and implementing transportation systems and land use plans that increase transportation choices and reduce reliance on the automobile. It is anticipated that metropolitan areas will accomplish reduced reliance by changing land use patterns and transportation systems so that walking, cycling, and use of transit are highly convenient and so that, on balance, people need to and are likely to drive less than they do today.

(5) MPO areas shall adopt standards to demonstrate progress towards increasing transportation choices and reducing automobile reliance as provided for in this rule:

(a) The commission shall approve standards by order upon demonstration by the metropolitan area that:

(A) Achieving the standard will result in a reduction in reliance on automobiles;

(B) Achieving the standard will accomplish a significant increase in the availability or convenience of alternative modes of transportation;

(C) Achieving the standard is likely to result in a significant increase in the share of trips made by alternative modes, including walking, bicycling, ridesharing and transit;

(D) VMT per capita is unlikely to increase by more than five percent; and

(E) The standard is measurable and reasonably related to achieving the goal of increasing transportation choices and reducing reliance on the automobile as described in OAR 660-012-0000.

(b) In reviewing proposed standards for compliance with subsection (a), the commission shall give credit to regional and local plans, programs, and actions implemented since 1990 that have already contributed to achieving the objectives specified in paragraphs (A)–(E) above;

(c) If a plan using a standard, approved pursuant to this rule, is expected to result in an increase in VMT per capita, then the cities and counties in the metropolitan area shall prepare and adopt an integrated land use and transportation plan including the elements listed in paragraphs (A)–(E) below. Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years of the approval of the standard.

(A) Changes to land use plan designations, densities, and design standards listed in subsections (2)(a)–(d);

(B) A transportation demand management plan that includes significant new transportation demand management measures;

(C) A public transit plan that includes a significant expansion in transit service;

(D) Policies to review and manage major roadway improvements to ensure that their effects are consistent with achieving the adopted strategy for reduced reliance on the automobile, including policies that provide for the following:

(i) An assessment of whether improvements would result in development or travel that is inconsistent with what is expected in the plan;

(ii) Consideration of alternative measures to meet transportation needs;

(iii) Adoption of measures to limit possible unintended effects on travel and land use patterns including access management, limitations on subsequent plan amendments, phasing of improvements, etc.; and

(iv)For purposes of this section a "major roadway expansion" includes new arterial roads or streets and highways, the addition of travel lanes, and construction of interchanges to a limited access highway.

(E) Plan and ordinance provisions that meet all other applicable requirements of this division.

(d) Standards may include but are not limited to:

(A) Modal share of alternative modes, including walking, bicycling, and transit trips;

(B) Vehicle hours of travel per capita;

(C) Vehicle trips per capita;

(D) Measures of accessibility by alternative modes (i.e. walking, bicycling and transit); or

(E) The Oregon Benchmark for a reduction in peak hour commuting by single occupant vehicles.

(e) Metropolitan areas shall adopt TSP policies to evaluate progress towards achieving the standard or standards adopted and approved pursuant to this rule. Such evaluation shall occur at regular intervals corresponding with federally-required updates of the regional transportation plan. This shall include monitoring and reporting of VMT per capita.

(6) A metropolitan area may also accomplish compliance with requirements of subsection (3)(e), sections (4) and (5) by demonstrating to the commission that adopted plans and measures are likely to achieve a five percent reduction in VMT per capita over the 20-year planning period. The commission shall consider and act on metropolitan area requests under this section by order. A metropolitan area that receives approval under this section shall adopt interim benchmarks for VMT reduction and shall evaluate progress in achieving VMT reduction at each update of the regional transportation system plan.

(7) Regional and local TSPs shall include benchmarks to assure satisfactory progress towards meeting the approved standard or standards adopted pursuant to this rule at regular intervals over the planning period. MPOs and local governments shall evaluate progress in meeting benchmarks at each update of the regional transportation plan. Where benchmarks are not met, the relevant TSP shall be amended to include new or additional efforts adequate to meet the requirements of this rule.

(8) The commission shall, at regular intervals, evaluate the results of efforts to achieve the reduction in VMT and the effectiveness of approved plans and standards in achieving the objective of increasing transportation choices and reducing reliance on the automobile.

(9) Where existing and committed transportation facilities and services have adequate capacity to support the land uses in the acknowledged comprehensive plan, the local government shall not be required to evaluate alternatives as provided in this rule.

(10) Transportation uses or improvements listed in OAR 660-012-0065(3)(d) to (g) and (o) and located in an urban fringe may be included in a TSP only if the improvement project identified in the Transportation System Plan as described in section (12) of this rule, will not significantly reduce peak hour travel time for the route as determined pursuant to section (11) of this rule, or the jurisdiction determines that the following alternatives can not reasonably satisfy the purpose of the improvement project:

(a) Improvements to transportation facilities and services within the urban growth boundary;

(b) Transportation system management measures that do not significantly increase capacity; or

(c) Transportation demand management measures. The jurisdiction needs only to consider alternatives that are safe and effective, consistent with applicable standards and that can be implemented at a reasonable cost using available technology.

(11) An improvement project significantly reduces peak hour travel time when, based on recent data, the time to travel the route is reduced more than 15 percent during weekday peak hour conditions over the length of the route located within the urban fringe. For purposes of measuring travel time, a route shall be identified by the predominant traffic flows in the project area.

(12) A "transportation improvement project" described in section (10) of this rule:

(a) Is intended to solve all of the reasonably foreseeable transportation problems within a general geographic location, within the planning period; and

(b) Has utility as an independent transportation project.

Stat. Auth.: ORS 183, 197.040, 197.245

Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.712, 197.717

Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 3-1995, f. & cert. ef. 3-31-95; LCDC 4-1995, f. & cert. ef. 5-8-95; LCDD 6-1998, f. & cert. ef. 10-30-98; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0045

Implementation of the Transportation System Plan

(1) Each local government shall amend its land use regulations to implement the TSP.

(a) The following transportation facilities, services and improvements need not be subject to land use regulations except as necessary to implement the TSP and, under ordinary circumstances do not have a significant impact on land use:

(A) Operation, maintenance, and repair of existing transportation facilities identified in the TSP, such as road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals;

(B) Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards;

(C) Uses permitted outright under ORS 215.213(1)(m) through (p) and 215.283(1)(k) through (n), consistent with the provisions of 660-012-0065; and

(D) Changes in the frequency of transit, rail and airport services.

(b) To the extent, if any, that a transportation facility, service or improvement concerns the application of a comprehensive plan provision or land use regulation, it may be allowed without further land use review if it is permitted outright or if it is subject to standards that do not require interpretation or the exercise of factual, policy or legal judgment;

(c) In the event that a transportation facility, service or improvement is determined to have a significant impact on land use or to concern the application of a comprehensive plan or land use regulation and to be subject to standards that require interpretation or the exercise of factual,

policy or legal judgment, the local government shall provide a review and approval process that is consistent with 660-012-0050. To facilitate implementation of the TSP, each local government shall amend its land use regulations to provide for consolidated review of land use decisions required to permit a transportation project.

(2) Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities, corridors and sites for their identified functions. Such regulations shall include:

(a) Access control measures, for example, driveway and public road spacing, median control and signal spacing standards, which are consistent with the functional classification of roads and consistent with limiting development on rural lands to rural uses and densities;

(b) Standards to protect future operation of roads, transitways and major transit corridors;

(c) Measures to protect public use airports by controlling land uses within airport noise corridors and imaginary surfaces, and by limiting physical hazards to air navigation;

(d) A process for coordinated review of future land use decisions affecting transportation facilities, corridors or sites;

(e) A process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors or sites;

(f) Regulations to provide notice to public agencies providing transportation facilities and services, MPOs, and ODOT of:

(A) Land use applications that require public hearings;

(B) Subdivision and partition applications;

(C) Other applications which affect private access to roads; and

(D) Other applications within airport noise corridors and imaginary surfaces which affect airport operations; and

(g) Regulations assuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities and performance standards of facilities identified in the TSP.

(3) Local governments shall adopt land use or subdivision regulations for urban areas and rural communities as set forth below. The purposes of this section are to provide for safe and convenient pedestrian, bicycle and vehicular circulation consistent with access management standards and the function of affected streets, to ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and which avoids wherever possible levels of automobile traffic which might interfere with or discourage pedestrian or bicycle travel.

(a) Bicycle parking facilities as part of new multi-family residential developments of four units or more, new retail, office and institutional developments, and all transit transfer stations and park-and-ride lots;

(b) On-site facilities shall be provided which accommodate safe and convenient pedestrian and bicycle access from within new subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. Single-family residential developments shall generally include streets and accessways. Pedestrian circulation through parking lots should generally be provided in the form of accessways.

(A) "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;

(B) Bikeways shall be required along arterials and major collectors. Sidewalks shall be required along arterials, collectors and most local streets in urban areas, except that sidewalks are not required along controlled access roadways, such as freeways;

(C) Cul-de-sacs and other dead-end streets may be used as part of a development plan, consistent with the purposes set forth in this section;

(D) Local governments shall establish their own standards or criteria for providing streets and accessways consistent with the purposes of this section. Such measures may include but are not limited to: standards for spacing of streets or accessways; and standards for excessive out-of-direction travel;

(E) Streets and accessways need not be required where one or more of the following conditions exist:

(i) Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;

(ii) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or

(iii) Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

(c) Where off-site road improvements are otherwise required as a condition of development approval, they shall include facilities accommodating convenient pedestrian and bicycle travel, including bicycle ways along arterials and major collectors;

(d) For purposes of subsection (b) "safe and convenient" means bicycle and pedestrian routes, facilities and improvements which:

(A) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;

(B) Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and

(C) Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile.

(e) Internal pedestrian circulation within new office parks and commercial developments shall be provided through clustering of buildings, construction of accessways, walkways and similar techniques.

(4) To support transit in urban areas containing a population greater than 25,000, where the area is already served by a public transit system or where a determination has been made that a public transit system is feasible, local governments shall adopt land use and subdivision regulations as provided in (a)-(g) below:

(a) Transit routes and transit facilities shall be designed to support transit use through provision of bus stops, pullouts and shelters, optimum road geometrics, on-road parking restrictions and similar facilities, as appropriate;

(b) New retail, office and institutional buildings at or near major transit stops shall provide for convenient pedestrian access to transit through the measures listed in (A) and (B) below.

(A) Walkways shall be provided connecting building entrances and streets adjoining the site;

(B) Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable as provided for in OAR 660-012-0045(3)(b)(E). Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property;

(C) In addition to (A) and (B) above, on sites at major transit stops provide the following:

(i) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or a street intersection;

(ii) A reasonably direct pedestrian connection between the transit stop and building entrances on the site;

(iii) A transit passenger landing pad accessible to disabled persons;

(iv) An easement or dedication for a passenger shelter if requested by the transit provider; and

(v) Lighting at the transit stop.

(c) Local governments may implement (4)(b)(A) and (B) above through the designation of pedestrian districts and adoption of appropriate implementing measures regulating development within pedestrian districts. Pedestrian districts must comply with the requirement of (4)(b)(C) above;

(d) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools;

(e) Existing development shall be allowed to redevelop a portion of existing parking areas for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit-oriented developments, and similar facilities, where appropriate;

(f) Road systems for new development shall be provided that can be adequately served by transit, including provision of pedestrian access to existing and identified future transit routes. This shall include, where appropriate, separate accessways to minimize travel distances;

(g) Along existing or planned transit routes, designation of types and densities of land uses adequate to support transit.

(5) In MPO areas, local governments shall adopt land use and subdivision regulations to reduce reliance on the automobile which:

(a) Allow transit-oriented developments (TODs) on lands along transit routes;

(b) Implements a demand management program to meet the measurable standards set in the TSP in response to 660-012-0035(4);

(c) Implements a parking plan which:

(A) Achieves a 10% reduction in the number of parking spaces per capita in the MPO area over the planning period. This may be accomplished through a combination of restrictions on development of new parking

spaces and requirements that existing parking spaces be redeveloped to other uses;

(B) Aids in achieving the measurable standards set in the TSP in response to OAR 660-012-0035(4);

(C) Includes land use and subdivision regulations setting minimum and maximum parking requirements in appropriate locations, such as downtowns, designated regional or community centers, and transit oriented-developments; and

(D) Is consistent with demand management programs, transit-oriented development requirements and planned transit service.

(d) As an alternative to (c) above, local governments in an MPO may instead revise ordinance requirements for parking as follows:

(A) Reduce minimum off-street parking requirements for all non-residential uses from 1990 levels;

(B) Allow provision of on-street parking, long-term lease parking, and shared parking to meet minimum off-street parking requirements;

(C) Establish off-street parking maximums in appropriate locations, such as downtowns, designated regional or community centers, and transit-oriented developments;

(D) Exempt structured parking and on-street parking from parking maximums;

(E) Require that parking lots over 3 acres in size provide street-like features along major driveways (including curbs, sidewalks, and street trees or planting strips); and

(F) Provide for designation of residential parking districts.

(e) Require all major industrial, institutional, retail and office developments to provide either a transit stop on site or connection to a transit stop along a transit trunk route when the transit operator requires such an improvement.

(6) In developing a bicycle and pedestrian circulation plan as required by 660-012-0020(2)(d), local governments shall identify improvements to facilitate bicycle and pedestrian trips to meet local travel needs in developed areas. Appropriate improvements should provide for more direct, convenient and safer bicycle or pedestrian travel within and between residential areas and neighborhood activity centers (i.e., schools, shopping, transit stops). Specific measures include, for example, constructing walkways between cul-de-sacs and adjacent roads, providing walkways between buildings, and providing direct access between adjacent uses.

(7) Local governments shall establish standards for local streets and accessways that minimize pavement width and total right-of-way consistent with the operational needs of the facility. The intent of this requirement is that local governments consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation. Not withstanding section (1) or (3) of this rule, local street standards adopted to meet this requirement need not be adopted as land use regulations.

Stat. Auth.: ORS 183 & 197
Stats. Implemented: ORS 197.040
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 4-1995, f. & cert. ef. 5-8-95; LCDC 11-1995, f. & cert. ef. 12-22-95; LCDD 6-1998, f. & cert. ef. 10-30-98; LCDD 3-2004, f. & cert. ef. 5-7-04; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0050
Transportation Project Development

(1) For projects identified by ODOT pursuant to OAR chapter 731, division 15, project development shall occur in the manner set forth in that division.

(2) Regional TSPs shall provide for coordinated project development among affected local governments. The process shall include:

(a) Designation of a lead agency to prepare and coordinate project development;

(b) A process for citizen involvement, including public notice and hearing, if project development involves land use decision-making. The process shall include notice to affected transportation facility and service providers, MPOs, and ODOT;

(c) A process for developing and adopting findings of compliance with applicable statewide planning goals, if any. This shall include a process to allow amendments to acknowledged comprehensive plans where such amendments are necessary to accommodate the project; and

(d) A process for developing and adopting findings of compliance with applicable acknowledged comprehensive plan policies and land use regulations of individual local governments, if any. This shall include a process to allow amendments to acknowledged comprehensive plans or land use regulations where such amendments are necessary to accommodate the project.

(3) Project development addresses how a transportation facility or improvement authorized in a TSP is designed and constructed. This may or may not require land use decision-making. The focus of project development is project implementation, e.g. alignment, preliminary design and mitigation of impacts. During project development, projects authorized in an acknowledged TSP shall not be subject to further justification with regard to their need, mode, function, or general location. For purposes of this section, a project is authorized in a TSP where the TSP makes decisions about transportation need, mode, function and general location for the facility or improvement as required by this division.

(a) Project development does not involve land use decision-making to the extent that it involves transportation facilities, services or improvements identified in OAR 660-012-0045(1)(a); the application of uniform road improvement design standards and other uniformly accepted engineering design standards and practices that are applied during project implementation; procedures and standards for right-of-way acquisition as set forth in the Oregon Revised Statutes; or the application of local, state or federal rules and regulations that are not a part of the local government's land use regulations.

(b) Project development involves land use decision-making to the extent that issues of compliance with applicable requirements requiring interpretation or the exercise of policy or legal discretion or judgment remain outstanding at the project development phase. These requirements may include, but are not limited to, regulations protecting or regulating development within floodways and other hazard areas, identified Goal 5 resource areas, estuarine and coastal shoreland areas, and the Willamette River Greenway, and local regulations establishing land use standards or processes for selecting specific alignments. They also may include transportation improvements required to comply with ORS 215.296 or 660-012-0065(5). When project development involves land use decision-making, all unresolved issues of compliance with applicable acknowledged comprehensive plan policies and land use regulations shall be addressed and findings of compliance adopted prior to project approval.

(c) To the extent compliance with local requirements has already been determined during transportation system planning, including adoption of a refinement plan, affected local governments may rely on and reference the earlier findings of compliance with applicable standards.

(4) Except as provided in section (1) of this rule, where an Environmental Impact Statement (EIS) is prepared pursuant to the National Environmental Policy Act of 1969, project development shall be coordinated with the preparation of the EIS. All unresolved issues of compliance with applicable acknowledged comprehensive plan policies and land use regulations shall be addressed and findings of compliance adopted prior to issuance of the Final EIS.

(5) If a local government decides not to build a project authorized by the TSP, it must evaluate whether the needs that the project would serve could otherwise be satisfied in a manner consistent with the TSP. If identified needs cannot be met consistent with the TSP, the local government shall initiate a plan amendment to change the TSP or the comprehensive plan to assure that there is an adequate transportation system to meet transportation needs.

(6) Transportation project development may be done concurrently with preparation of the TSP or a refinement plan

Stat. Auth.: ORS 183 & 197.040
Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.712, 197.717
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDD 2-1999 f. & cert. ef. 1-12-99; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0055
Timing of Adoption and Update of Transportation System Plans; Exemptions

(1) MPOs shall complete regional TSPs for their planning areas by May 8, 1996. For those areas within a MPO, cities and counties shall adopt local TSPs and implementing measures within one year following completion of the regional TSP:

(a) If by May 8, 2000, a Metropolitan Planning Organization (MPO) has not adopted a regional transportation system plan that meets the VMT reduction standard in OAR 660-012-0035(4) and the metropolitan area does not have an approved alternative standard established pursuant to OAR 660-012-0035(5), then the cities and counties within the metropolitan area shall prepare and adopt an integrated land use and transportation plan as outlined in OAR 660-012-0035(5)(c)(A)-(E). Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years;

(b) When an area is designated as an MPO or is added to an existing MPO, the affected local governments shall, within one year of adoption of the regional transportation plan, adopt a regional TSP in compliance with applicable requirements of this division and amend local transportation system plans to be consistent with the regional TSP.

(c) Local governments in metropolitan areas may request and the commission may by order grant an extension for completing an integrated

land use and transportation plan required by this division. Local governments requesting an extension shall set forth a schedule for completion of outstanding work needed to complete an integrated land use and transportation plan as set forth in OAR 660-012-0035. This shall include, as appropriate:

(A) Adoption of a long-term land use and transportation vision for the region;

(B) Identification of centers and other land use designations intended to implement the vision;

(C) Adoption of housing and employment allocations to centers and land use designations; and

(D) Adoption of implementing plans and zoning for designated centers and other land use designations.

(d) Local governments within metropolitan areas that are not in compliance with the requirements of this division to adopt or implement a standard to increase transportation choices or have not completed an integrated land use and transportation plan as required by this division shall review plan and land use regulation amendments and adopt findings that demonstrate that the proposed amendment supports implementation of the region's adopted vision, strategy, policies or plans to increase transportation choices and reduce reliance on the automobile.

A plan or land use regulation amendment supports implementation of an adopted regional strategy, policy or plan for purposes of this section if it achieves the following as applicable:

(A) Implements the strategy or plan through adoption of specific plans or zoning that authorizes uses or densities that achieve desired land use patterns;

(B) Allows uses in designated centers or neighborhoods that accomplish the adopted regional vision, strategy, plan or policies; and

(C) Allows uses outside designated centers or neighborhood that either support or do not detract from implementation of desired development within nearby centers.

(2) For areas outside an MPO, cities and counties shall complete and adopt regional and local TSPs and implementing measures by May 8, 1997.

(3) By November 8, 1993, affected cities and counties shall, for non-MPO urban areas of 25,000 or more, adopt land use and subdivision ordinances or amendments required by OAR 660-012-0045(3), (4)(a)–(f) and (5)(d). By May 8, 1994 affected cities and counties within MPO areas shall adopt land use and subdivision ordinances or amendments required by OAR 660-012-0045(3), (4)(a)-(e) and (5)(e). Affected cities and counties which do not have acknowledged ordinances addressing the requirements of this section by the deadlines listed above shall apply OAR 660-012-0045(3), (4)(a)-(g) and (5)(e) directly to all land use decisions and all limited land use decisions.

(4)(a) Affected cities and counties that either:

(A) Have acknowledged plans and land use regulations that comply with this rule as of May 8, 1995, may continue to apply those acknowledged plans and land use regulations; or

(B) Have plan and land use regulations adopted to comply with this rule as of April 12, 1995, may continue to apply the provisions of this rule as they existed as of April 12, 1995, and may continue to pursue acknowledgment of the adopted plans and land use regulations under those same rule provisions provided such adopted plans and land use regulations are acknowledged by April 12, 1996. Affected cities and counties that qualify and make this election under this paragraph shall update their plans and land use regulations to comply with the 1995 amendments to OAR 660-012-0045 as part of their transportation system plans.

(b) Affected cities and counties that do not have acknowledged plans and land use regulations as provided in subsection (a) of this section, shall apply relevant sections of this rule to land use decisions and limited land use decisions until land use regulations complying with this amended rule have been adopted.

(5) Cities and counties shall update their TSPs and implementing measures as necessary to comply with this division at each periodic review subsequent to initial compliance with this division. Local governments within metropolitan areas shall amend local transportation system plans to be consistent with an adopted regional transportation system plan within one year of the adoption of an updated regional transportation system plan or by a date specified in the adopted regional transportation system plan.

(6) The director may grant a whole or partial exemption from the requirements of this division to cities under 10,000 population and counties under 25,000 population, and for areas within a county within an urban growth boundary that contains a population less than 10,000. Eligible jurisdictions may request that the director approve an exemption from all or part of the requirements in this division. Exemptions shall be for a period determined by the director or until the jurisdiction's next periodic review, whichever is shorter.

(a) The director's decision to approve an exemption shall be based upon the following factors:

(A) Whether the existing and committed transportation system is generally adequate to meet likely transportation needs;

(B) Whether the new development or population growth is anticipated in the planning area over the next five years;

(C) Whether major new transportation facilities are proposed which would affect the planning areas;

(D) Whether deferral of planning requirements would conflict with accommodating state or regional transportation needs; and

(E) Consultation with the Oregon Department of Transportation on the need for transportation planning in the area, including measures needed to protect existing transportation facilities.

(b) The director's decision to grant an exemption under this section is appealable to the commission as provided in OAR 660-002-0020 (Delegation of Authority Rule)

(7) Portions of TSPs and implementing measures adopted as part of comprehensive plans prior to the responsible jurisdiction's periodic review shall be reviewed pursuant to OAR chapter 660, division 18, Post Acknowledgment Procedures.

Stat. Auth.: ORS 183, 197.040 & 197.245

Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.610 - 197.625, 197.628 - 197.646, 197.712 & 197.717

Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 1-1993, f. & cert. ef. 6-15-93; LCDC 4-1995, f. & cert. ef. 5-8-95; LCDD 6-1998, f. & cert. ef. 10-30-98; LCDD 2-2000, f. & cert. ef. 2-4-00; LCDD 3-2004, f. & cert. ef. 5-7-04; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0065

Transportation Improvements on Rural Lands

(1) This rule identifies transportation facilities, services and improvements which may be permitted on rural lands consistent with Goals 3, 4, 11, and 14 without a goal exception.

(2) For the purposes of this rule, the following definitions apply:

(a) "Access Roads" means low volume public roads that principally provide access to property or as specified in an acknowledged comprehensive plan;

(b) "Collectors" means public roads that provide access to property and that collect and distribute traffic between access roads and arterials or as specified in an acknowledged comprehensive plan;

(c) "Arterials" means state highways and other public roads that principally provide service to through traffic between cities and towns, state highways and major destinations or as specified in an acknowledged comprehensive plan;

(d) "Accessory Transportation Improvements" means transportation improvements that are incidental to a land use to provide safe and efficient access to the use;

(e) "Channelization" means the separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. "Channelization" does not include continuous median turn lanes;

(f) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment. The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan;

(g) "New Road" means a public road or road segment that is not a realignment of an existing road or road segment.

(3) The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:

(a) Accessory transportation improvements for a use that is allowed or conditionally allowed by ORS 215.213, 215.283 or OAR chapter 660, division 6 (Forest Lands);

(b) Transportation improvements that are allowed or conditionally allowed by ORS 215.213, 215.283 or OAR chapter 660, division 6 (Forest Lands);

(c) Channelization not otherwise allowed under subsections (a) or (b) of this section;

(d) Realignment of roads not otherwise allowed under subsection (a) or (b) of this section;

(e) Replacement of an intersection with an interchange;

(f) Continuous median turn lane;

(g) New access roads and collectors within a built or committed exception area, or in other areas where the function of the road is to reduce

local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(h) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;

(i) Park and ride lots;

(j) Railroad mainlines and branchlines;

(k) Pipelines;

(l) Navigation channels;

(m) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;

(n) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and

(o) Transportation facilities, services and improvements other than those listed in this rule that serve local travel needs. The travel capacity and performance standards of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.

(4) Accessory transportation improvements required as a condition of development listed in subsection (3)(a) of this rule shall be subject to the same procedures, standards and requirements applicable to the use to which they are accessory.

(5) For transportation uses or improvements listed in subsections (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:

(a) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;

(b) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and

(c) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

(6) Notwithstanding any other provision of this division, if a jurisdiction has not met the deadline for TSP adoption set forth in OAR 660-012-0055, or any extension thereof, a transportation improvement that is listed in section (5) of this rule and that will significantly reduce peak hour travel time as provided in OAR 660-0120-035(10) may be allowed in the urban fringe only if the jurisdiction applies either:

(a) The criteria applicable to a "reasons" exception provided in Goal 2 and OAR 660, Division 4; or

(b) The evaluation and selection criteria set forth in OAR 660-012-0035.

Stat. Auth.: ORS 183, 197.040, 197.245, 215.213, 215.283 & 215.296
Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.712, 197.717, 197.232, 215.213 & 215.283
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDC 3-1995, f. & cert. ef. 3-31-95; ; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-012-0070
Exceptions for Transportation Improvements on Rural Land

(1) Transportation facilities and improvements which do not meet the requirements of OAR 660-012-0065 require an exception to be sited on rural lands.

(a) A local government approving a proposed exception shall adopt as part of its comprehensive plan findings of fact and a statement of reasons that demonstrate that the standards in this rule have been met. A local government denying a proposed exception shall adopt findings of fact and a statement of reasons explaining why the standards in this rule have not been met. However, findings and reasons denying a proposed exception need not be incorporated into the local comprehensive plan.

(b) The facts and reasons relied upon to approve or deny a proposed exception shall be supported by substantial evidence in the record of the local exceptions proceeding.

(2) When an exception to Goals 3, 4, 11, or 14 is required to locate a transportation improvement on rural lands, the exception shall be taken pursuant to ORS 197.732(1)(c), Goal 2, and this division. The exceptions standards in OAR chapter 660, division 4 and OAR chapter 660, division 14 shall not apply. Exceptions adopted pursuant to this division shall be deemed to fulfill the requirements for goal exceptions required under ORS 197.732(1)(c) and Goal 2.

(3) An exception shall, at a minimum, decide need, mode, function and general location for the proposed facility or improvement:

(a) The general location shall be specified as a corridor within which the proposed facility or improvement is to be located, including the outer limits of the proposed location. Specific sites or areas within the corridor may be excluded from the exception to avoid or lessen likely adverse impacts. Where detailed design level information is available, the exception may be specified as a specific alignment;

(b) The size, design and capacity of the proposed facility or improvement shall be described generally, but in sufficient detail to allow a general understanding of the likely impacts of the proposed facility or improvement and to justify the amount of land for the proposed transportation facility. Measures limiting the size, design or capacity may be specified in the description of the proposed use in order to simplify the analysis of the effects of the proposed use;

(c) The adopted exception shall include a process and standards to guide selection of the precise design and location within the corridor and consistent with the general description of the proposed facility or improvement. For example, where a general location or corridor crosses a river, the exception would specify that a bridge crossing would be built but would defer to project development decisions about precise location and design of the bridge within the selected corridor subject to requirements to minimize impacts on riparian vegetation, habitat values, etc.;

(d) Land use regulations implementing the exception may include standards for specific mitigation measures to offset unavoidable environmental, economic, social or energy impacts of the proposed facility or improvement or to assure compatibility with adjacent uses.

(4) To address Goal 2, Part II(c)(1) the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Further, the exception shall demonstrate that there is a transportation need identified consistent with the requirements of OAR 660-012-0030 which cannot reasonably be accommodated through one or a combination of the following measures not requiring an exception:

(a) Alternative modes of transportation;

(b) Traffic management measures; and

(c) Improvements to existing transportation facilities.

(5) To address Goal 2, Part II(c)(2) the exception shall demonstrate that non-exception locations cannot reasonably accommodate the proposed transportation improvement or facility. The exception shall set forth the facts and assumptions used as the basis for determining why the use requires a location on resource land subject to Goals 3 or 4.

(6) To determine the reasonableness of alternatives to an exception under sections (4) and (5) of this rule, cost, operational feasibility, economic dislocation and other relevant factors shall be addressed. The thresholds chosen to judge whether an alternative method or location cannot reasonably accommodate the proposed transportation need or facility must be justified in the exception.

(a) In addressing sections (4) and (5) of this rule, the exception shall identify and address alternative methods and locations that are potentially reasonable to accommodate the identified transportation need.

(b) Detailed evaluation of such alternatives is not required when an alternative does not meet an identified threshold.

(c) Detailed evaluation of specific alternative methods or locations identified by parties during the local exceptions proceedings is not required unless the parties can specifically describe with supporting facts why such methods or locations can more reasonably accommodate the identified transportation need, taking into consideration the identified thresholds.

(7) To address Goal 2, Part II(c)(3), the exception shall:

(a) Compare the long-term economic, social, environmental and energy consequences of the proposed location and other alternative locations requiring exceptions. The exception shall describe the characteristics of each alternative location considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the location for the proposed transportation facility or improvement, and the typical positive and negative consequences resulting from the transportation facility or improvement at the proposed location with measures designed to reduce adverse impacts;

(b) Determine whether the net adverse impacts associated with the proposed exception site, with mitigation measures designed to reduce adverse impacts, are significantly more adverse than the net impacts from other locations which would also require an exception. A proposed exception location would fail to meet this requirement only if the affected local government concludes that the impacts associated with it are significantly more adverse than the other identified exception sites. The exception shall include the reasons why the consequences of the needed transportation facility or improvement at the proposed exception location are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed

location. Where the proposed goal exception location is on resource lands subject to Goals 3 or 4, the exception shall include the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base; and

(c) The evaluation of the consequences of general locations or corridors need not be site-specific, but may be generalized consistent with the requirements of section (3) of this rule. Detailed evaluation of specific alternative locations identified by parties during the local exceptions proceeding is not required unless such locations are specifically described with facts to support the assertion that the locations have significantly fewer net adverse economic, social, environmental and energy impacts than the proposed exception location.

(8) To address Goal 2, Part II(c)(4), the exception shall:

(a) Describe the adverse effects that the proposed transportation improvement is likely to have on the surrounding rural lands and land uses, including increased traffic and pressure for nonfarm or highway oriented development on areas made more accessible by the transportation improvement;

(b) Demonstrate how the proposed transportation improvement is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses; and

(c) Adopt as part of the exception, facility design and land use measures which minimize accessibility of rural lands from the proposed transportation facility or improvement and support continued rural use of surrounding lands.

(9)(a) Exceptions taken pursuant to this rule shall indicate on a map or otherwise the locations of the proposed transportation facility or improvement and of alternatives identified under subsection (4)(c), sections (5) and (7) of this rule.

(b) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(10) An exception taken pursuant to this rule does not authorize uses other than the transportation facilities or improvements justified in the exception.

(a) Modifications to unconstructed transportation facilities or improvements authorized in an exception shall not require a new exception if the modification is located entirely within the corridor approved in the exception.

(b) Modifications to constructed transportation facilities authorized in an exception shall require a new exception, unless the modification is permitted without an exception under OAR 660-012-0065(3)(b)–(f). For purposes of this rule, minor transportation improvements made to a transportation facility or improvement authorized in an exception shall not be considered a modification to a transportation facility or improvement and shall not require a new exception.

(c) Notwithstanding subsections (a) and (b) of this section, the following modifications to transportation facilities or improvements authorized in an exception shall require new goal exceptions:

(A) New intersections or new interchanges on limited access highways or expressways, excluding replacement of an existing intersection with an interchange.

(B) New approach roads located within the influence area of an interchange.

(C) Modifications that change the functional classification of the transportation facility.

(D) Modifications that materially reduce the effectiveness of facility design measures or land use measures adopted pursuant to subsection (8)(c) of this rule to minimize accessibility to rural lands or support continued rural use of surrounding rural lands, unless the area subject to the modification has subsequently been relocated inside an urban growth boundary.

Stat. Auth.: ORS 183 & 197.040
Stats. Implemented: ORS 195.025, 197.040, 197.230, 197.245, 197.712, 197.717 & 197.732
Hist.: LCDC 1-1991, f. & cert. ef. 5-8-91; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

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Landscape Architect Board
Chapter 804

Rule Caption: This new division will provide all information about landscape architect business registration.
Adm. Order No.: LAB 2-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 1-1-06
Rules Adopted: 804-035-0035, 804-035-0040
Rules Amended: 804-030-0011
Rules Ren. & Amend: 804-030-0011 to 804-035-0010, 804-030-0011 to 804-035-0020, 804-030-0011 to 804-035-0030
Subject: Information about business registration was provided in OAR 804-030-0011 titled "Advertising." The Board has determined that Division 35 should be designated for information about Landscape Architect Business Registration. The section OAR 804-030-0011 remains, but with the business registration information removed to its own Division.
Rules Coordinator: Susanna R. Knight—(503) 589-0093

804-030-0011
Advertising

A registered landscape architect employed by a corporation or other business entity may advertise landscape architecture under the registrant's own name. A business registered with the State to provide landscape architectural services may advertise only under the registered business name.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.315
Hist.: LAB 2-1984, f. & ef. 5-1-84; LAB 2-1998, f. & cert. ef. 4-22-98; LAB 1-2001 (Temp), f. 12-24-01 cert. ef. 1-1-02 thru 5-1-02; Administrative correction 12-2-02; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 2-2006, f. & cert. ef. 6-26-06

804-035-0010
Qualifications for a Certificate of Authorization for Business Providing Landscape Architecture Services

(1) A business formed for the purpose of offering to provide or providing landscape architectural services is required to obtain a certificate of authorization from the board.

(2) Each such business shall meet the following requirements:

(a) For purposes of ORS 671.318, an "officer" of the business means an individual employed by the business in Oregon and having the authority on behalf of the business to enter into contracts for landscape architectural services and to otherwise make decisions regarding the execution and outcome of such services.

(b) Each business shall designate one or more registered landscape architects as being in responsible charge of the landscape architectural services and decisions of the business. In the case of a business with multiple offices, each office in Oregon shall have a designated registered landscape architect in responsible charge of that office.

(c) Each landscape architect designated as being in responsible charge of the business's landscape architectural activities and decisions shall file an affidavit of responsibility with the board.

(3) Each certified business shall notify the board in writing within 60 days of any change in:

(a) Address;

(b) Business status;

(c) Officer status; or

(c) Status of the person or persons designated as being in responsible charge of the landscape architectural services and decisions of the business.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.315
Hist.: LAB 2-1984, f. & ef. 5-1-84; LAB 2-1998, f. & cert. ef. 4-22-98; LAB 1-2001 (Temp), f. 12-24-01 cert. ef. 1-1-02 thru 5-1-02; Administrative correction 12-2-02; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 2-2006 f. & cert. ef. 6-26-06, Renumbered from 804-030-0011

804-035-0020
Application for Certificate of Authorization

(1) A business shall submit an application to the board, accompanied by the appropriate fee. See OAR 804-040-0000.

(2) The application shall be on forms prescribed by the board and shall contain the following information:

(a) Name and address of each partner, manager, officer, member, director, shareholder, or owner working in Oregon, indicating the professional status of each and their jurisdiction's registration number.

(b) Name and address of each landscape architect designated as being in responsible charge of the business's landscape architectural activities and decisions.

(c) Affidavit of responsibility from each landscape architect designated as being in responsible charge of the business's landscape architectural activities and decisions.

(3) Upon request, the applicant shall provide the Board with copies of document(s) regarding the formation and organizational structure and operation of the business, and any amendments to such documents, including, but not limited to, the following: articles of incorporation, by-laws, minutes, record of shareholders, partnership agreement, articles of organization, operating agreement, record of members, and annual reports.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.315
Hist.: LAB 2-1984, f. & ef. 5-1-84; LAB 2-1998, f. & cert. ef. 4-22-98; LAB 1-2001 (Temp), f. 12-24-01 cert. ef. 1-1-02 thru 5-1-02; Administrative correction 12-2-02; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 2-2006 f. & cert. ef. 6-26-06, Renumbered from 804-030-0011

804-035-0030
Issuance and Renewal of Certificate of Authorization

(1) Upon satisfactory completion of all requirements, the board may issue or renew a certificate of authorization. The certificate expires two years from the date of issuance or renewal unless earlier revoked, suspended, or not renewed under OAR 804-035-0040.

(2) The certificate may be renewed prior to its expiration date on the last day of the renewal month or within 30 days of the expiration date without payment of a late fee.

(3) A certificate of authorization issued by the board shall be displayed at the business's principal place of business in Oregon where the public can readily view it.

(4) A certificate that is not renewed within 30 days of its expiration date may be reinstated only as provided in OAR 804-035-0035.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.315
Hist.: LAB 2-1984, f. & ef. 5-1-84; LAB 2-1998, f. & cert. ef. 4-22-98; LAB 1-2001 (Temp), f. 12-24-01 cert. ef. 1-1-02 thru 5-1-02; Administrative correction 12-2-02; LAB 1-2005, f. & cert. ef. 2-14-05; LAB 2-2006 f. & cert. ef. 6-26-06, Renumbered from 804-030-0011

804-035-0035
Reinstatement of Expired Certificate of Authorization

To reinstate a certificate that has expired more than 30 days, the business must provide the following:

(1) A written request to the Board for reinstatement of the certificate explaining the reason for failing to renew within 30 days of the expiration date;

(2) Any additional information the Board may request for purposes of considering the request for reinstatement;

(3) Payment of the current biennial renewal fee;

(4) Payment of any delinquent biennial renewal fees; and

(5) Payment of late fees.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.315
Hist.: LAB 2-2006 f. & cert. ef. 6-26-06

804-035-0040
Revocation of Certificate of Authorization

The board may revoke, suspend, or refuse to renew a certificate if the board finds that the business has:

(1) Committed any act of dishonesty, fraud, or deceit in obtaining or attempting to obtain a certificate;

(2) Not notified the board of a change in status under OAR 804-035-0010(3);

(3) Not had a registered landscape architect in responsible charge of the landscape architectural services and decisions of the business;

(4) Not had a registered landscape architect as an owner or officer of the business;

(5) Violated any provision of ORS 671.310 to 671.459, 671.992, or 671.005, or any rule promulgated thereunder.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.315
Hist.: LAB 2-2006 f. & cert. ef. 6-26-06

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Oregon Criminal Justice Commission
Chapter 213

Rule Caption: Clarifies that Assault 1 where victim is under six years of age is always crime category 10.
Adm. Order No.: CJC 2-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 6-1-06
Rules Amended: 213-018-0020
Subject: This rule clarifies that where the victim of an assault in the First Degree is a child under six years of age, the offense is always a crime category 10.
Rules Coordinator: Craig Prins—(503) 378-4858

213-018-0020
Assault I (ORS 163.185)

(1) CRIME CATEGORY 10: Assault I shall be ranked at Crime Category 10 if the offender violated ORS 163.185(1)(b) or if the victim(s) did not substantially contribute to the commission of the offense by precipitating the attack.

(2) CRIME CATEGORY 9: Assault I shall be ranked at Crime Category 9 if the victim(s) substantially contributed to the commission of the offense by precipitating the attack.

Stat. Auth.: ORS 137.667
Stats. Implemented: ORS 137.667 - 137.669
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2006, f. 6-27-06, cert. ef. 7-1-06

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Oregon Department of Aviation
Chapter 738

Rule Caption: Establish rural airport pilot program to encourage through the fence operations.
Adm. Order No.: AVIA 3-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 4-1-06
Rules Adopted: 738-014-0010, 738-014-0020, 738-014-0030, 738-014-0035, 738-014-0040, 738-014-0050, 738-014-0060
Subject: Oregon Laws 2005, Chapter 820, directs the Department to adopt rules implementing a pilot program to encourage through the fence operations at three rural airports. Aurora State Airport is one of the three pilot airports by statutory designation. The rules establish a process for selecting the other two volunteer airports, adopt standards and guidelines for the program, and provide for pilot program evaluation. The purpose of the pilot program is to encourage economic development at these airports by creating family wage jobs, increasing local tax bases and increasing financial support for rural airports.
Rules Coordinator: Jennifer Kellar—(503) 378-4881

738-014-0010
Through the Fence Pilot Program: Purpose and Policy

OAR 738-014-0010 through 738-014-0060 implement ORS 836.640 and 836.642 [Or Laws 2005, ch 820]. The policy of the State of Oregon is to encourage and support the continued operation and vitality of Oregon's airports. These rules establish a pilot program at up to three rural airports to encourage development of through the fence operations designed to promote economic development by creating family wage jobs, by increasing local tax bases and by increasing financial support for rural airports.

Stat. Auth.: ORS 835.035, 836.642 & sec. 4, ch. 820, OL 2005
Stats. Implemented: ORS 836.640, 836.642 & ch. 820, OL 2005
Hist.: AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

738-014-0020
Definitions

In addition to the terms defined in OAR 738-005-0010, for purposes of OAR 738-014-0010 through 738-014-0050, the following definitions apply:

(1) "Airport boundary" is the geographical line around the airport as indicated in the airport layout plan. The areas that may be included in the airport are described in OAR 660-013-0040(1).

(2) "Customary and usual aviation-related activity" includes activities described in ORS 836.616(2) and includes activities that a local government may authorize pursuant to ORS 836.616(3).

(3) "Facility site plan" means a plan showing the boundary of a proposed through the fence operation, and indicating infrastructure requirements, building layout and operational plans.

(4) "Pilot site" means a rural airport selected to participate in the pilot program pursuant to OAR 660-014-0030 and the Aurora State Airport.

(5) "Rural airport" means an airport described in ORS 836.610 (1) that principally serves a city or standard metropolitan statistical area with a population of 75,000 or fewer.

(6) "Through the fence operation" means a customary and usual aviation-related activity that:

(a) Is conducted by a commercial or industrial user of property, not owned by the airport sponsor, within an airport boundary; and

(b) Relies, for business purposes, on the ability to taxi aircraft directly from the property employed for the commercial or industrial use to an airport runway.

Stat. Auth.: ORS 835.035, 836.642 & sec. 4, ch. 820, OL 2005
Stats. Implemented: ORS 836.640, 836.642 & ch. 820, OL 2005
Hist.: AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

738-014-0030
Selection of Volunteer Pilot Sites

(1) Airport sponsors interested in participating in the pilot program must make written application to ODA. ODA will establish the application form and deadline for applications.

(2) The application shall include:

(a) a letter from the governing body of the county in which each rural airport is located. The letter shall state the governing body concurs with the sponsor's request to be a pilot site and is prepared to assist in the amendment of comprehensive plans and land use regulations, if necessary, as required by ORS 836.642 and OAR 660, Division 13 (Department of Land Conservation and Development rules governing airport planning);

(b) a description of how the airport sponsor intends to encourage through the fence operations at the rural airport;

(c) a complete narrative description of public-private partnerships the sponsor intends to pursue, and how the partnerships would promote:

(1) Innovative and creative technologies for increasing airport usability and safety;

(2) Innovative and creative performance of aviation services to make the services more competitive and useful for the public;

(3) Development of the pilot site as a setting for customary and usual aviation-related activities to develop and thrive; and

(4) Shared responsibility for:

(A) Establishing and meeting the fiscal needs of the pilot site;

(B) Maintaining safety of operations; and

(C) Maintaining positive community relations and compatibility with existing uses.

(D) a description, to the extent practicable, of the types of innovative airport infrastructure and operations funding that will be sought to support the pilot airport; and

(E) a statement of the sponsor's willingness to participate in the pilot program evaluation process described in OAR 738-014-0035.

(3) ODA will review all applications submitted by the deadline, and rank the applications that meet the minimum requirements of these rules according to their ability to meet the goals of this pilot program and the quality of the application. ODA will submit its list of eligible airports in ranked order to the State Aviation Board.

(4) The State Aviation Board will review the applications and may select up to two airports for inclusion in this pilot program.

(5) Aurora State Airport is included in the pilot program as provided in ORS 836.642(2)(a).

Stat. Auth.: ORS 835.035, 836.642 & sec. 4, ch. 820, OL 2005
Stats. Implemented: ORS 836.640, 836.642 & ch. 820, OL 2005
Hist.: AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

738-014-0035
Pilot Program Evaluation Process

(1) The pilot program implemented by these rules is intended to support Oregon's economic development through encouragement of through the fence operations at certain pilot airports. The ODA will prepare annual written evaluations of the program and present its evaluation to the State Aviation Board and other interested persons at the first State Aviation Board meeting after July 1, beginning July 1, 2007. Airport sponsors of pilot sites will cooperate with the evaluation and provide the information needed to complete the evaluation.

(2) The evaluation shall include, but need not be limited to, the following information:

(a) Identify and describe the new through-the-fence operations located at the pilot site and the number of jobs at each business. Describe the origin of each new business (start-up, relocated from another location in Oregon, relocated from a location outside Oregon) and the net change in employment from the previous location, if applicable. Describe other economic benefits of each through-the-fence operation, if applicable.

(b) Describe efforts by the airport sponsor to plan for and encourage airport development. Include a review of the sponsor's efforts to obtain innovative sources of financing for infrastructure and operations, as described in ORS 836.642(6).

(c) Describe efforts by the local community, including the jurisdiction responsible for land use planning for the pilot site and local economic development agencies, to plan for and encourage airport development.

(d) Analyze ODA's costs for the pilot program during the evaluation period, including both costs associated with the Aurora State Airport as a pilot site and the general costs associated with the pilot program.

(e) Evaluate ODA expenditures at pilot site airports compared to other public airports.

(f) Report on the local planning and land use issues that arose with respect to the pilot program.

(g) Evaluate the impact of the pilot program on the efficiency of airport management and operations at each pilot site.

(h) Evaluate the impact of the pilot program on security for each pilot airport.

(3) ODA may also solicit written comments from the Federal Aviation Administration (FAA) and the Transportation Security Administration (TSA) and shall include those comments in the evaluation if received. ODA shall invite public comment on the pilot program and include the public comment in the final evaluation presented to the State Aviation Board.

Stat. Auth.: ORS 835.035, 836.642 & sec. 4, ch. 820, OL 2005
Stats. Implemented: ORS 836.640, 836.642 & ch. 820, OL 2005
Hist.: AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

738-014-0040
Revisions to Airport Facility Plans to Accommodate New Through the Fence Operations at Pilot Sites

(1) Each pilot site sponsor shall work with the appropriate local government to amend its Airport Layout Plan as necessary to address proposed new through the fence operations. Amendments must conform to ORS 836.610(1) and OAR chapter 660, division 13 (Airport Planning).

(2) The Oregon Department of Aviation may assist the pilot site airport sponsor in the development of the Airport Layout Plan by providing aviation planning advice, and by assisting in the coordination of involvement with the appropriate local government, state and federal agencies, including the Department of Land Conservation and Development, and the Economic and Community Development Department.

(3) Upon submittal of the appropriate land use applications, the county and city (if any) within whose jurisdiction a pilot site is located shall consider amendments to comprehensive plans and land use regulations, including zoning classifications pursuant to ORS 836.600 to 836.630, if necessary, to accommodate the pilot site through the fence operations.

Stat. Auth.: ORS 835.035, 836.642 & sec. 4, ch. 820, OL 2005
Stats. Implemented: ORS 836.640, 836.642 & ch. 820, OL 2005
Hist.: AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

738-014-0050
Standards and Guidelines for Through the Fence Operations

(1) The airport sponsor of a pilot site shall create a "Through the Fence Operations" operating plan for their airport, to accompany the Airport Layout Plan. The "Through the Fence Operations" operating plan shall include the following:

(a) Identify current operating costs and revenues for the pilot site airport. Describe how the through the fence operations will provide financial support to the pilot sites in compliance with FAA regulations.

(b) Require each through the fence operation to submit a facility site plan for its own property to the airport sponsor. The through the fence operation, in cooperation with the airport sponsor, then may proceed to seek any necessary land use approval from the appropriate local government. Any such approval must be made in compliance with statewide land use planning requirements. If the facility site plan is approved by the appropriate local government in compliance with applicable statewide land use planning requirements, the facility site plan shall be incorporated into the local government's airport plan and airport boundary.

(c) Require that each through the fence facility only be permitted to operate through a written contract with the airport sponsor that includes:

(1) Financial charges, including fuel flowage fees if applicable, that provide equitable and uniform treatment of all airport tenants and users at pilot sites.

(2) An approved development plan for the through the fence property.

(3) Aviation safety rules for the airport, and rules that facilitate the orderly management of the pilot sites.

(4) Identify the airport's role in Oregon's emergency response system, and the through the fence facility's role (if any) in assisting in maintaining these characteristics;

(5) Identify investments in pilot sites and the level of service provided by pilot sites, and the through the fence facility's role (if any) in assisting in maintaining these characteristics.

(6) Facilitate and foster good relations with the communities surrounding the pilot sites, including, for example, adhering to established airport noise abatement procedures, and adjusting operations as needed to cooperate with public community events which may occur at the airport from time to time.

Stat. Auth.: ORS 835.035, 836.642 & sec. 4, ch. 820, OL 2005
Stats. Implemented: ORS 836.640, 836.642 & ch. 820, OL 2005
Hist.: AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

738-014-0060
Airport-related Economic Development for the Community

(1) The pilot site airport sponsor shall coordinate with its county (and city if applicable) economic development departments to advance local economic development through qualified customary and usual aviation related activities within the airport boundaries of pilot sites. The development shall encourage well-ordered economic development within the airport boundaries of the pilot sites.

(2) Airport sponsors shall encourage, to the extent practical, the use of innovative funding and economic development programs at the airport to

assist in developing financial self-sufficiency of the airport, including but not limited to the programs described in ORS 836.642(6).

(3) The Economic and Community Development Department shall assist the pilot sites to:

(a) Identify, qualify for and apply for funding from appropriate grant and loan programs; and

(b) Develop innovative short-term and long-term funding opportunities.

Stat. Auth.: ORS 835.035, 836.642 & sec. 4, ch. 820, OL 2005
Stats. Implemented: ORS 836.640, 836.642 & ch. 820, OL 2005
Hist.: AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

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Oregon Department of Education
Chapter 581

Rule Caption: Changes the time period interscholastic activity organizations are approved from 5 years to 1 year.
Adm. Order No.: ODE 13-2006(Temp)
Filed with Sec. of State: 6-16-2006
Certified to be Effective: 6-16-06 thru 12-11-06
Notice Publication Date:
Rules Amended: 581-021-0034
Subject: Interscholastic activity organizations are required to be approved by the State Board of Education every five years. The temporary amendment would permit the currently approved interscholastic activity organizations to continue their activities under the current approval process, but would limit the approval to one year and would give notice to all affected organizations of the upcoming rulemaking and any subsequent change in requirements.
Rules Coordinator: Paula Merritt—(503) 378-3600, ext. 1113

581-021-0034
Administration of Interscholastic Activities

(1) The following definitions apply to this rule unless otherwise indicated in the context:

(a) "Student": A person of school age enrolled or seeking enrollment in an Oregon public school or a person who is home schooled and who meets the eligibility requirements of OAR 581-021-0033;

(b) "Interscholastic Activity": A public school activity with optional student participation which complements the curriculum, encourages students' physical, academic or social development, is supervised by school personnel and generally is conducted outside the instructional day. Interscholastic activity does not include those activities which utilize school facilities as authorized under ORS 332.172;

(c) "Organization": Any voluntary state or national body which administers an interscholastic activity for Oregon public schools and which is not chartered or otherwise regulated by the Department of Education;

(d) "State Board": Oregon State Board of Education;

(e) "Department": Oregon Department of Education.

(2)(a) An organization may apply to the State Board for approval to administer interscholastic activities by submitting:

(A) The application forms provided by the Department;

(B) A statement of the organization's purpose, including its charter, constitution, and bylaws;

(C) The organization's most recent set of financial statements; and

(D) The organization's academic and behavioral standards for student participation.

(b) Any change in documents required by subsection (a) of this section shall be submitted to the Department within 30 days of the change.

(3) To gain approval, the applicant organization must submit all required information and assure that the organization will:

(a) Comply with state and federal laws relating to Oregon public school students and administrative rules of the State Board;

(b) Not discriminate as discrimination is defined in ORS 659.150; and

(c) Complement, through its actions and activities, the State Board functions as defined in ORS 326.051(1)(a).

(4) Approval shall be for five school years, beginning with July 1 of the application year and ending on June 30 of the fifth year.

(5) Review of the organization's approved status may be ordered at anytime by the State Superintendent of Public Instruction or the State Board, and shall be ordered by the State Superintendent upon receipt of a written complaint alleging violation of section (3) of this rule.

(6)(a) An organization's authority to administer interscholastic programs may be revoked or suspended by the State Board or its designee if it is determined that the organization has not met the provisions of section (3) of this rule;

(b) No suspension or revocation shall be effective until the organization has had opportunity for a hearing under the provisions of ORS Chapter 183.

(7) Any final determination of an organization which determines a student to be ineligible to participate in interscholastic activities is appealable to the State Superintendent under procedures set forth at OAR 581-021-0035. "Final determination" is defined at OAR 581-021-0035(1).

(8) The Department shall maintain a list of those organizations approved by the State Board to administer interscholastic activities in Oregon public schools.

(9) Notwithstanding subsection (4) of this rule, interscholastic activity organizations that are approved by the state board on or after June 15, 2006 are approved until June 30, 2007.

Stat. Auth.: ORS 326, 339.030 & 339.035
Stats. Implemented: ORS 326.051 & 339.430
Hist.: EB 13-1988, f. & cert. ef. 3-15-88; EB 26-1992, f. & cert. ef. 7-28-92; ODE 13-2006(Temp), f. & cert. ef. 6-16-06 thru 12-11-06

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Oregon Housing and Community Services
Chapter 813

Rule Caption: Defines the purpose, elegibility and criteria for participating in the Vertical Housing Program.
Adm. Order No.: OHCS 8-2006
Filed with Sec. of State: 6-28-2006
Certified to be Effective: 6-28-06
Notice Publication Date: 5-1-06
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Rules Repealed: 813-013-0001(T), 813-013-0005(T), 813-013-0010(T), 813-013-0015(T), 813-013-0020(T), 813-013-0025(T), 813-013-0030(T), 813-013-0035(T), 813-013-0040(T), 813-013-0045(T), 813-013-0050(T)
Subject: The rules carry out the provisions of HB 2199, 2005 Oregon Laws, Oregon Chapter Law 119, as they pertain to the administration of the Vertical Housing Program. The program encourages construction or rehabilitation of properties in targeted area of communities in order to augment the availability of appropriate housing and to revitalize such communities. Division 813-013 sets forth relevant aspects of the Program, including the processes and criteria for the designation of Vertical Housing Development Zones (VHDZ), for the application and approval of Certified Projects, for the calculation of any applicable property tax exemptions, and for the monitoring and maintenance of properties as qualifying Certified Projects. Division 813-013 is not meant to interfere with the direct administration of property tax assessments by count assessors and does not supersede administration rules of the Department of Revenue in OAR Chapter 150 pertaining to the valuation of property for the purposes of property tax assessments as adopted or amended in the future for such purposes.

813-013-0001 sets forth the purpose and objectives of the Vertical Housing Program administered by Oregon Housing and Community Services. 813-013-0005 provides the definitions for common terms found within the rules. 813-013-0010 sets the process for Special Districts opting out of a Vertical Housing Development Zone (VHDZ). 813-013-0015 defines the process for applying to the department for the designation of a VHDZ. 813-013-0020 sets the Zone Designations and stipulates the notification process for the designation of a VHDZ. 813-013-0025 defines the process for a city or county within a VHDZ to acquire or dispose of real property for the purpose of developing a VHDZ. It also permits a city or county to sponsor a development project. 813-013-0030 defines the process for terminating or modifying a VHDZ. 813-013-0035 defines the process for filing an application for certification of a Project. 813-013-0040 sets the criteria for a Project to become certified and 813-013-0045 defines the department's process for reviewing, approving or denying Project applications. 813-013-0050 allows the department to charge a fee to cover the actual and anticipated costs of monitoring or otherwise addressing compliance by the Certified Project with program requirements. The rule also defines the process for modifications transfers of ownership of a Certified Project. 813-013-0054 establishes that the department may monitor and investigate

Certified Projects for compliance with Program requirements and other applicable law and has the authority to implement remedial action as it deems necessary or appropriate to enforce Department interests or Program requirements, up to and including decertification a Certified Project. 813-013-0061 defines the process and requirements for obtaining a property tax exemption. 813-013-0065 provides waiver language as provided for in Oregon statute.
Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-013-0001
Purpose and Objectives

(1) OAR chapter 813, division 013 is promulgated to carry out the provisions of ORS 307.841 to 307.867, as they pertain to the administration by the Housing and Community Services Department (Department) of the Vertical Housing Program. These rules and the related determinations and orders of the Department constitute the Department's Vertical Housing Program (Program). The purpose of the Program is to encourage Construction or Rehabilitation of properties in targeted areas of communities in order to augment the availability of appropriate housing and to revitalize such communities. Division 013 sets forth relevant aspects of the Program, including processes and criteria for the designation of Vertical Housing Development Zones (VHDZs), for the application and approval of Certified Projects, for the calculation of any applicable partial property tax exemptions, and for the monitoring and maintenance of properties as qualifying Certified Projects.

(2) Division 013 is not meant to interfere with the direct administration of property tax assessments by county assessors and does not supersede administrative rules of the Department of Revenue in OAR Chapter 150 pertaining to the valuation of property for purposes of property tax assessments as adopted or amended in the future for such purposes.

Stat. Auth.: ORS 456.555, 307.841 - 307.867
Stats. Implemented: ORS 456.555, 307.841 - 307.867
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0005
Definitions

As used in this Division 013, unless the context indicates otherwise:

(1) "Certified Project" means a multi-story development within a VHDZ that the Department certifies as a Vertical Housing Development Project qualifying for a vertical housing partial property tax exemption based on a proposal and description from a Project Applicant that conforms to Department requirements. Certified Projects approved by the Economic and Community Development Department of the State of Oregon (OECDD) prior to November 4, 2005, continue as Certified Projects notwithstanding assumption of administration of the Program by the Department on November 4, 2005. Such prior OECDD Certified Projects continue to maintain their accompanying partial property tax exemptions throughout their original terms unless all or part of such Certified Projects are subsequently modified or decertified by the Department. The prior OECDD Certified Projects are subject to the ongoing reporting and other requirements of this Division 013.

(2) "Construction" means the development of land, and the construction of improvements to land as further described in this Division 013.

(3) "Core Area of an Urban Center" means the central business district or downtown area of a community of any size. While VHDZs need not include a Core Area of an Urban Center, an application to establish a VHDZ should identify whether the proposed VHDZ includes a Core Area of an Urban Center and describe the areas so included. The Department may consider such information or the failure to provide same in determining the merits of the proposed VHDZ and its proximity and relationship to the needs and activities of VHDZ project residents. Core Areas of Urban Centers typically consist of one or more of the following:

(a) An existing central business district or downtown area according to the jurisdictions zoning ordinances, U.S. Census Bureau or comparable source of definition or designation;

(b) A defined central city, regional center, town center, main street and/or a station community in the Portland Metro 2040 Regional Growth Concept or a nodal development area in the Eugene-Springfield Metropolitan Area Transportation Plan;

(c) An area satisfying the definition for a commercial node, commercial center, community center, special transportation area or urban business area in the Oregon Highway Plan;

(d) A transit-oriented development or pedestrian/restricted-access district in the acknowledged comprehensive plan of the jurisdiction; or

(e) A similar type of area under official criteria, designation or standards.

(4) "Department" means the Housing and Community Services Department of the State of Oregon.

(5) "Director" means the Director of the Housing and Community Services Department or someone within the Department authorized to act on behalf of the Director for purposes of the Program.

(6) "Equalized Floor" means the quotient that results from the division of the total square footage of a Project (as determined by the Department) by the number of actual floors of the Project that are at least 500 square feet per floor unless the Department, in its discretion, increases the minimum square footage or otherwise qualifies the actual floors of a Project eligible to be used as a divisor in determining the Equalized Floor quotient. Factors that the Department may consider in determining whether or not to increase the square footage minimum or to impose other conditions for a qualifying divisor floor include, but are not limited to the following:

(a) The proximity of the actual floor under consideration to other floors in the Project;

(b) The extent of Construction or Rehabilitation on the actual floor under consideration;

(c) The use intended for the actual floor under consideration;

(d) The availability of the actual floor under consideration for use by prospective project tenants;

(e) No partial property tax exemption will be awarded for a partial Equalized Floor of residential housing and the maximum number of Equalized Floors in a Project is four (4). Accordingly, the Department will determine the number of residential Equalized Floors in a Project available for calculating a corresponding property tax exemption by capping potential Equalized Floors at four and by rounding down to the next complete Equalized Floor of residential housing. In other words, a Certified Project will contain exactly 1, 2, 3, or 4 residential Equalized Floors reflecting the number of complete Equalized Floors of a residential housing in a Project up to the maximum four(4) Equalized Floors;

(f) Patios, deck space, and parking normally will not be included by the Department in the determination of Equalized Floors. The Department may include any or all of such space in its determination of Equalized Floors if it concludes that such space is critical for the viability of the Project. Factors that the Department may consider in reaching such a conclusion include, but are not limited to the following:

(A) The effect of such spaces upon the economic viability of the Project;

(B) The degree to which such spaces are integral to the habitability of residential housing in the Project;

(C) The benefit of such spaces with respect to the revitalization of the community in which the Project is located; and

(D) The degree to which inclusion of such spaces modifies the calculation of Equalized Floors.

(7) "Light Rail Station Area means, consistent with ORS 307.603(3), an area defined in regional or local transportation plans to be within an one-half mile radius of an existing or planned Light Rail Station. While VHDZs need not necessarily include a Light Rail Station Area, a VHDZ Applicant must identify in a VHDZ application what part of the VHDZ, if any, does or will include a Light Rail Station Area. The Department may consider such information or the failure to provide same in determining the merits of a proposed VHDZ and its potential relationship to overall transportation needs.

(8) "Low-Income Residential Housing" means housing that is restricted to occupancy by persons or families whose initial income at occupancy or initial certification of the project is no greater than 80 percent of area median income, adjusted for family size, as determined by the Department. Owners must provide evidence satisfactory to the Department of such resident eligibility as required by the Department.

(9) "Non-Residential Areas" means square footage within a Certified Project used other than primarily for Residential Use or as common areas available primarily for Residential Use by residents of the residential housing within a Certified Project.

(10) "Project Applicant" means an owner of property within a VHDZ, who applies in a manner consistent with this Division, to have any or all such property approved by the Department as a Certified Project.

(11) "Rehabilitation" means the substantial repair or replacement of improvements (including fixtures) or land developments. In determining whether or not proposed or completed Rehabilitation is satisfactory or substantial, the Department may consider factors including, but not limited to:

(a) The quality and adequacy of design, materials and workmanship;

(b) The quantity of Rehabilitation in proportion to the total cost of the Project and between the area devoted to Residential Use and the amount of Non-Residential area;

(c) The distribution of Rehabilitation throughout the Project, including as it relates to the habitability of residential areas, and particularly Low-Income Residential Housing areas; and

(d) Generally, the value of the improvements on a Project must be at least 20% of the real market value of the entire Project on the last certified assessment roll before the Department, in consideration of other factors, will deem a proposed Rehabilitation to be "substantial" in nature.

(12) "Residential Use" means regular, sustained occupancy of a residential improvement by a person or family as the person's or family's primary domicile, including areas used primarily for transitional housing purposes, but not areas used primarily as:

(a) Hotels, motels, hostels, rooming houses, bed & breakfast operations or other such temporary or transient accommodations; or

(b) Nursing homes, hospital-type in-patient facilities or other living arrangements, even of an enduring nature, where the character of the environment is predominately care-oriented rather than solely residential.

(13) "Special District" means a Local Taxing District that is also of a type listed under ORS 198.010 or 198.180.

(14) "Transit Oriented Area" means, consistent with ORS 307.603(6), an area defined in regional or local transportation plans to be within one-quarter mile of a fixed route transit service. While VHDZs need not include a Transit Oriented Area, a VHDZ Applicant must describe what parts of the proposed VHDZ, if any, includes a Transit Oriented Area. The Department may consider such information, or the failure to provide same, in determining the merits of the proposed VHDZ and its potential relationship to established transit systems within the relevant community.

(15) "Vertical Housing Development Project" or "Project" means the Construction or Rehabilitation of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the Project may be dedicated to Residential Uses and a portion of the Project may be dedicated for use as Non-Residential Areas.

(16) "Vertical Housing Development Zone" or "VHDZ" or "Zone" means an area that has been and remains designated by the Department as a Vertical Housing Development Zone or an area that was officially designated by the Economic and Community Development Department (OECDD) prior to November 4, 2005, as a Vertical Housing Development Zone and which remains so designated.

(17) "VHDZ Applicant" means one or more cities or counties or a combination thereof, or their authorized agent(s) which seek the designation of a VHDZ within an area of their jurisdiction by making application to the Department.

Stat. Auth.:ORS 456.555, 307.841 - 307.867
Stats. Implemented: ORS 456.555, 307.841 - 307.867
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0010
Special Districts and Zone Applications

(1) To elect not to participate in a VHDZ, a Special District shall, within 45 days after the date on which proper written notification is mailed by the VHDZ Applicant to the Special District advising of the application to form a VHDZ:

(a) Inform the VHDZ Applicant in writing of its decision to opt out of the VHDZ designation; and

(b) Furnish to the VHDZ Applicant a copy of a resolution or other appropriate official instrument duly adopted and issued by the governing body of the Special District affirming its decision to opt out of the VHDZ designation.

(2)(a) Not later than 30 days after filing the application with the Department, and not later than 30 days after receiving a notice provided in 813-013-0010(4) , the VHDZ Applicant must submit to the Department, a final or supplemental statement, satisfactory to the Department identifying the Special Districts (if any) that have opted out of the VHDZ designation.

(b) The statement required in paragraph (2)(a) shall specifically list each Special District opting out of the VHDZ designation, together with a copy of the instrument(s) provided to the VHDZ Applicant by each such Special District.

(c) Simultaneously with the submission of the statement in paragraph (2)(a), the VHDZ Applicant also shall send a copy of each statement by a Special District opting out of a VHDZ designation to the Special Districts Association of Oregon ("SDAO"), in Salem (Attn: 'Vertical Housing Development Zone') and to other affected Special Districts within the proposed VHDZ that are not part of SDAO.

(3) A Special District that fails to respond according to 813-013-0010(1) will be subject to the VHDZ designation and excluded from being listed as described in 813-013-0010(2).

(4) A Special District that forms after the approval of a VHDZ may opt out of participating in a VHDZ. To opt out, the Special District must provide:

(a) Written notice post-marked to the assessor and VHDZ Applicant on or before July 1 of the first tax year in which it would impose a tax on the Project; and

(b) A copy of a resolution or other appropriate official instrument duly adopted and issued by the governing body of the Special District affirming its decision to opt out of the VHDZ designation.

(5) The decision by a Special District to opt out of a VHDZ will be effective for the tax year that begins on the next July 1, after notification to the county assessor by the Department pursuant to OAR 813-013-0020(1), or by a new Special District pursuant to 813-013-0010(4).

Stat. Auth.:ORS 456.555, 307.841 - 307.867
Stats. Implemented: ORS 456.555, 307.841 - 307.867
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0015
Content and Processing of Zone Applications

(1) A VHDZ Applicant may apply to the Department for the designation of a VHDZ as long as the VHDZ Applicant has provided notification of such intended action to Special Districts within the proposed VHDZ in form satisfactory to the Department not less than 15 calendar days prior to filing the application.

(2) The application must be made in such form and with such detail and information as the Department may require. The Department may require a VHDZ Applicant to provide supplemental information to and clarification of its application, as the Department deems appropriate.

(3) Applications must be delivered to the Department at the following address: Oregon Housing and Community Services Vertical Housing Program, Housing Division 725 Summer Street NE, Suite B PO Box 14508 Salem, Oregon 97309-0409.

(4) An application, at a minimum, must contain:

(a) Copies of the resolutions adopted by the governing body of each city and/or county comprising the VHDZ Applicant and requesting (or as applicable, consenting to) designation of the proposed VHDZ;

(b) A listing of all Special Districts within the proposed VHDZ, a copy of the written notification mailed to them, and a signed certification of mailing by the VHDZ Applicant to the Special Districts in accordance with 813-013-0015(1);

(c) A description of the area sought by the VHDZ Applicant to be designated as the VHDZ, including but not limited to a scale map clearly showing the proposed VHDZ boundary and a complete list of property tax accounts with corresponding tax lot numbers to be encompassed by the VHDZ. A designated VHDZ may include separate, non-contiguous property areas. VHDZ boundaries also may be designated vertically to limit the height and/or the number of floors of structures that may qualify as part of a Certified Project within various parts of the VHDZ; and

(d) Documentation satisfactory to the Department establishing that the area proposed for VHDZ designation is within the jurisdiction(s) of the VHDZ Applicant.

(5) The Department will act reasonably to review applications submitted by a VHDZ Applicant.

(6) The Department may conduct its own investigation, including the procurement and review of materials and information outside of the application, to assist it in its review or reconsideration of an application.

(7) The Director will endeavor to approve or deny applications within 60 days of the Department's receipt of a complete application, the receipt of such other information or clarification as it may require of the VHDZ Applicant, and the completion of any Department investigation. The Department will not approve any application before receiving statements required under 813-013-0015(4). The Department may decline further consideration of or deny any application if it determines that the VHDZ Applicant has been untimely or unresponsive with respect to providing required or requested information.

(8) If an application is denied in whole or in part, the Department will send a written explanation to the VHDZ Applicant of such determination.

(9) The Department may approve or deny any application, in whole or in part, based upon factors including but not limited to:

(a) The VHDZ Applicant's compliance with the requirements of this Division 013;

(b) The proposed VHDZ's location inside or outside of the jurisdiction(s) of the VHDZ Applicant;

(c) The accuracy and completeness of the application and any other information requested from the VHDZ Applicant by the Department;

(d) Conformance by the VHDZ Applicant and the proposed VHDZ with applicable law; and

(e) The Department's determination of the suitability of the proposed VHDZ, or parts thereof, for accomplishing the purposes of the Program.

(10) A Department determination to approve or deny any or all of an application is final and not subject to further administrative or judicial

review. The Department may reconsider such determinations at any time and to the degree that it determines to be appropriate.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.844 - 307.851
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0020
Zone Designations

(1) The Department will send a copy of any designation of a VHDZ to the VHDZ Applicant, the Department of Revenue and to any affected county assessor(s) office. The Department will include with the notification to the county assessor:

(a) Copies of materials delineating the area of the VHDZ; and

(b) The name of any Special District that opted out of the VHDZ.

(2) Once designated, a VHDZ shall continue to exist indefinitely, except as provided otherwise in this Division 013.

(3) The boundary of a VHDZ may be modified. To modify a VHDZ, the VHDZ Applicant must apply for such modification to the Department in accordance with the same procedures established herein for the approval of a VHDZ, except the notice to Special Districts required under OAR 813-013-0015(4) is only required for any Special Districts that are included in new territory added by the boundary modification. A Certified Project will continue to have its associated tax exemptions throughout the initial designated term of those exemptions, regardless of any subsequent modification of the VHDZ.

(4) VHDZ Applicants may seek to have the Department approve multiple VHDZs within their jurisdictions.

(5) The boundaries of VHDZs may not overlap. A property may only be in one VHDZ.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.844 - 307.851
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0025
Municipally Sponsored Development Projects

(1) Cities and Counties may acquire or dispose of real property located in a VHDZ for the purpose of developing Projects. Property acquired by a city or county within a VHDZ may be sold by the city or county at real market value or, if it will prudently encourage the development of a Project, at a lesser value. This authority is in addition and without prejudice to any authority by a city or county that otherwise exists under the laws of this state to acquire or dispose of property.

(2)(a) Development of Projects may be undertaken by a city or county independently, jointly or in partnership with a private person or entity.

(b) Development of Projects also may be undertaken by private persons or entities acting independently of city or county ownership.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.854
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0030
Zone Termination or Modification

(1) A VHDZ Applicant that initiated the designation of a VHDZ may request that the Department terminate all or part of the VHDZ provided that:

(a) The VHDZ Applicant furnishes to the Department copies of resolution(s) from the applicable governing body(ies), adopted not more than 60-days prior to the termination request, that approve the request to terminate the VHDZ; and

(b) The request otherwise contains such information and is in such form as the Department may require.

(2) The Department may waive the requirement for approval by all VHDZ Applicant(s) if the requested termination is partial in nature and applies only to areas exclusively within the jurisdiction of those VHDZ Applicant(s) seeking the partial termination.

(3) In issuing a VHDZ termination determination, the Department may make the termination effective at any time within 90 days from receiving a conforming request, taking into account factors including, but not limited to, pending applications for approval of Certified Projects.

(4) The Department may approve a Certified Project between the time of a request for VHDZ termination and its termination if the application for certification of the Project was pending with the Department prior to the Department's receipt of a request for VHDZ termination. However, the Department may consider the request for VHDZ termination in determining whether or not to approve the application for a Certified Project.

(5) The Department will send notice of its termination of a VHDZ to the VHDZ Applicant, affected county assessors, and owners of Certified Projects, of whom the Department is aware.

(6) Subsequent VHDZs may include areas from a terminated VHDZ. A new VHDZ may be designated, or an existing VHDZ expanded or reduced, so that there is no discontinuance of a VHDZ designation for any areas where the VHDZ designation is intended to endure.

(7) VHDZ Applicants seeking to form a new VHDZ from the territory of an existing VHDZ or to expand a VHDZ, will follow the procedures and other directives of the Department for seeking approval of a VHDZ designation from the Department.

(8) The Department may terminate all or part of a VHDZ on its own initiative, or at the request of any person, if the Department determines that the VHDZ fails to satisfy the criteria under this Division 013 for the establishment or maintenance of a VHDZ. Any such termination determination will not affect existing Certified Projects and is not subject to administrative or judicial review. The Department may reconsider any such determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.844 - 307.851, 307.857, 307.861
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0035
Project Certification Applications

(1) A Project Applicant may file an application for certification of a Project by completing the Vertical Housing Project application form, as prescribed by and available from the Department, and by delivering it during normal business hours or by mail to: Oregon Housing and Community Services Vertical Housing, Housing Division 725 Summer Street NE, Suite B PO Box 14508 Salem, Oregon 97309-0409.

(2) Projects must be described in terms of entire tax lots. Projects may not include partial tax lots.

(3) The Project Applicant must provide both a legible and scaled site plan and a legal description of the land for the proposed Project.

(4) To be for 'Residential Use' or for 'Non-Residential use' does not mean that a building floor is actually being occupied accordingly, but rather that it is at least intended and ready for such use and is not converted or occupied for a contrary use.

(5) Low-Income Residential Housing floors or units must be set-aside as such for the entire tax year and occupied only by people who are income eligible in order for the Project to qualify for the low income vertical housing exemptions on land.

(6) The Non-Residential use of a particular floor or floors may be satisfied even if the entire floor is not devoted to that use.

(7) The Department will review applications upon their appropriate delivery subject to, but not limited to:

(a) Applications being complete and consistent with Department requirements; and

(b) Delivery to the Department of an application processing charge, monitoring charge and any other related charges. In determining charges for each Project Applicant, the Department may consider factors including, but not limited to, known and expected costs in processing the application, effecting appropriate monitoring of the Project and otherwise administering the Program with respect to the Project. Payment of charges may be made by check or money order payable to the Department and must be submitted along with the Project Application or as otherwise required by the Department.

(8) For new Construction Projects to qualify for certification, the application must be delivered to the Department before:

(a) The relevant permitting authority has issued a temporary or permanent certificate of occupancy; or

(b) If no certificate of occupancy is required, then occupancy otherwise is effectively prevented because the proposed Certified Project has not yet been completed.

(9) For Rehabilitation Projects to qualify for certification, the application must be delivered to the Department at any stage of the Rehabilitation, but not after Rehabilitation work on the Project is complete. The Department may provide a preliminary certification of the Project pending completion of the Rehabilitation of the Project. Notification of the Project's completion, together with appropriate documentation of the actual costs of the Rehabilitation and the real market value of the pre-rehabilitated Project must be forwarded by the Project Applicant to the Department within 90 days of Project completion. The Department may certify all or part of a rehabilitated Project or of a Project where the Rehabilitation is still in progress as a Certified Project.

(10) Project Applicants must provide the following information in a manner satisfactory to the Department:

(a) The address and boundaries of the proposed Project including the tax lot numbers, a legible and scaled site plan of the proposed Project, and a legal description of the land involved in the Project for which a partial tax exemption is sought by the Project Applicant;

(b) A description of the existing condition of the proposed Project property;

(c) A description of the proposed Project including, but not limited to current architectural plans that include verifiable square footage measurements, verified statements of Rehabilitation costs; and designation of the number of Project floors;

(d) A description of all Non-Residential Areas with related and total square footages, and identification of all non-residential uses ;

(e) A description of all Residential Uses and residential areas with related and total residential square footages;

(f) A description of the number and nature of Low-Income Residential Housing units with related and total Low-Income Residential Housing square footages;

(g) Confirmation that the Project is entirely located in an established VHDZ;

(h) A commitment from the Project Applicant, acceptable to the Department, that the Project will be maintained and operated in a manner consistent with the Project application and the Program for a time period acceptable to the Department and not less than the term of any related property tax exemption;

(i) A calculation quantifying the various uses of the Project in total and by each Equalized Floor including allocations to Residential Uses, the allocations to Low-Income Residential Housing uses, and the allocations to Non-Residential Areas; and;

(j) Such other information as the Department, in its discretion, may require.

(11) The Project application must be submitted and received by the Department on or before the new Construction residential units are ready for occupancy or the Project Rehabilitation is complete;

(12) The Department may request such other information from a Project Applicant and undertake any investigation that it deems appropriate in processing any Project application or in the monitoring of a Certified Project. By filing an application, a Project Applicant irrevocably agrees to allow the Department reasonable access to the Project and to Project-related documents, including the right to enter onto and inspect the Project property and to copy any Project-related documents.

(13) To qualify to be a Certified Project, the Rehabilitation of any existing improvement must substantially alter and enhance the utility, condition, design or nature of the structure. In its application, the Project Applicant must verify such substantial alteration and enhancement. The following actions, by themselves, are not sufficient to satisfy this substantial alteration and enhancement requirement irrespective of cost or implementation throughout a Project:

(a) Ordinary maintenance and repairs;

(b) Refurbishment or redecoration that merely replaces, updates or restores certain fixtures, surfaces or components; or

(c) Similar such work of a superficial, obligatory or routine nature

(14) Unless an exception is granted by the Department, Projects "in progress" at the time of application may include only costs incurred within six (6) months of the application date. Factors that the Department may consider in determining whether or not to grant an exception to the six (6)-month limitation on costs include, but are not limited to the following:

(a) Delay due to terrorism or acts of God;

(b) Delay occasioned by requirements of the Department;

(c) Resultant undue hardship to the Project Applicant;

(d) The complexity of the Project; and

(e) The benefit of the Project to the Community.

(15) For applications filed before Project completion, the Department may provide a conditional letter of prospective certification of the Project pending its completion. To obtain a final certification of the Project, the Project Applicant must provide timely notification to the Department of the Project's completion, together with a copy of the certificate of occupancy and other information as the Department may require. A Project Applicant must provide the notice and required documentation to the Department within 90 days of Project completion which is typically the date of the certificate of occupancy unless the Department determines that another date is more appropriate.

(16) If an application is rejected for failure to meet Department review requirements, then:

(a) The Department will notify the Project Applicant that the application has been rejected; and

(b) The Department, at its own discretion, may allow the resubmission of a rejected application for Project certification ("as is" or with appropriate corrections or supplementations) or may reconsider a determination by it to reject an application. Factors that the Department may consider in allowing a resubmission of a rejected application or the reconsideration of a determination by it to reject an application include, but are not limited to the following:

(A) Whether or not rejection results in undue hardship to the Project Applicant;

(B) The best interests of the Community;

(C) The level of cooperation from the Project Applicant;

(D) The level and materiality of initial non-compliance by the Project Applicant, and;

(E) Mitigation of any initial non-compliance by the Project Applicant.

(c) If the Department accepts for review a previously rejected application, it may do so, at its sole discretion, on a prospective basis or based upon the original date of filing. Factors that the Department may consider in determining the date to apply to a previously rejected application include, but are not limited to the following:

(A) Whether or not occupancy or readiness to occupy residential units in the Project has occurred since the original application;

(B) Whether or not undue hardship would result to the Project Applicant;

(C) The best interests of the Community; and

(D) The level and materiality of non-compliance in the initial application.

(17) The Department will evaluate each accepted application to determine whether or not to certify the proposed Project.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 307.844, 307.857

Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0040

Project Criteria

(1) A Project, to qualify for Department certification, must satisfy each of the following criteria:

(a) The Project must be entirely located within an approved VHDZ;

(b) The Project must be comprised of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the Project is to be used for Non-Residential uses and a portion of the Project is to be used for Residential Use;

(c) A portion of the Project must be committed, to the Department's satisfaction, for Residential Use and a portion of the Project must be committed, to the Department's satisfaction, for use as Non-Residential Use.

(d) The commitment to Non-Residential Use must be accomplished as follows:

(A) For a Project site that has frontage on one Public Street, at least 50% of the Project's Public Street-fronting ground floor facades must be committed for Non-Residential use;

(B) For a Project site that has frontage on more than one Public Street, the developer must designate one of the Public Streets as the Project's primary Public Street. One-hundred percent (100%) of the Project's primary Public Street-fronting ground floor facades must be committed for Non-Residential use;

(C) "Committed for Non-Residential Use" means that all interior spaces adjacent to the Public Street-frontage exterior facade are constructed to building code standards for commercial use, are planned for commercial use upon completion, or both;

(D) For purposes of this rule, "Public Streets" include all publicly-owned streets, but does not include alleys.

(e) Each phase of a phased development, whether vertical or horizontal, will be treated as a separate Project for application purposes

(f) Each Project must be on its own independent legal tax lot(s).

(g) Construction or Rehabilitation must be or have been undertaken with respect to each building or associated structure included in the Project, including but not limited to, additions that expand or enlarge an existing building;

(h) The Project application must be complete and fully satisfactory to the Department;

(i) The Project application must be received by the Department on or before the residential units are ready for occupancy (certificate of occupancy). For Rehabilitation not involving tenant displacement, the Project application must be filed before the Rehabilitation work is complete;

(j) Calculation of Equalized Floors is adequately documented;

(k) Documentation, satisfactory to the Department, establishes the costs of Construction or Rehabilitation of Project land developments and improvements, as applicable; and

(l) The Project square footage calculations do not include parking, patio, or porch areas unless these elements can be demonstrated by Project Applicant to the satisfaction of the Department that they are economically necessary to the Project and the Department otherwise determines that it is appropriate to grant an exception for the inclusion of any or all of such areas in the Project;

(2) Certified Projects with at least one Equalized Floor of Low-Income Residential Housing may qualify for a partial property tax exemp-

tion with respect to the land contained within the tax lot upon which the Certified Project stands, but will not qualify for a partial property tax exemption under the Program for land adjacent to or surrounding the Certified Project contained in separate tax lots. Excess or surplus land that is not necessary for the Project, as determined by the Department, will not be eligible for partial exemption; and ;(3) Low-Income Residential Housing units in the Certified Project must continue to meet the income eligibility requirements for the definition of Low-Income Residential Housing for the entire period for which the vertical housing Project is certified.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.844, 307.857
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0045
Department Certification of Projects

(1) The Department will endeavor to process each accepted application and make a determination whether or not to approve such application, in whole or in part, within 60 days of when the accepted application is received by the Department at its Salem Office.

(2) If the application is approved, the Department will:

(a) Issue a letter to the Project Applicant describing the Certified Project with an explanation of the partial property tax exemption effective for the Certified Project; and

(b) Send a copy of the Project information to the county assessor(s) of the county or counties in which the Certified Project is located.

(3) The owner of a Certified Project must execute and record a Project Use Agreement, including restrictive covenants running with the land and equitable servitudes, satisfactory to the Department in the appropriate county or counties of record. Recordation of such instruments satisfactory to the Department constitutes a condition precedent to the approval of the Certified Project taking legal effect. The Department may void any Certified Project approval for failure to timely record and provide the Department with a copy of any such instruments. The owner shall be responsible for the cost of recording and providing satisfactory evidence to the Department that such instruments have been properly recorded.

(4) If the application is denied, the Department will send written notice of the denial to the Project Applicant. At its option, the Department may allow reapplication by the Project Applicant consistent with 813-013-0035. .

(5) Certification by the Department of a Project may be partial in scope. The Department's letter of approval will identify what portions of the property and improvements included in the Project application constitute the Certified Project.

(6) The letter of approval from the Department also may include such information and instructions as the Department deems appropriate.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.857, 307.861
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0050
Project Monitoring/Decertification

(1) A monitoring charge shall be paid by the Project Applicant to the Department at the time of Project application, or as otherwise directed by the Department, to cover the Department's actual and anticipated costs of monitoring and otherwise addressing compliance by the Certified Project with Program requirements including, without limitation ORS 307.841 to 307.861 and other applicable law. The Department may consider factors including but not limited to the following in determining the amount of this monitoring charge:

(a) The size of the Project;
(b) The number of residential housing units;
(c) Project uses;
(d) Project location;
(e) The duration and complexity of compliance requirements;
(f) The level and amount of staff or other services involved;
(g) The use of supplies, equipment or fuel; and
(h) The number of separate sites and/or buildings.

(2) If the Project includes Low-Income Residential Housing, the Project Applicant must pay a supplemental monitoring charge to the Department at the time of Project application, or as otherwise directed by the Department, to cover the Department's actual and anticipated costs of monitoring and otherwise addressing compliance by the Certified Project with Program requirements including, without limitation ORS 307.841 to 307.861 and other applicable law. The Department may consider factors including, but not limited to those in 813-013-0050(1) and the nature of the Low-Income Residential Housing population in determining the amount of this supplemental monitoring charge.

(3) The Department may condition its approval of a Certified Project upon payment by Project Applicant of the applicable charges described above in 813-013-0050(1) and (2). The Department may void or terminate the certification of all or a portion of a Certified Project if such charges, or any part thereof, are not timely paid.

(4) Modifications to or transfers of ownership of a Certified Project must receive prior written approval from the Department. The Department will not unreasonably withhold its approval of such modifications to or transfers of ownership. The Department may void or terminate the certification of all or a portion of a Certified Project if modifications to or transfers of ownership are made without its prior written approval except where such modifications or transfers occur by operation of law following death or divorce.

(5) If there are proposed or actual modifications to or transfers of ownership of the Certified Project, the Certified Project owner shall notify both the county assessor and the Department of the new owner's name, contact person, mailing address and phone number within 30 days of the change.

(6) The Department may require the Certified Project owner to pay an administrative charge to cover the Department's actual and anticipated costs of reviewing and processing such modification or transfer including, without limitation, effecting the legal review, amendment, execution or recording of related documents. The Department may consider factors including, but not limited to those in 813-013-0050(1) in determining the amount of this administrative charge

(7) The Department may condition its approval of a modification to or transfer of ownership in a Certified Project upon payment by the Certified Project owner of the administrative charge described above in 813-013-0050(6). The Department may void or terminate the certification of all or a portion of a Certified Project if such an administrative charge, or any part thereof, is not timely paid.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.857, 307.861
Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0054
Monitoring; Investigations; Remedies; Decertifications

(1) The Department may monitor and investigate Certified Projects for compliance with Program requirements and other applicable law as it deems appropriate. By making application for approval of a Certified Project, Project Applicants irrevocably agree and give their consent that the Department may enter onto the premises of and inspect all portions of the Project as well as review and copy Project documents in the course of its monitoring and investigatory actions. Project Applicants further agree to cooperate fully with such Department monitoring and investigatory actions.

(2) The Department may undertake any remedial action that it determines to be necessary or appropriate to enforce Department interests or Program requirements including, without limitation, commitments provided by Project Applicants in the final application and Certification. Remedial actions may include, but are not limited to:

(a) The requesting of Project documentation;

(b) The issuance of orders and directives with respect to the Project or otherwise:

(c) The initiation and prosecution of claims or causes of action, whether by administrative hearing, civil action or otherwise (including, without limitation, actions for specific performance, appointment of a receiver for the Certified Project, injunction, temporary restraining order, recovery of damages, collection of charges, etc.); and

(d) The decertification of all or a portion of a Certified Project.

(3) Prior to decertifying all or part of a Certified Project and directing the county assessor to disqualify all or part of the Project for partial property tax exemption treatment, the Department shall issue a decertification notice to the Certified Project owner identifying relevant factors among the following:

(a) The property decertified from the Project;

(b) The number of Equalized Floors that have ceased qualifying as residential housing for purposes of the Program;

(c) The number of Equalized Floors that have ceased qualifying as Low-Income Residential Housing for purposes of the Program;

(d) The remaining number of Equalized Floors of residential housing in the Project and a description of the property of each remaining Equalized Floor;

(e) The remaining number of Equalized Floors of Low-Income Residential Housing in the Project and a description of the property of each remaining Equalized Floor of Low-Income Residential Housing; and

(f) Such other information as the Department may determine to provide.

(4) Prior to issuance of a notice of decertification, the Department will provide the Certified Project owner with notice of an opportunity to correct first-time Program non-compliance within a reasonable amount of time as determined by the Department. The Department also may elect to provide the Certified Project owner with notice of an opportunity to correct repeat Program non-compliance within a reasonable amount of time as determined by the Department. In deciding whether or not to provide the Certified Project owner with notice of an opportunity to correct repeat Program non-compliance and in determining how much time to provide the Certified Project owner to correct any noticed Program non-compliance, the Department may consider factors including, but not limited to:

(a) The severity of the non-compliance;

(b) The impact of non-compliance upon Project tenants and patrons;

(c) The public interest in appropriate and affordable housing;

(d) The public interest in the revitalization of relevant communities;

(e) The cost and time reasonably necessary to correct Program non-compliance; and

(f) The past history of compliance and non-compliance by the Project owner.

(5) For those instances where the Department has elected to provide notice to a Certified Project owner if its non-compliance, if the Department determines that the Certified Project owner has failed to correct any noticed Program non-compliance within the time allowed by the Department in its notice, the Department may issue the notice of decertification identified above in 813-013-0054(3) and direct the county assessor to disqualify all or a portion of the Project from property tax exemption under the Program. The Department also may issue a notice of decertification and direct the county assessor to disqualify all or a portion of a Project from property tax exemption under the Program with respect to Program non-compliance for which it determines not to provide prior notice and an opportunity for non-compliance correction.

(6) The effective date of a decertification is the effective date of same provided in the notice of decertification identified above in 813-013-0054(3). The effective date of a decertification may be retroactive from the date of the actual notice of decertification only to the commencement of the non-compliance for which the decertification is issued as determined by the Department. In determining whether or not to make the decertification retroactive, the Department may consider factors including, but not limited to those identified above in 813-013-0054(4), the intentional nature of the non-compliance, and when the owner or its agents became aware or reasonably should have become aware of the non-compliance.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.861, 307.864
Hist.: OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0061
Partial Property Tax Exemptions for Certified Projects

(1) In order to receive a partial property tax exemption under this Division 013, the Certified Project owner, the Project Applicant or other person responsible for the payment of property taxes on the Certified Project must notify the county assessor of the county in which the Certified Project exists, that the Project has been approved by the Department as a Certified Project and qualifies for a partial property tax exemption.

(2) The notification described above in 813-013-0061(1) must be delivered to the county assessor in writing on or before April 1 preceding the first tax year for which the partial property tax exemption is sought.

(3) Except as modified by 813-013-0061(4) and (5) of this rule, the exemption applies to the Construction or Rehabilitation of real property improvements associated with the Certified Project or the inclusion of affordable housing on the Certified Project, in each of the tax years for which the exemption is available, including but not limited to land development.

(4) The property exemption rate equals 20 percent (0.2) multiplied by the number of fully Equalized Floors (among all associated buildings exempt in that year), up to but not exceeding four such Equalized Floors, that are:

(a) For Residential Use; and

(b) Constructed or Rehabilitated as part of the Vertical Housing Development Project. For purposes of calculating the partial property exemption, the Equalized Floor quotient is rounded down to whole numbers reflecting only fully Equalized Floors up to a maximum of four such Equalized Floors.

(5) Consistent with 813-013-0061(2), the partial property tax exemption on a Certified Project is available for ten consecutive tax years beginning with the first tax year in which, as of the assessment date, the Project is occupied or ready for occupancy following its approval by the Department as a Certified Project.

(6) If during the period of partial tax exemption, any part of a Project dedicated for Residential Use is converted to or used as Non-Residential Area, the county assessor and the Department shall be notified by the Project owner of such change. Similarly, the county assessor and the Department shall be notified in writing by the Project owner if any part of a Project dedicated to Low-Income Residential Housing is converted to other purposes or otherwise used in a manner that does not comply with Low-Income Residential Housing requirements.

(7) In order to receive partial property tax exemption with respect to a Certified Project, the Certified Project owner shall apply to the county assessor of the county in which the Project exists. Upon written application for partial exemption to the appropriate county assessor, the Certified Project owner will provide the county assessor:

(a) A letter specifically requesting the partial tax exemption in accordance with the Certified Project approval certification;

(b) A copy of the final Project application for certification,

(c) A copy of the Certified Project approval certificate issued by the Department,

(d) A copy of the certificate(s) of occupancy for the entire Certified Project; and,

(e) Such fee(s), if any, as the county assessor may require.

(8) The certificate of occupancy or temporary certificate of occupancy must be dated prior to January 1 of the assessment year for which the exemption is requested.

(9) The written application for exemption must be made to the county assessor on or before April 1 of the assessment year for which the exemption is sought and the exemption will be effective for the first year for which the partial property tax exemption is available and for the next nine consecutive tax years.

(10) If all or a portion of a Certified Project is decertified by the Department, that portion of the Certified Project shall be disqualified from partial property tax exemption as set forth in the notice of decertification.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.861, 307.864
Hist.: OHCS 8-2006, f. & cert. ef. 6-28-06

813-013-0065
Waiver

The Department may waive or modify any requirements of OAR 813, division 013, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 307.841 - 307.867
Hist.: OHCS 8-2006, f. & cert. ef. 6-28-06

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amend rule regulating issuance of an authority to operate to person with security interest.
Adm. Order No.: OLCC 8-2006
Filed with Sec. of State: 6-19-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 4-1-06
Rules Amended: 845-005-0450
Subject: This rule describes the agency's requirements and processes for situations when a licensee can no longer operate a business and one of the parties listed in the title of the rule must receive authority to operate the business for a reasonable time to allow orderly disposition of the business. This situation usually arises when a licensee dies, or is unable to meet contract obligations for the business. We have re-written the rule to update terminology, 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—(503) 872-5004

845-005-0450
Standards for Authority to Operate a Licensed Business as a Trustee, a Receiver, a Personal Representative or a Secured Party

(1) ORS 471.292(2)(b) and (c) allow the Commission to issue a temporary authority to operate a licensed business to a trustee, the receiver of an insolvent or bankrupt licensed business, the personal representative of a deceased licensee, or a person holding a security interest in the business. The purpose of this authority is to provide for the operation of the licensed business for a reasonable period of time to allow orderly disposition of the business.

(a) The trustee, receiver or personal representative must provide the Commission with the following information:

(A) Proof that the person is the legal trustee, receiver or personal representative for the business; and

(B) A written request for authority to operate as a trustee, receiver or personal representative, listing the address and telephone number of the trustee, receiver or personal representative.

(b) The secured party must provide the Commission with the following information:

(A) Proof of a security interest in the licensed business;

(B) Proof of the licensee's default on the secured debt;

(C) Proof of legal access to the real property; and

(D) A written request for authority to operate as a secured party listing the secured party's address and telephone number.

(2) The Commission may revoke or refuse to issue or extend authority for the trustee, receiver, personal representative, or secured party to operate:

(a) If the trustee, receiver, personal representative or secured party does not propose to operate the business immediately or does not begin to operate the business immediately upon receiving the temporary authority;

(b) For any of the reasons that the Commission may revoke or refuse to issue or renew a license;

(c) If the trustee, receiver, personal representative or secured party operates the business in violation of ORS Chapter 471 or OAR chapter 845; or

(d) If a reasonable time for disposition of the business has elapsed.

(3) No person or entity described in section (1) of this rule may operate the business until a certificate of authority has been issued under this rule, except that the personal representative of a deceased licensee may operate the business for up to 10 days after the death provided that the personal representative submits the information required in section (1)(a) and obtains a certificate of authority within that time period.

(4) A certificate of authority under this rule is initially issued for a 60-day period and may be extended as reasonably necessary to allow for the disposition of the business.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.292(2)
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01;OLCC 8-2006, f. 6-19-06, cert. ef. 7-1-06

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Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Adopt the Attorney General's Model Rules of Procedure.
Adm. Order No.: PERS 10-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 3-1-06
Rules Amended: 459-001-0005
Subject: OAR 459-001-0005 adopted the Attorney General's Model Rules of Procedure that become effective on January 1, 2004 as the PERS Board's rules of procedure. The Model Rules were updated on January 1, 2006; the proposed rule modification adopts this new version as the Board's rules of procedure.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-001-0005
Model Rules of Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, as adopted and effective January 1, 2006, are adopted as rules of procedure of the Public Employees Retirement Board, except as modified by other rules of the Board, to be effective on July 1, 2006.

[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 Oregon Public Employees Retirement System.]
Stat. Auth.: ORS 183.341 & 238.650
Stats. Implemented: ORS 238.005 - 238.715 & 237.410 - 237.620
Hist.: PER 11, f. 4-18-72, ef. 5-1-72; PER 12, f. 3-14-74, ef. 4-11-74; PER 13, f. & ef. 10-26-72; Renumbered from 459-030-0005; PER 2-1978, f. & ef. 11-2-78; PER 1-1980, f. & ef. 2-15-80; PER 1-1986, f. & ef. 7-7-86; PERS 2-1990, f. & cert. ef. 1-8-90; PERS 1-1992, f. & cert. ef. 1-14-92; PERS 4-1994, f. & cert. ef. 5-10-94; PERS 3-1995, f. 11-14-95, cert. ef. 11-15-95; PERS 1-1998, f. & cert. ef. 3-16-98; PERS 4-2000, f. & cert. ef. 7-14-00; PERS 11-2001, f. 12-14-01, cert. ef. 1-1-02; PERS 25-2004, f. 11-23-04, cert. ef. 12-1-04; PERS 10-2006, f. & cert. ef. 6-26-06

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Rule Caption: Amend the PERS contested case hearing and petitions for reconsideration rules.
Adm. Order No.: PERS 11-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 3-1-06
Rules Amended: 459-001-0035, 459-001-0040
Subject: OAR 459-001-0035 and OAR 459-001-0040 are being amended to streamline and simplify the agency's contested case process.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-001-0035
Contested Case Hearing

(1) Request for a contested case hearing. To obtain review of any determination by the Director, for which a contested case hearing has not been held, the party shall file with the Board a petition for a contested case hearing. The petition shall be filed within 45 days following the date of the Director's determination. Late petitions may be considered only if facts constituting a good cause are alleged in the petition.

(2) Informal conferences. Informal conferences are available as an alternative means that may achieve resolution of any matter under review. A request for an informal conference does not relieve a person of the requirements for timely filing of a request for a contested case hearing.

(3) Criteria for request. The petition for a contested case hearing shall be in writing and set forth:

(a) A description of the determination for which review is requested;

(b) A short statement of the manner in which the determination is alleged to be in error;

(c) A statement of facts that are the basis of the petition;

(d) Reference to applicable statutes, rules or court decisions upon which the petitioner relies;

(e) A statement of the action the petition seeks; and

(f) A request for a hearing.

(4) Contested case hearing. The Board shall acknowledge receipt of a petition for a contested case hearing within 15 days of filing.

(5) The Director, or an administrator appointed by the Director, may direct the staff to schedule a formal contested case hearing or develop a recommendation to deny the member's request to be presented to the Board. The Board may then deny a request for a hearing when it has decided, in consultation with legal counsel, that the Board has no authority to grant the relief requested.

(6) The hearing shall be conducted in accordance with the Attorney General's Model Rules of Procedure.

(7) Proposed order. The administrative law judge's proposed order becomes final 90 days following service upon the petitioner, the Director and the Board through the Director. Exceptions to the proposed order by the Director or the petitioner must be filed with the Hearing Officer administrative law judge within 45 days of service. If the Board determines additional time is necessary to review a proposed order and issue an amended order, the Board may extend the time after which the proposed order will become final in accordance with ORS 183.464(3).

(8) In accordance with the Attorney General's Model Rules of Procedure, the Board may reject the order and direct the Hearings Officer to conduct further proceedings and prepare an amended order within the time specified by the Board.

(9) Extension of deadline. Any 45-day deadline within this rule may be extended upon request in writing for an additional 45 days. Additional time may be requested, but shall only be granted upon approval by both parties.

(10) The Board will generally deliberate and decide on final orders during regularly scheduled board meetings. The Board may instead deliberate and decide at any other time and place allowed by law, as determined on a case-by-case basis, such as electronically or via a telephone conference.

Stat. Auth.: ORS 238.650, 183.464 & 183.600 - 183.690
Stats. Implemented: ORS 183.413 - 183.470
Hist.: PERS 4-1990, f. & cert. ef. 3-26-90; PERS 10-2001, f. 12-14-01, cert. ef. 1-1-02; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 11-2006, f. & cert. ef. 6-26-06

459-001-0040
Petitions for Reconsideration

(1) Request for a petition for reconsideration. Prior to initiating any judicial review of a final order in a contested case, a party may file with the Board a petition for reconsideration. If the party chooses to file a petition, it shall be filed within 60 days following the date the order becomes final. Late petitions may be considered only if facts constituting good cause are alleged in the petition.

(2) Criteria for request. The petition for reconsideration shall be in writing and set forth:

(a) A short statement of the manner in which the final order is alleged to be in error;

(b) Reference to applicable statutes, rules or court decisions on which the party relies;

(c) A suggested alternative form of order; and

(d) A request for reconsideration.

(3) Board action. The Board shall either grant or deny a petition for reconsideration within 60 days of filing. A petition may be denied if it does not contain the information required under section (2) of this rule. If the petition for reconsideration is granted, the Board may:

(a) Affirm the original order; or

(b) Reconsider and issue an amended order.

(4) Staff action. If the petition is granted and the Board reconsiders, the Director shall submit written argument on the merits of the petition for Board consideration.

(5) Petitioner action. Written argument from petitioner shall be submitted together with the petition. The Board may schedule oral argument in its discretion.

(6) Extension of deadline. Any 60-day deadline within this rule may be extended upon request in writing for an additional 45 days. Additional time may be requested, but shall only be granted upon approval by both parties.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 183.413 - 183.470
Hist.: PERS 4-1990, f. & cert. ef. 3-26-90; PERS 10-2001, f. 12-14-01, cert. ef. 1-1-02; PERS 11-2006, f. & cert. ef. 6-26-06

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Rule Caption: IAP Account Adjustment for Earnings or Losses and Employer Remitting of Employee Contributions.
Adm. Order No.: PERS 12-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 5-1-06
Rules Amended: 459-009-0200, 459-080-0200
Subject: The proposed rule modifications streamline the administration and operation of the IAP program structure to better align the process with member and stakeholder expectations, comprehension and satisfaction and to conform closer to the program as established.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-009-0200
Employer Remitting of Employee Contributions

(1) Except as provided in ORS 238.200(1)(b), a participating employer shall remit to PERS in accordance with OAR 459-009-0100 six percent (6%) of gross salary and wages for each active member employed as required in ORS 238.200(1)(a). Unless otherwise agreed to as provided for in sections (2) or (3) of this rule, the employer shall withhold and remit the required contributions on an after-tax basis as defined in OAR 459-005-0001(36), and shall be known as "member paid after-tax contributions (MPAT)".

(2) In accordance with Internal Revenue Code (IRC) Section 414(h), and under provision of ORS 238.205(2), participating employers may voluntarily agree to assume and pay the six percent employee contribution on behalf of its employees, and shall be known as "employer paid pre-tax contributions (EPPT)". The employer assumption and payment of the uniform six percent employee contributions shall be subject to the following terms and conditions:

(a) The employer's employment agreement(s) to assume and pay the contributions must be evidenced by a certified copy of the employer's policy established by statute, charter, ordinance, administrative rule, executive order, collective bargaining agreement, or other written employment policy or agreement. The employer's employment policy(s) or agreement(s) shall specify:

(A) That the required PERS employee contribution of six percent of salary is deemed to be "picked up" for purposes of IRC Section 414(h)(2) and is assumed and paid for purposes of ORS 238.205(5)(b);

(B) That the employees do not have the option of receiving the assumed amount directly;

(C) That employee compensation shall not be reduced and that the employer shall provide the additional amounts necessary to make the employee contributions; and

(D) That the employer's employment policy(s) or agreement(s) is not retroactive in its application.

(b) The employer's employment policy(s) or agreement(s) to assume and pay employee contributions shall not be construed to require an employer to open or renegotiate a pre-existing collective bargaining agreement or change an employment policy before its normal expiration date.

(c) The employer's employment policy(s) or agreement(s) must be to assume and pay the full amount, and not a portion thereof, of the affected employees' six percent contributions required by ORS 238.200.

(d) The employer's policy(s) or agreement(s) may apply to all its employees or some of its employees. If it applies only to some employees, it shall apply uniformly to all employees of the public employer who are employed in similarly situated positions, such as, but not limited to:

(A) The chief executive officer or administrative head of a public employer.

(B) Management personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(C) Confidential personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(D) Administrative personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(E) Personnel covered by a collective bargaining agreement.

(F) Other personnel, whether full time, part time, temporary, or as a substitute, who are not covered by a collective bargaining agreement.

(3) In accordance with IRC Section 414(h) and under provision of ORS 238.205(3), participating employers may voluntarily agree to "pick-up" the employee contributions withheld, and such picked-up contributions shall be known as "member paid pre-tax contributions (MPPT)". The employer "pick-up" of the uniform six percent employee contribution shall be subject to the following terms and conditions:

(a) The employer's agreement(s) to "pick-up" the contributions must be evidenced by a certified copy of the employer's policy established by statute, charter, ordinance, administrative rule, executive order, collective bargaining agreement, or other written employment policy or agreement, The employer's policy(s) or agreement(s) shall specify:

(A) That the required PERS employee contribution of six percent of salary is deemed to be "picked up" for purposes of IRC, Section 414(h)(2) and ORS 238.205(5)(a);

(B) That the employees do not have the option of receiving the picked-up amount directly;

(C) That employee compensation shall be reduced by the amount necessary to make the employee contributions; and

(D) That the employer's policy(s) or agreement(s) is not retroactive in its application.

(b) The employer's employment policy(s) or agreement(s) to "pick-up" employee contributions withheld shall not be construed to require an employer to open or re-negotiate a pre-existing collective bargaining agreement or change an employment policy before its normal expiration date.

(c) The employer's policy(s) or agreement(s) must be to "pick-up" the full amount, and not a portion thereof, of the affected employees' six percent contributions required by ORS 238.200.

(d) The employer's employment policy(s) or agreement(s) may apply to all its employees, or some of its employees. If it applies to only some of its employees, it shall apply uniformly to all employees of the public employer who are employed in similarly situated positions, such as, but not limited to:

(A) The chief executive officer or administrative head of a public employer.

(B) Management personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(C) Confidential personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(D) Administrative personnel, as defined by the public employer, not otherwise covered by a collective bargaining agreement.

(E) Personnel covered by a collective bargaining agreement.

(F) Other personnel, whether full time, part time, temporary, or as a substitute, who are not covered by a collective bargaining agreement.

(4) The notification of the employer's written employment policy(s) or agreement(s) to enter into or to revoke (1) the "pick-up", or (2) to assume and pay contributions on behalf of employees, shall be submitted to PERS for review and approval, and shall become effective on the date the notification is received by PERS Additional information related to the employer's policy or agreement shall be provided at the request of staff and in the manner required by staff. If approved by PERS, such policy and agreement shall not be revoked by the employer except with prior written notice to PERS. All costs to correct any errors caused by failure to give required notice shall be borne by the employer.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.205
Hist.: PER 1-1979(Temp), f. & ef. 6-1-79; PER 2-1979, f. & ef. 7-19-79; PER 2-1980, f. & ef. 3-7-80; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0208; PERS 7-1999 f. & cert. ef. 11-22-99; PERS 12-2006, f. & cert. ef. 6-26-06

459-080-0200
IAP Account Adjustments for Earnings or Losses

(1) Earnings and losses on employee, employer, and rollover contributions under the OPSRP Individual Account Program ("IAP") will be posted at least annually, in accordance with ORS 238A.350(1). In no event will earnings or losses be posted to individual accounts until funds are actually received by PERS and have been successfully reconciled with the

corresponding wage and contribution record. Accounts will be adjusted at least annually thereafter to reflect any net earnings or losses and to pay reasonable administrative expenses.

(2) When a member requests a withdrawal of the member's employee, rollover and employer accounts under ORS 238A.375, those accounts will be adjusted to reflect any net earnings or losses and to pay reasonable administrative expenses only through the end of the month in which the request for withdrawal is received, regardless of when the payment is issued.

(3) The provisions of this rule are effective January 1, 2004.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.350
Hist.: PERS 19-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-25-04; PERS 12-2004, f.& cert. ef. 5-19-04; PERS 24-2004, f. & cert. ef. 10-18-04; PERS 12-2006, f. & cert. ef. 6-26-06

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Oregon State Marine Board
Chapter 250

Rule Caption: Provides additional alternate methods of verifying Hull Identification Numbers when titling a boat.
Adm. Order No.: OSMB 4-2006
Filed with Sec. of State: 7-3-2006
Certified to be Effective: 7-3-06
Notice Publication Date: 5-1-06
Rules Amended: 250-010-0055
Subject: In an effort to provide excellent customer service to boat owners, Marine Board Staff allows alternate methods of verification of hull identification number (HIN) if the owner is unable to connect with marine officers. These methods include digital photos or pencil tracings when the boat is older or of low value (
Rules Coordinator: Jill E. Andrick—(503) 378-2617

250-010-0055
Certificates of Boat Title

(1) When the owner of a boat submits an application for Certificate of Boat Title only, and under normal circumstances the boat would require in addition to the title, a certificate of number, the Director shall not issue the title until first obtaining from the owner a signed statement that the boat will not be used on any waters over which this state has jurisdiction until all registration requirements have been complied with.

(2) Prior to issuing a Certificate of Title for a boat the Director shall require "Proof of Ownership" which my include a Manufacturer's Statement of Origin (MSO) properly executed by the manufacturer, a Homemade Boat Builders Certificate properly executed by the builder, a Certificate of Boat Title issued by another state or an original certificate of number for boats previously registered in another state which does not issue a Certificate of Title for a Boat.

(a) In making application for an initial Oregon title, the following boats must be inspected by the Oregon State Police, an Oregon county sheriff's representative, or Marine Board staff:

(A) Homemade boats; and

(B) Boats not titled and/or registered in Oregon or another state with the exception of new boats where a manufacturer's statement of origin is submitted.

(C) When a boat is currently unavailable for inspection, or, when evident that a typographical error or misinterpretation of a number or letter occurred, a title and registration can be issued after a pencil tracing (rubbing) or digital photo is submitted, provided:

(i) The boat has a title or out of state registration;

(ii) There are no stolen records or red flags; and,

(iii) The boat is more than 20 years old and/or has an estimated value less than $2,000.

(b) The Board at its discretion may inspect any boat prior to issuing an Oregon title.

(3) When an application for a certificate of boat title indicates that the legal owner of the boat is other than the principal owner, the title will be mailed to the legal owner.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.110
Hist.: MB 1, f. 2-4-60; MB 8, f. 6-30-61; MB 10, f. 11-14-61; MB 12, f. 3-27-62; MB 24, f. 3-13-64; Suspended by MB 9-1983(Temp), f. 11-29-83, ef. 12-1-83; MB 3-1984, f. & ef. 1-5-84; MB 5-1997, f. & cert. ef. 5-30-9; OSMB 4-2006, f. & cert ef. 7-3-06

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Rule Caption: Expands the existing Slow No-Wake zone for boat operation at Hewitt Park in Baker County.
Adm. Order No.: OSMB 5-2006
Filed with Sec. of State: 7-3-2006
Certified to be Effective: 7-3-06
Notice Publication Date: 5-1-06
Rules Amended: 250-020-0013
Subject: Baker County Commissioners petitioned the Marine Board to amend boating rules to expand the existing slow no-wake, maximum 5 mph zone adjacent to Hewitt Park on the Powder River arm of Brownlee Reservoir. The Board accepted the request for rulemaking and directed Staff to initiate rulemaking and schedule a public hearing, provide notice and gather comment from the public. This rule amendment extends the current 200' from shore rule to a zone that extends bank to bank adjacent to Hewitt Part to protect boats tied to shoreline rocks and swimmers who frequent this section of water.
Rules Coordinator: Jill E. Andrick—(503) 378-2617

250-020-0013
Boat Operations in Baker County

(1) No person shall operate a motorboat in excess of a "Slow — No Wake" speed in the following areas:

(a) Brownlee Reservoir:

(A) Farewell Bend State Park: Within 100 feet of a designated swimming area or within 200 feet of the boat moorage or launching ramp;

(B) Hewitt County Park: From a point 200 feet upstream of the west launching ramp to a point 200 feet downstream of the east launching ramp.

(b) Unity Reservoir: Within 200 feet of the launching ramp.

(c) Phillips Lake:

(A) Within 200 feet of a boat launching ramp or designated swimming area;

(B) That area known as the Union Creek Inlet, beginning at a point approximately 500 feet south of the Union Creek Boat Launching Ramp and proceeding easterly across the inlet to a point on the opposite shore as marked.

(2) No person shall operate a motorboat, except those propelled by electric motors on:

(a) Anthony Lake;

(b) Balm Creek Reservoir;

(c) Higgins Reservoir.

(3) No person shall operate a boat for any reason, on Unity Reservoir, below a buoy line near the spillway of Unity Dam.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.175
Hist.: MB 26, f. 7-20-64; MB 45, f. 8-25-69; MB 50, f. 4-2-73, ef. 4-15-73; MB 9-1978, f. & ef. 12-21-78; Renumbered from 250-020-0165; MB 5-1983, f. 9-13-83, ef. 9-16-83; MB 2-1987, f. 4-20-87, ef. 5-1-87; MB 3-1997, f. & cert. ef. 4-4-97; OSMB 1-2000, f. & cert. ef. 7-14-00; OSMB 5-2006, f. & cert. ef. 7-3-06

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Rule Caption: Expands the existing Slow No-Wake zone for boat operation at various loctions on Lake Billy Chinook in Jefferson county.
Adm. Order No.: OSMB 6-2006
Filed with Sec. of State: 7-3-2006
Certified to be Effective: 7-3-06
Notice Publication Date: 5-1-06
Rules Amended: 250-020-0161
Subject: Jefferson County Sheriff's Office petitioned the Marine Board to amend boating rules to expand and mark existing slow no-wake, maximum 5 mph zones on Lake Billy Chinook. The Board accepted the request for rulemaking and directed Staff to initiate rulemaking and schedule a public hearing, provide notice and gather comment from the public. This rule amendment expands zones at Crooked River Day Use, Lower Deschutes Day use, and Upper Deschutes Day Use areas.
Rules Coordinator: Jill E. Andrick—(503) 378-2617

250-020-0161
Boat Operations in Jefferson County

(1) No person shall operate a motorboat for any purpose on the following lakes:

(a) Scout;
(b) Round;
(c) Jack;
(d) Island;
(e) Cache;
(f) Hand and
(g) Link.

(2) Suttle Lake:

(a) No water skiing or motorboat operation in excess of 10 MPH to be permitted on Suttle Lake between the hours of 8 p.m. and 9 a.m., standard time, each day;

(B) No water skiing or motorboat operation in excess of 10 MPH to be permitted on Suttle Lake between the hours of 9 a.m. and 8 p.m., standard time, each day, except within the signed and designated fast boat area, water skier dropoff zone, and water skier take-off lanes, at the west end of the lake;

(C) Operating any boat which is equipped with a toilet is prohibited on Suttle Lake, unless such toilet has an approved device to render waste harmless, or unless such toilet is rendered inoperative by having the discharge outlet effectively sealed.

(3) Lake Simtustus:

(a) No person shall operate a motorboat at a speed in excess of 5 MPH, a "Slow-No Wake" in the area within 300 feet of the moorage and extending to the opposite shore;

(b) No person shall operate a boat for any reason within the restricted tailrace area enclosed by the log boom approximately 1200 feet downstream of Round Butte Dam;

(c) No person shall moor a boat to the log boom or operate a boat for any reason within the restricted intake area enclosed by the log boom located approximately 200 feet upstream of Pelton Dam;

(d) Boat access in the areas closed by subsections (b) and (c) of this section is permitted for federal, state, local and tribal government agencies and Portland General Electric employees or their agents for official business only.

(4) Lake Billy Chinook:

(a) No person shall operate motorboat in excess of 10 MPH in the following areas:

(A) On the Crooked River Arm above the Crooked River Bridge.

(B) On the Deschutes River Arm above the Deschutes River Bridge;

(C) On the Metolius River Arm from a point approximately 1,000 feet upstream of Street Creek, as marked.

(b) No person shall operate a motorboat in excess of "Slow-No Wake," maximum 5 MPH speed within the buoyed areas at:

(A) Cove Palisades State Park Marina;

(B) The Crooked River Launching Ramp;

(C) The Lower Deschutes River Day Use Area;

(D) The Upper Deschutes River Day Use Area;

(E) Within 300 feet of a designated swimming area;

(F) Within a cove at Chinook Island (Metolius Arm) as marked;

(G) Within the cove at Camp Perry South (Metolius Arm) as marked.

(5) No person shall beach, anchor or moor a boat within 200 feet of shore in the following areas at Lake Billy Chinook between 10 p.m. and 5 a.m.

(a) Crooked River Arm:

(A) East shore — between a point approximately 1,000 feet north of the cove Marina, as marked, and the Crooked River Bridge;

(B) West Shore — From the State Park boundary north approximately 2,000 feet, as marked.

(b) Deschutes Arm: East Shore — Between a point approximately 2,000 feet north of the northernmost boat launch, as marked, and the Deschutes River Bridge;

(c) This prohibition shall not apply to any leased or rented space within established marinas or moorages.

(6) No person shall operate or provide for others to operate a boat on Lake Billy Chinook which is equipped with a marine toilet, unless the toilet has a holding tank or is rendered inoperative so as to prevent any overboard discharge.

(7) Haystack Reservoir. No person shall operate a boat in excess of 5 MPH in the following areas:

(a) In the western cove inside a buoy line approximately 500 feet from shore, as marked;

(b) In the southern cove inside a buoy line extending from south of the boat ramp on the east shore to a point south of the southeast peninsula, as marked.

Stat. Auth.: ORS 830.110, 830.175 & 830.195

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 43, f. 7-18-69; MB 58, f. 7-2-74, ef. 7-2-74(Temp) & 7-25-74(Perm); Renumbered from 250-020-0200; MB 16-1985, f. & ef. 10-21-85; MB 8-1986, f. & ef. 7-28-86; MB 11-1986, f. & ef. 10-30-86; MB 6-1987, f. 4-20-87, ef. 5-1-87; MB 4-1990, f. & cert. ef. 7-13-90; MB 10-1992, f. & cert. ef. 8-21-92; MB 7-1993, f. & cert. ef. 10-11-93; MB 8-1994(Temp), f. & cert. ef. 6-17-94 thru 12-17-94; MB 10-1994, f. & cert. ef. 9-28-94; OSMB 2-2004(Temp), f. & cert. ef. 5-20-04 thru 9-20-04; Administrative correction 10-25-04; OSMB 6-2006, f. & cert. ef. 7-3-06

Oregon Student Assistance Commission, Office of Degree Authorization
Chapter 583

Rule Caption: Amends existing rule to clarify definition of "degree mill" and "diploma mill."
Adm. Order No.: ODA 1-2006
Filed with Sec. of State: 6-23-2006
Certified to be Effective: 6-23-06
Notice Publication Date: 5-1-06
Rules Amended: 583-050-0011
Subject: This rule implements Oregon Revised Statutes (ORS) 348.594 to 348.615 and 348.992 insofar as each section therein relates to ORS 348.609, intended to protect postsecondary institutions, businesses and other employers, professional licensing boards, patients and clients of degree holders, and all citizens from any person claiming to possess a valid academic degree that in fact was issued by a fraudulent or nonexistent school, by a non-educational entity posing as a school, by a nonstandard school without the disclaimer, or by any entity in violation of statue or Commission rules.
Rules Coordinator: Peggy D. Cooksey—(541) 687-7443

583-050-0011
Definitions of Terms

(1) "Office" means Office of Degree Authorization, as represented by the administrator or designated agent.

(2)(a) "Degree" means any academic or honorary title, rank, or status designated by a symbol or by a series of letters or words-such as, but not limited to, associate, bachelor, master, doctor, and forms or abbreviations thereof, that signifies, purports, or may generally be taken to signify:

(A) Completion of a course of instruction at the college or university level; or

(B) Demonstration of achievement or proficiency comparable to such completion; or

(C) Recognition for non-academic learning, public service, or other reason of distinction comparable to such completion.

(b) "Degree" does not refer to a certificate or diploma signified by a series of letters or words unlikely to be confused with a degree, clearly intended not to be mistaken for a degree, and represented to the public so as to prevent such confusion or error.

(3) "Confer a degree" means give, grant, award, bestow, or present orally or in writing any symbol or series of letters or words that would lead the recipient to believe it was a degree that had been received.

(4) "Claim a degree" means to present orally, or in writing or in electronic form any symbol or series of letters or words that would lead the listener or reader to believe a degree had been received and is possessed by the person speaking or writing, for purposes related to employment, application for employment, professional advancement, qualification for public office, teaching, offering professional services or any other use as a public credential, whether or not such use results in monetary gain.

(5) "School" includes a person, organization, school or institution of learning that confers or offers to confer an academic degree upon a person or to provide academic credit applicable to a degree. The activities attributable to a school include instruction, measurement of achievement or proficiency, or recognition of educational attainment or comparable public distinction.

(6) "Accredited" means accredited and approved to offer degrees at the specified level by an agency or association recognized as an accreditor by the U.S. Secretary of Education, under the 1965 Higher Education Act as amended at the time of recognition, or having candidacy status with such an accrediting agency or association whose pre-accreditation is also recognized specifically for HEA purposes by the Secretary of Education.

(7) "Foreign equivalent of such accreditation" means authorization by a non-U.S. government found by ODA to have adequate academic standards. This determination may be made through one or more of the following methods at ODA's discretion:

(a) Direct investigation of foreign standards;

(b) Reliance on an evaluation and determination made by the American Association of Collegiate Registrars and Admissions Officers (AACRAO); or

(c) Evaluation of the transferability of courses and degrees earned in the foreign country to accredited Oregon institutions at similar degree levels.

(8) "Academic Standards" means those standards in 583-030-0035 or the equivalent standards of an accrediting body that relate to admission requirements, length of program, content of curriculum, award of credit and faculty qualifications.

(9) "Standard School" means a school that meets the requirements of ORS 348.609(1) for degree use without a disclaimer.

(10) "Nonstandard School" means a degree provider that has legal authority to issue degrees valid in its authorizing jurisdiction, but which does not meet the requirements to be a standard school.

(11) "Diploma mill" or "degree mill" means an entity that meets any one of the following conditions.

(a) As determined by government action, has engaged in dishonest, fraudulent or deceptive practices related to the award of degrees, academic standards or student learning requirements.

(b) Is an entity without legal authority as a school to issue degrees valid as credentials in the jurisdiction that authorizes issuance of degrees.

(12) Valid degree means a degree issued by a standard school or by a nonstandard school if the disclaimer required by ORS 348.609(2) is used.

(13) "College level work" required for a degree means academic or technical work at a level demonstrably higher than that required in the final year of high school and demonstrably higher than work required for degrees at a lower level than the degree in question. From lowest to highest, degree levels are associate, bachelor's, master's and doctoral. Professional degree levels may vary. College level work is characterized by analysis, synthesis and application in which students demonstrate an integration of knowledge, skills and critical thinking. Award of credit for achieving appropriate scores on ODA-approved nationally normed college-level examinations such as those from College Level Examination Program, American Council on Education, Advanced Placement or New York Regents meets this standard.

(14) "Disclaimer" when appended to a published reference to a degree means the following statement from statute: "(Name of school) does not have accreditation recognized by the United States Department of Education and has not been approved by the Office of Degree Authorization."

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 3-2000, f. & cert. ef. 8-8-00; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2005, f. & cert. ef. 3-3-05; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-2006, f. & cert. ef. 6-23-06

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Oregon University System
Chapter 580

Rule Caption: Houskeeping adjustments update of provisions to the staff fee privilege rules 580-022-0030 and 0031.
Adm. Order No.: OSSHE 4-2006
Filed with Sec. of State: 6-27-2006
Certified to be Effective: 6-27-06
Notice Publication Date: 6-1-06
Rules Amended: 580-022-0030, 580-022-0031
Subject: Amendments to OAR 580-022-0030 and OAR 580-022-0031 update provisions of the staff fee rules. Updates to OAR 580-022-0030 include specifying that staff fee privileges apply only to employees of the Oregon University System; change the term "Centralized Activities" to "Chancellor's Office;" remove elapsed effective and review dates; and correct a typographical error. OAR 580-022-0031 is amended to remove reference to an affidavit used by the Public Employee's Benefit Board; clarifies that the benefit may not be parceled out to multiple family members during a single academic term; clarifies that the benefit may be transferred to dependents of domestic partners; eliminates reference to employees of Oregon Health & Science University which has not participated in OUS staff fee privileges since 2001; and removes elapsed effective and review dates.
Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-022-0030
Staff Fee Privileges

Employees of the Department of Higher Education may register for courses at special rates subject to the following conditions:

(1) Graduate teaching and research assistants may register for credit hours during any term of their appointment and during an intervening summer term under the terms and conditions approved by the Board and described in the Academic Year Fee Book. Graduate assistants are students admitted to a graduate degree program and appointed to an assistantship while working toward a graduate degree. Appointment as an assistant may not be for less than .15 FTE for the term of appointment. Institutions may establish minimum and maximum numbers of credit hours for which graduate assistants may register, provided that the president's or designee's approval is required prior to registering for credit hours in excess of 16 in any one term.

(2) On approval of the president or designee, employees of the Oregon University System, appointed at half-time or more (not including temporary classified employees, graduate assistants, and other student employees), may register for a maximum of twelve hours of credit per term at the staff fee rate under the terms and conditions approved by the Board and described in the Academic Year Fee Book. Chancellor's Office employees must have approval of the Chancellor or designee before registering for courses at the staff fee rate.

(3) Auditor privileges are accorded to employees under the terms and conditions approved by the Board and described in the Academic Year Fee Book.

(4) For purposes of this rule, the term "employee" may include persons with full-time courtesy appointments who provide a benefit to the institution in the form of teaching, research, or counseling, under the direction of the institution and using the facilities of the institution.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 8-1979, f. & ef. 8-22-79; HEB 1-1981, f. & ef. 6-4-81; HEB 4-1982, f. & ef. 7-14-82; HEB 10-1986, f. & ef. 7-16-86; HEB 1-1993, f. & cert. ef. 2-5-93; OSSHE 4-2002(Temp), f. & cert.ef. 5-28-02 thru 11-15-02; OSSHE 6-2002, f. & cert. ef. 7-30-02; OSSHE 4-2006, f. & cert. ef. 6-27-2006

580-022-0031
Transfer of Staff Fee Privileges

Employees of the Department of Higher Education eligible for staff fee privileges (as defined in 580-022-0030) may transfer such privileges to family members or domestic partners consistent with the following terms and conditions:

(1) Persons eligible to receive a transfer of staff fee privileges must be either:

(a) A family member, to include spouse or dependent children, in accordance with applicable Internal Revenue Service (IRS) code; or

(b) A "domestic partner," as defined in the Affidavit of Domestic Partnership, or the dependent child of a domestic partner.

(2) Staff fee privileges:

(a) Are usable only by either the employee or transferee;

(b) May not be subdivided among family members or domestic partners and their dependents during a term;

(c) Are limited to one transfer per term;

(d) Are limited to no more than twelve (12) academic credits per term; and

(e) There is no fee plateau at any campus for staff members, domestic partners, or eligible dependents.

(3) Employee qualification is verified through Human Resource System Records at each institution; recipient status (spousal, dependent, or domestic partner) must be established no later than the first day of classes of the term of enrollment.

(4) Recipients of transferred staff fee privileges may register for courses at any Oregon University System institution, subject to policies of the instructing institution. Institutions reserve the right to exclude programs from eligibility for the privilege.

(5) Mandatory enrollment fees including, but not limited to, Resource, Health Service, Building, and Incidental, will apply.

(6) Transfer of staff fee privileges is not available for retirees of the Oregon University System

(7) For further reference to applicable policies and procedures, see the most current edition of the Academic Year Fee Book.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351
Hist.: OSSHE 2-2000, f. & cert. ef. 6-23-00; OSSHE 5-2002(Temp), f. & cert.ef. 5-28-02 thru 11-15-02; OSSHE 7-2002, f. & cert. ef. 7-30-02; OSSHE 4-2006, f. & cert. ef. 6-27-06

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Oregon University System,
Oregon State University
Chapter 576

Rule Caption: Setting fees and charges at Oregon State University for fiscal year 2006–2007.
Adm. Order No.: OSU 1-2006
Filed with Sec. of State: 6-23-2006
Certified to be Effective: 7-1-06
Notice Publication Date: 5-1-06
Rules Amended: 576-010-0000
Subject: The amendment will set fees and charges for designated services at Oregon State University for fiscal year 2006–2007. The

rule states: "The University hereby adopts by reference a list of fees and changers for fiscal year 2006–2007. The list of Fees and Charges is available at the Oregon State University Office of Budget and Fiscal Planning and the Oregon Statue University Valley Library, and is hereby incorporated by reference in the rule."
Rules Coordinator: Bonnie Dasenko—(541) 737-2474

576-010-0000
Fees and Charges

The University hereby adopts by reference a list of fees and charges for fiscal year 2006–2007. This List of Fees and Charges is available at the Oregon State University Office of Budget and Fiscal Planning and the Oregon State University Valley Library, and is hereby incorporated by reference in the rule.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070, 352.360 & 580-040-0010
Stats. Implemented: ORS 351.070 & 352.360
Hist.: OSU 3-1980, f. & ef. 10-31-80; OSU 1-1982, f. & ef. 8-27-82; OSU 1-1983(Temp), f. & ef. 9-26-83; OSU 1-1986, f. & ef. 6-4-86; OSU 2-1987, f. 6-11-87, ef. 7-1-87; OSU 2-1988, f. 6-15-88, cert. ef. 7-1-88; OSU 4-1989, f. 6-13-89, cert. ef. 7-1-89; OSU 1-1990, f. 6-15-90, cert. ef. 7-1-90; OSU 6-1991, f. 6-3-91, cert. ef. 7-1-91; OSU 2-1992, f. 6-5-92, cert. ef. 7-1-92; OSU 5-1993, f. 6-9-93, cert. ef. 7-1-93; OSU 1-1994, f. 6-8-94, cert. ef. 7-1-94; OSU 2-1995, f. 6-20-95, cert. ef. 7-1-95; OSU 6-1996, f. & cert. ef. 7-1-96; OSU 5-1997; f. 6-16-97, cert. ef. 7-1-97; OSU 7-1998, f. 6-30-98, cert. ef. 7-1-98; OSU 3-1999, f. 6-17-99, cert. ef. 7-1-99; OSU 1-2000, f. 6-21-00, cert. ef. 7-1-00; OSU 5-2001, f. 6-18-01, cert. ef. 7-1-01; OSU 6-2002, f. 6-5-02, cert. ef. 7-1-02; OSU 1-2003, f. 6-19-03, cert. ef. 7-1-03; OSU 1-2004, f. 6-23-04, cert. ef. 7-1-04; OSU 1-2005, f. 6-13-05, cert. ef. 7-1-05; OSU 1-2006, f. 6-23-06, cert. ef. 7-1-06

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Oregon University System, Portland State University
Chapter 577

Rule Caption: The Schedule of Fines and Fees for General Services and other charges.
Adm. Order No.: PSU 2-2006
Filed with Sec. of State: 6-30-2006
Certified to be Effective: 6-30-06
Notice Publication Date: 6-1-06
Rules Amended: 577-060-0020
Subject: The proposed amendment establishes additional fees, charges, fines, and deposits for General Services for the 2006–2007 fiscal year.
Rules Coordinator: Jeremy Randall Dalton—(503) 725-3701

577-060-0020
Schedule of Fees for General Services and Other Charges

The Schedule of Fees for General Services and Other Charges for the 2006-2007 Fiscal Year are hereby adopted by reference by Portland State University.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Hist.: PSU 16(Temp), f. 8-24-77, ef. 9-1-77; PSU 18, f. & ef. 10-4-77; PSU 19(Temp), f. & ef. 10-11-77; PSU 20, f. & ef. 11-18-77; PSU 3-1978(Temp), f. 6-19-78, ef. 7-1-78; PSU 7-1978, f. & ef. 9-5-78; PSU 1-1979, f. & ef. 9-17-79; PSU 3-1980, f. & ef. 9-4-80; PSU 2-1981, f. & ef. 9-10-81; PSU 3-1982, f. & ef. 9-3-82; PSU 1-1983, f. & ef. 2-8-83; PSU 2-1983, f. 6-22-83, ef. 7-1-83; PSU 1-1984, f. 6-8-84, ef. 7-1-84; PSU 1-1985, f. 6-26-85, f. 7-1-85; PSU 1-1986, f. 6-25-86, ef. 7-1-86; PSU 1-1987, f. 6-19-87, ef. 7-1-87; PSU 3-1987 (Temp), f. & ef. 8-11-87; PSU 5-1987, f. & ef. 10-27-87; PSU 5-1988, f. & cert. ef. 7-18-88; PSU 7-1988(Temp), f. & cert. ef. 11-29-88; PSU 3-1989, f. & cert. ef. 7-26-89; PSU 5-1990, f. & cert. ef. 7-5-90; PSU 2-1991(Temp), f. & cert. ef. 6-28-91; PSU 3-1991, f. & cert. ef. 8-7-91; PSU 4-1991(Temp), f. & cert. ef. 12-4-91; PSU 1-1992, f. & cert. ef. 1-17-92; PSU 2-1992, f. & cert. ef. 6-16-92 (and corrected 6-19-92); PSU 1-1993, f. & cert. ef. 6-11-93; PSU 2-1993(Temp), f. & cert. ef. 7-13-93; PSU 3-1993(Temp), f. & cert. ef. 7-30-93; PSU 4-1994, f. & cert. ef. 11-3-94; PSU 1-1995, f. & cert. ef. 8-9-95; PSU 1-1996(Temp), f. 1-18-96, cert. ef. 3-1-96; PSU 3-1996, f. & cert. ef. 6-27-96; PSU 1-1997, f. & cert. ef. 8-1-97; PSU 4-1998, f. & cert. ef. 9-17-98; PSU 4-1999, f. & cert. ef. 8-11-99; PSU 2-2000, f. & cert. ef. 8-1-00; PSU 1-2001, f. & cert. ef. 8-14-01; PSU 2-2003, f. 6-27-03, cert. ef. 7-1-03; PSU 4-2003(Temp), f. & cert.ef. 11-18-03 thru 5-14-04; PSU 1-2004, f. & cert. ef. 8-20-04; PSU 1-2005(Temp), f. & cert. ef. 7-15-05 thru 12-28-05; PSU 3-2005, f. & cert. ef. 12-13-05; PSU 2-2006, f. & cert. ef. 6-30-06

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Oregon University System, Southern Oregon University
Chapter 573

Rule Caption: Parking Enforcement and Appeals.
Adm. Order No.: SOU 3-2006
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 6-29-06
Notice Publication Date: 5-1-06
Rules Amended: 573-050-0025, 573-050-0030, 573-050-0035, 573-050-0040, 573-050-045
Subject: This amendment in Div. 050 increases parking fees and clarifies other regulations such as failure to pay parking fines.
Rules Coordinator: Treasa Sprague—(541) 552-6319

573-050-0025
Vehicle Permits and Parking Areas

(1) All vehicles operated on the University campus are required to display a permit when the posted signs require a permit. Faculty/Staff lots are posted yellow; Student Commuter lots are posted green; Resident Student lots are posted red. Parking Services can be contacted for the location where other types of permits may be obtained. Failure to display a permit may result in the issuance of a parking citation. Decals may be purchased during normal registration or at the Business Services office located in Churchill Hall. All permits are valid for the current academic year only unless otherwise designated by Parking Services at the time of issuance; there are no open-ended permits.

(2) *Parking decals are serialized for use on a specific vehicle with a license plate designated by the purchaser at the time of purchase*. **The decal must be affixed outside to left-rear bumper, left-rear body, left-rear window, or rear side window behind driver of the vehicle where visible. The adhesive on the back of the decal must be the attaching mechanism**. *If a vehicle is disposed of, the decal must be removed and returned to Parking Services*.

(3) Parking decals may be purchased for the remainder of the academic year or for each quarter. The academic year begins and ends in September. Parking decals purchased during the winter, spring, or summer quarters are at a proportionately reduced rate.

(4) Faculty/Staff parking decals will be sold to classified employees, graduate assistants, temporary employees who are half-time or more, and faculty. Vehicles displaying Faculty/Staff decals are authorized to park in designated Faculty/Staff (yellow), Student Commuter (green), and Residence Hall (red) parking areas.

(5) Student Commuter parking decals will be sold to students who live off campus and wish to bring vehicles on campus. Vehicles displaying Student Commuter decals will park in Student Commuter (green) parking lots only.

(6) Residence Hall parking decals will be sold to students living in campus residence halls. Vehicles displaying a Residence Hall decal may park in any Residence Hall (red) parking lot only.

(7) Second parking decals may be purchased for an additional vehicle if more than one vehicle will be brought to campus. The purchaser must also be the registered owner of the vehicle. Only one decal (the original or second decal) is valid on permit-required lots at a time. If both first and second permits of one person are parked in permit-required lots at the same time, both vehicles will be cited for improper permits. A second decal may not be purchased for a car if the first decal is for a vehicle used in a Residence Hall Parking area, motorcycle, moped, or scooter.

(8) Replacement decals may be obtained for a damaged, unreadable decal or for a replacement vehicle. The replacement vehicle must be registered to the same owner as the original vehicle. **The decal which is being replaced will be considered void and should be returned to Business Services or Parking Services upon purchase of a replacement decal**.

(9) Guest permits are available at Parking Services, Business Services, departmental offices, school offices, and/or the Campus Information office. Guest permits are issued for one day only. Guest permits may not be used in timed lots. Guest permits will not be valid if issued to University employees, faculty, students, buses, or vehicles displaying a valid parking permit. Guest permits will not be valid and may be cited for failure to display permit if any of the following information is illegible or omitted:

(a) Both license number and make or color,

(b) Date that permit is valid,

(c) Name and telephone extension of departmental personnel issuing the permit.

(10) Carpool parking decals will be sold for entire school year only if the carpool meets the following criteria:

(a) The carpool must contain at least two individuals with cars, but no more than six.

(b) No more than one vehicle from the carpool is allowed on campus at a particular time. No second decals will be sold. However, replacement decals are available if requirements as stated in regulations for replacement decals are met.

(11) Substitute vehicles for a vehicle having a decal may be brought on campus after obtaining a Substitute Vehicle parking permit from Parking Services. This permit is used for temporary situations of short duration.

(12) Special permits may be approved by Parking Services on an as-needed basis.

(13) Weekly or Daily permits for those persons who use the campus parking facilities only intermittently may be purchased at Business Services or Parking Services.

(14) Courtesy parking permits are available to personnel retiring with ten years of service or more, volunteer board members, designated governmental officials, media representatives, and such others as deemed necessary by the President to facilitate their interaction with the institution.

(15) Vendor or Volunteer permits may be obtained through Parking Services. Commercial permits will be sold to commercial vendors, including vending machine, video game, outside maintenance, travel, office supply, and food vendor companies, and contractors' employees. Companies or **departments** can purchase a long-term permit for six months or a year. Short-term permits are available for one day or one month. Companies or departments will be billed for the permits by Parking Services. Volunteer parking permits will be sold to departments for use by volunteers. **Departments** can purchase long-term permits for one year or short-term permits for less than one month. Permits will be billed by Parking Services.

(a) Volunteer, each vehicle, long-term, one year: $5.

(b) Short-term, less than one month: $1.

(16) Disabled parking: In accordance with ORS 811.602, 811.605, 811.606, 811.607, and 811.615, only vehicles displaying a disabled placard or license plate issued and registered at the Motor Vehicles Division and an SOU decal (as designated in Rule 573-050-0020) will be allowed to park in spaces posted for use by disabled persons. These vehicles must also display an SOU permit or meter permit unless otherwise posted.

(a) Temporary placards are issued by the Motor Vehicle Division for persons with qualifying temporary disabilities upon submission of a certificate and fee (as provided by ORS 811.606 and ORS 811.640).

(b) Vehicles with appropriate disabled placard or license plate and SOU permit may park in any lot or space without incurring citations, except where the lot or space is designated for parking limited to 60 minutes or less or in a parking space reserved for other vehicles.

(17) Refunds for a parking decal will be made only for whole year (fall, winter, and spring) remaining and upon return of the decal or fragments thereof showing the decal number. Refund schedules are on file in Parking Services.

(18) Faculty/Staff, Residence Hall, and Commuter decals may be purchased for a single term. There is no refund on single-term decals. Rules regarding use of decals shall apply to single-term and yearly decals.

(19) Vehicles displaying valid decals or parking permits are not guaranteed a parking space on the campus.

(20) Vehicles displaying valid decals or parking permits are not exempt from timed parking restrictions. Timed parking restrictions apply to all vehicles on the University campus regardless of decals or permits displayed.

(21) Mopeds, scooters, and motorcycles must be parked in parking spaces designated and posted for "Motorcycles Only". Mopeds, scooters, and motorcycles parked in bicycle racks and on the campus grounds will be cited for improper parking. Vehicles parked inside University buildings will be towed at the owner's expense.

(22) If, during the process of issuing a parking citation, the driver of the violating vehicle drives away from the scene, thus preventing the issuing agent from placing the citation on the vehicle, the citation will be entered into the parking system as if it had been placed on the vehicle. When a driver leaves the scene during the issuing process, this will be considered "constructive notice" of the citation.

(23) Vehicles parked facing in the direction against one-way arrows will be cited for improper parking. Vehicles parked on the side of street opposing direction of usual traffic flow will be cited for improper parking.

(24) Vehicles using parking lots marked "Visitor Pay Parking" are required to display the serialized meter permit purchased at each lot of this type. Failure to display the meter permit on the dashboard of the vehicle will result in a citation for failure to display a permit. There is no grace period to obtain change for the permit machine. Instructions on meter sign and permits will direct users to place the meter permit in plain view on the left side of the vehicle's dashboard..

(25) Loading Zone spaces are provided for loading and unloading purposes not to exceed 30 minutes unless by prior approval through Parking Services.

(26) Buses may park where directed by Parking Services.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 4-1982, f. & ef. 7-28-82; SOSC 1-1983, f. & ef. 1-3-83; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 4-1991, f. & cert. ef. 6-11-91; SOSC 2-1994, f. & cert. ef. 6-10-94; SOSC 2-1996, f. & cert. ef. 8-2-96; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 2-1998, f. & cert. ef. 7-16-98; SOU 1-1999, f. & cert. ef. 5-7-99; SOU 2-2000, f. & cert. ef. 6-9-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2006, f. & cert. ef. 6-29-06

573-050-0030

Driving and Parking Regulations on Campus

The Vice President for Administration and Finance, in consultation with the Transportation Planning and Parking Committee, will designate parking areas on campus:

(1) Anyone operating a vehicle on campus will observe posted speed limits, barricades, bicycle lanes, crosswalks, and stop signs and will drive in a safe and prudent manner. The **speed limit on campus is 15 MPH**. Driving or parking vehicles, bicycles, motorcycles, mopeds, scooters, or motorized bicycles on sidewalks, lawns, and **other areas not designated for driving**, parking, or public thoroughfare is prohibited.

(2) Regulations may change from time to time. In the event of conflict between traffic signs or markings and printed regulations, the signs or markings will prevail.

(3) Vehicles shall be parked within indicated parking areas only. All lots will have permit requirements suspended during institution holidays except disabled, yellow zones, pay lots, reserved parking spaces, and restricted areas, which are enforced at all times. "Holidays" refers to the following observed state holidays: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the Friday following Thanksgiving, and Christmas Day.

(4) Residence Hall (red) parking areas and pay lots are enforced 24 hours a day except for holidays as specified in the previous paragraph.

(5) Persons, departments, or schools sponsoring university-hosted events must contact Parking Services to arrange for parking and fee payment as appropriate. Unless otherwise arranged, participants will be restricted to Lot 1 during the academic school year.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 2-1994, f. & cert. ef. 6-10-94; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 2-1998, f. & cert. ef. 7-16-98; SOU 1-1999, f. & cert. ef. 5-7-99; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2006, f. & cert. ef. 6-29-06

573-050-0035

Transportation Planning and Parking Committee and Traffic Appeals Board

(1) The Transportation Planning and Parking Committee is established to advise on policies, procedures, and programs which address the transportation needs of students, faculty, staff, and visitors who access the Ashland campus, including routes and parking within the campus. Further, the committee makes recommendations creating or modifying traffic and parking policies and assists in the equitable, effective, and economic regulation of vehicle use on campus. Included in these duties is the adjudication of second appeals for parking citations and consideration of petitions for reserved parking. The committee will be convened as necessary to serve as the institution's Vehicle Accident Review Board.

(2) The Transportation Planning and Parking Committee will include three faculty or unclassified members identified through the Administrative Committee appointment procedure, three student members recommended by the Student Senate, and three classified staff members identified through the Administrative Committee appointment procedure. All members are subject to final confirmation by the President or the President's designee. A minimum of three members at a meeting shall constitute a quorum. Final authority for traffic parking policies will rest with the President or the President's designee.

(3) Each member of the Transportation Planning and Parking Committee will be appointed for the period of three years. Terms of office will be staggered to provide continuity.

(4) The Director of Campus Public Safety, being responsible for the enforcement of these regulations, will be an ex officio (nonvoting) member of the Transportation Planning and Parking Committee. In this capacity, the Director of Campus Public Safety will serve as an advisor concerning traffic problems on the campus and the fiscal impact of present and proposed parking policies. The Director will make recommendations on needed improvement or changes required in this program to ensure the parking program maintains its mandated self-supporting fiscal status.

(5) The Traffic Appeals Board (TAB) is established to provide an expedient method of handling appeals for citations issued by Southern Oregon University. The TAB is the first level of appeal concerning traffic and parking citations on the campus.

(6) The TAB will consist of three faculty or unclassified members identified through the Administrative Committee appointment procedure,

three student members recommended by the Student Senate, and three classified staff members identified through the Administrative Committee appointment procedure. All members are subject to confirmation by the President or the President's designee. Decisions of the TAB shall reflect the majority vote of those members present.

(7) Each member of the TAB will be appointed for a period of three years. Terms of office will be staggered.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 4-1991, f. & cert. ef. 6-11-91; SOSC 3-1993, f. & cert. ef. 5-21-93; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2006, f. & cert. ef. 6-29-06

573-050-0040
Penalties for Offenses

Multiple violations may be cited for a single incident:

(1) Failure to display valid permit: Fine — $30.

(2) Fraudulent display of permit: Fine — $75.

(3) Permit not affixed: Fine — $20.

(4) Improper permit: Fine — $20.

(5) Parking in Disabled Space: Maximum fine — $250.

(6) Overtime Parking: Fine — $20.

(7) Blocking wheel chair ramp: Fine — $100.

(8) Improper Parking: Fine — $20.

(9) Parking in Reserved Space: Fine — $75.

(10) Blocking Traffic: Fine: — $50.

(11) Boot Fee: — $25.00.

(12) A vehicle may be towed off campus property and impounded at the owner's expense (including additional fines) under the following circumstances:

(a) A vehicle causing imminent danger to people or University property;

(b) A vehicle without a valid yellow, green, or red parking permit and records of $50 or more in unpaid citations (may be towed or booted);

(c) A vehicle left parked or standing in an area not normally used for parking, including parking on a sidewalk or on grass;

(d) A vehicle improperly parked in a disabled space;

(e) A vehicle blocking traffic or blocking any other vehicle, blocking any door or fire exit, blocking access to any trash container, fire lane, crosswalk, driveway, or other safety hazard (may also be cited for blocking traffic);

(f) Any vehicle determined to be abandoned on University property.

(13) Vehicles in timed parking areas may be cited when their time parked exceeds the posted time limit. The vehicle may be cited again after double the posted time limit is exceeded. Example: In a 30-minute parking area, a vehicle may be cited after 30 minutes; again after a total of 90 minutes (including the first 30 minutes); again after 150 minutes, etc.

(14) Vehicles parked in permit-required parking areas may be cited every eight hours, not to exceed three citations every 24 hours.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 4-1982, f. & ef. 7-28-82; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 4-1991, f. & cert. ef. 6-11-91; SOSC 2-1994, f. & cert. ef. 6- 10-94; SOSC 2-1996, f. & cert. ef. 8-2-96; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 2-1998, f. & cert. ef. 7-16-98; SOU 1-1999, f. & cert. ef. 5-7-99; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2006, f. & cert. ef. 6-29-06

573-050-0045
Enforcement and Appeals

(1) Campus regulations are in effect 24 hours a day, seven days a week, except when parking permits are not required (as stated in OAR 573-050-0030).

(2) Tow-away zones will be enforced 24 hours a day, seven days a week.

(3) All penalties prescribed in OAR 573-050-0040 will be administratively enforced by Southern Oregon University. Violators will receive a parking citation of offense, together with the scheduled fine for said violation, in accordance with the penalties set forth in OAR 573-050-0040.

(4) After receipt of a parking citation, the individual must, within seven calendar days of the date of the citation, file a request for a hearing before the TAB or pay the appropriate fine.

(5) Any University personnel or students issuing a Guest permit may contact Parking Services to transfer responsibility for citations received by their guests to themselves. This in no way implies the fine will be suspended, only that the guest will not be billed or pursued to pay the fine. The University personnel or students will be responsible and have all avenues of appeal available as if the citation were issued to them personally.

(6) Any person wishing to take a case before the TAB must prepare a Petition for Appeal of Traffic Violation for a hearing indicating why the citation should be adjudicated. The petition form, available from Parking Services, must be completed and returned to the office within seven calendar days of the citation date.

(7) A person appealing the citation may appear before the TAB to present his/her case. If the appellant does not wish to appear in person, for reasons he/she may specify, the written appeal will be reviewed by the TAB, which shall render judgment. The appellant shall be notified by mail or e-mail of the decision of the TAB.

(8) The party appealing the citation may have legal counsel to present his/her case to the TAB.

(9) In adjudicating appeals, the TAB shall have full authority to do the following:

(a) Dismiss the violations;

(b) Find the individual not guilty of the charges of the citation;

(c) Find the individual guilty of the violation and either impose the fine stipulated in these rules or impose a lesser fine;

(d) Enter a finding of guilty without imposing any fine, issue a reprimand or warning, or impose a fine.

(10) The decision of the TAB may be appealed in writing to the Transportation Planning and Parking Committee by obtaining, completing, and filing a second appeal form with Parking Services within ten calendar days following the decision of the TAB. Parking Services will also have an opportunity to submit a written statement concerning the issuance of the citation.

(11) Once the TAB makes the decision on an appeal for a parking citation, the appellant will have ten calendar days from the decision date to appeal the TAB's decision further via the Transportation Planning and Parking Committee. After a decision has been made on the second appeal, the appellant has ten calendar days to pay any amount owed before it is charged to his/her account.

(12) The student's right to register for classes may be denied if any fines owing under these regulations remain unpaid.

(13) A student who fails to pay the University for any outstanding fine will have the fine charged to his/her account. Nonstudents who fail to pay any outstanding fines may be subjected to Southern Oregon University's collection policies and practices up to and including assignment to an outside collection agency.

(14) Students leaving or graduating from the University will continue to be responsible for parking fines owed to the University, as long as such fines can be identified as belonging to the student(s) responsible.

(15) A faculty or staff member who fails to pay the University for any outstanding parking fines may have the fine deducted from his/her payroll check 30 days after written notice of the outstanding fines.

(16) Vehicles having outstanding parking fines may be denied issuance of a replacement or new parking decal.

(17) Fee Schedule:

(a) Carpool, sold for entire school year only: $52 each pool.

(b) Faculty and staff decal for first registered vehicle:

(A) Fall term through summer term: $78.

(B) Winter term through summer term: $64.

(C) Spring term through summer term: $52.

(D) Quarter/Term decals: $42.

(c) Student Commuter and Residence Hall decal for first registered vehicle:

(A) Fall term through summer term: $76.

(B) Winter term through summer term: $60.

(C) Spring term through summer term: $47.

(D) Quarter/Term decals: $36.

(d) Motorcycles, mopeds, and scooters, one vehicle only:

(A) Fall term through summer term: $31.

(B) Winter term through summer term: $28.

(C) Spring term through summer term: $26.

(D) Quarter/Term decals: $24.

(e) Second Vehicle permit: $16.

(f) Replacement permit: $16.

NOTE: The second permit is for the convenience of those persons who may be driving a different vehicle from time to time. Only one decal (the original or second decal) is valid on campus permit-required lots at a time. Violation of this rule will result in both vehicles being cited for improper permit.

(A) Second permits will be sold only to Faculty/Staff and Commuter permit holders.

(B) One second permit is allowed for each full-price (first registered vehicle) permit purchased.

(C) Replacement permits can be obtained only in accordance with OAR 573-050-0025(8).

(g) Departmental Reserved Parking spaces (nonrefundable): $100 over and above price for regular parking permit and $10 fee for each subsequent sign-change after a sign is posted.

(h) Commercial permit, each vehicle:

(A) Long-term, twelve months: $104.

(B) Long-term, six months: $62.

(C) Short-term, one month: $16.

(D) Short-term, daily: $6.

(i) Weekly parking permits (for red and green lots only): $16 per week (available at Business Services, Housing, and Parking Services).

(j) Daily parking permits (for red and green lots only): $6 per day (available at Business Services, Housing, and Parking Services).

(k) Evening and weekend parking: $1.

(l) Visitor pay parking in specified lots: $1 per hour.

(m) Volunteer permit:

(A) Volunteer, each vehicle, long-term, one year: $6.

(B) Volunteer, each vehicle, short-term, less than one month: $1.

(n) Handling charges:

(A) Deducting fines from payroll check: $5.

(B) Out-of-state Department of Motor Vehicles research fee: $5.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 4-1982, f. & ef. 7-28-82; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 4-1991, f. & cert. ef. 6-11-91; SOSC 3-1993, f. & cert. ef. 5-21-93; SOSC 2-1996, f. & cert. ef. 8-2-96; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 2-1998, f. & cert. ef. 7-16-98; SOU 1-1999, f. & cert. ef. 5-7-99; SOU 2-2000, f. & cert. ef. 6-9-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 1-2005, f. & cert. ef. 4-11-05; SOU 3-2006, f. & cert. ef. 6-29-06

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Parks and Recreation Department
Chapter 736

Rule Caption: Amendment to OAR 736-018-0045 for adoption of the Willamette River Middle Fork State Parks Master Plan.
Adm. Order No.: PRD 4-2006
Filed with Sec. of State: 7-14-2006
Certified to be Effective: 7-14-06
Notice Publication Date: 3-1-06
Rules Amended: 736-018-0045
Subject: ORS 390.180(1)(c) authorizes the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, the OPRD Director is adopting a master plan for 15 state parks located on the Middle Fork Wilamette River and Dexter and Fall Creek reservoirs. The master plan is titled "Wilamette River Middle Fork State Parks Master Plan." Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt the new master plan as a state rule.

The master plan responds to the most current information of park resource conditions and public recreation needs as they pertain to these parks. The plan was formulated through OPRD'S mandated master planning process involving meetings with the general public, an advisory committee, recreation user groups and affected state and federal agencies and local governments.
Rules Coordinator: Pamela Berger—(503) 986-0719

736-018-0045
Adopted State Park Master Plan Documents

(1) The following state park master plan documents have been adopted and incorporated by reference into this division:

(a) Fort Stevens State Park Master Plan, as amended in 2001;

(b) Cape Lookout State Park;

(c) Cape Kiwanda State Park, renamed as Cape Kiwanda State Natural Area;

(d) Nestucca Spit State Park, renamed as Robert Straub State Park;

(e) Jessie M. Honeyman State Park;

(f) Columbia Gorge Management Unit Master Plan, including: Rocky Butte State Scenic Corridor, Lewis and Clark State Recreation Site, Dabney State Recreation Area, Portland Womens' Forum State Scenic Viewpoint, Crown Point State Scenic Corridor, Guy W. Talbot State Park, George W. Joseph State Natural Area, Rooster Rock State Park, Shepperd's Dell State Natural Area, Bridal Veil Falls State Scenic Viewpoint, Dalton Point State Recreation Site, Benson State Recreation Area, Ainsworth State Park, McLoughlin State Natural Area, John B. Yeon State Scenic Corridor, Bonneville State Scenic Corridor, Sheridan State Scenic Corridor, Lang Forest State Scenic Corridor, Lindsey Creek State Scenic Corridor, Starvation Creek State Park, Viento State Park, Wygant State Natural Area, Vinzenz Lausman Memorial State Natural Area, Seneca Fouts Memorial State Natural Area, Koberg Beach State Recreation Site, Memaloose State Park, and Mayer State Park;

(g) Molalla River State Park;

(h) Champoeg State Park;

(i) Willamette Mission State Park;

(j) Cascadia State Park;

(k) Willamette River Middle Fork State Parks Master Plan, 2006, including: Elijah Bristow State Park; Jasper State Recreation Site; Pengra Access; Dexter State Recreation Site; Lowell State Recreation Site; and the parks that comprise the Fall Creek State Recreation Area, including Winberry Park, North Shore Park, Sky Camp, Cascara Campground, Fisherman's Point Group Camp, Free Meadow, Lakeside 1 and Lakeside 2;

(l) Cove Palisades State Park Master Plan, as amended in 2002;

(m) Silver Falls State Park Master Plan, as amended in 1999;

(n) Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside; Pistol River State Scenic Viewpoint; Samuel H. Boardman State Scenic Corridor; Harris Beach State Recreation Area; McVay State Recreation Site; Winchuck State Recreation Site; Crissey Field State Recreation Site; Alfred A. Loeb State Park;

(o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;

(p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;

(q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park (this chapter was replaced by the Umpqua Lighthouse State Park Master Plan, 2004); William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakum Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(r) Bullards Beach District Parks, including: Seven Devils State Wayside, renamed as Seven Devils State Recreation Site; Bullards Beach State Park; Bandon Ocean Wayside, renamed as Face Rock State Scenic Viewpoint; and Bandon State Park, renamed as Bandon State Natural Area;

(s) Tillamook County Coastal State Parks, including: Oswald West State Park; Nehalem Bay State Park; Cape Meares State Park, renamed as Cape Meares State Scenic Viewpoint; Neahkanie-Manzanita State Wayside, renamed as Neahkanie-Manzanita State Recreation Site; Manhattan Beach State Wayside, renamed as Manhattan Beach State Recreation Site; Rockaway Beach State Wayside, renamed as Rockaway Beach State Recreation Site; Twin Rocks State Wayside, renamed as Twin Rocks State Natural Site; Oceanside Beach State Wayside, renamed as Oceanside Beach State Recreation Site; and Neskowin Beach State Wayside, renamed as Neskowin Beach State Recreation Site;

(t) Beverly Beach District Parks South, including: Boiler Bay State Park, renamed as Boiler Bay State Scenic Viewpoint; Rocky Creek State Wayside, renamed as Rocky Creek State Scenic Viewpoint; Otter Crest State Wayside, renamed as Otter Crest State Scenic Viewpoint; Devil's Punchbowl State Park, renamed as Devil's Punchbowl State Natural Area; Beverly Beach State Park; Agate Beach State Wayside, renamed as Agate Beach State Recreation Site; and Ellmaker State Park, renamed as Ellmaker State Wayside;

(u) Smith Rock State Park;

(v) Collier District Parks, including: Booth State Wayside, renamed as Booth State Scenic Corridor; Chandler State Wayside; Collier Memorial State Park; Goose Lake State Recreation Area; Jackson F. Kimball State Park, renamed as Jackson F. Kimball State Recreation Site; and Klamath Falls-Lakeview Forest Wayside, renamed as Klamath Falls-Lakeview Forest State Scenic Corridor;

(w) Banks-Vernonia State Park, renamed as Banks-Vernonia State Trail;

(x) Sumpter Valley Dredge State Park, renamed as Sumpter Valley Dredge State Heritage Area;

(y) Illinois River Forks State Park;

(z) Wallowa County State Parks Master Plan, 2000;

(aa) L.L. "Stub" Stewart Memorial State Park Master Plan, 2005;

(bb) Master Plan for Clay Myers State Natural Area at Whalen Island, 2003;

(cc) South Beach State Park Master Plan, 2003;

(dd) Prineville Reservoir Resource Management Plan/Master Plan, 2003;

(ee) Detroit Lake State Park Master Plan, 2002;

(ff) Umpqua Lighthouse State Park Master Plan, 2004; and

(gg) Fort Yamhill State Heritage Area Master Plan, 2004;

(2) The master plan documents which have been incorporated by reference into this division are available from the State Parks and Recreation Department, 725 Summer Street NE, Suite C, Salem OR 97301.

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

Stat. Auth.: ORS 390.180(1)(c)

Stats. Implemented: ORS 390.180(1)(c)

Hist.: PRD 9-1998, f. 7-29-98, cert. ef. 7-31-98; PRD 4-1999, f. & cert. ef. 5-14-99; PRD 9-2000, f. 6-14-00, cert. ef. 7-1-00; PRD 1-2001, f. & cert. ef. 2-1-01; PRD 5-2001, f. & cert. ef. 6-29-01; PRD 6-2001, f. & cert. ef. 9-6-01; PRD 3-2002, f. & cert. ef. 3-22-02; PRD 2-2003, f. & cert. ef. 2-27-03; PRD 3-2003, f. & cert. ef. 2-27-03; PRD 5-2003, f. & cert. ef. 7-8-03; PRD 9-2003, f. & cert. ef. 10-13-03; PRD 11-2003, f. & cert. ef. 11-7-03; PRD 7-2004, f. & cert. ef. 5-14-04; PRD 9-2004, f. & cert. ef. 6-14-04; PRD 1-2005, f. & cert. ef. 2-4-05; PRD 3-2005, f. & cert. ef. 5-4-05; PRD 4-2006, f.& cert. ef. 7-14-06

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Public Utility Commission
Chapter 860

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

Adm. Order No.: PUC 7-2006

Filed with Sec. of State: 7-6-2006

Certified to be Effective: 7-6-06

Notice Publication Date: 4-7-06

Rules Adopted: 860-021-0057, 860-021-0328

Rules Repealed: 860-021-0328(T)

Subject: OAR 860-021-0328 sets forth the obligations of the energy utilities when, within 20 days after a residential customer has been disconnected, that customer satisfies the requirements for service and requests reconnection. This rule clarifies the office hours a utility must maintain to receive customer requests for reconnection, how tariff charges for reconnections will be assessed, the reconnection time frame and tariff charges if the customer requests reconnection time frame and tariff charges if the customer requests reconnection within 20 days, and that reconnection due to system outages is governed by OAR 860-021-0021. OAR 860-021-0057 sets forth the obligations of the energy utilities when a customer who has satisfied the requirements for service requests connection for a location where service facilities currently exist. Temporary Rule 860-021-0328 is repealed.

Rules Coordinator: Diane Davis—(503) 375-4372

860-021-0057

Connection of Residential Energy Utility Service

(1) This rule applies to the connection of energy service for an applicant or customer who has satisfied the requirements of all applicable rules and regulations, and requested connection. This rule applies for connection at a location with existing service facilities where the utility need only activate service, or after any necessary line extension, construction or repair work has been completed.

(2) Each energy utility must provide a means by which an applicant or customer may contact the utility on a Business Day so that the applicant or customer may pay applicable charges, submit any necessary credit information and request connection of service. For purposes of this rule, Business Day is defined as Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding state- or utility-recognized holidays.

(3) An energy utility must connect service as soon as reasonably possible, within the normal course of business, after an applicant or customer has satisfied the requirements for and requested connection. At a minimum, service must be connected within two Business Days, except as provided in section (4) of this rule.

(4) This section only applies to a natural gas service connection that is completed between September 15 and November 15 of each year, at an address where the applicant received service at any time during the past 12 months that was disconnected, but not reconnected within 20 days. Service must be connected as soon as reasonably possible, within the normal course of business, after an applicant or customer has satisfied the requirements for and requested connection. At a minimum:

(a) Service must be connected within two (2) Business Days when the applicant's prior service at the address was disconnected from August 15 to November 15 of the current year.

(b) Service must be connected within five (5) Business Days when the applicant's prior service at the address was disconnected from November 16 of the previous year to August 14 of the current year.

(5) With Commission concurrence, the connection requirements under this rule may be temporarily waived for any cause not reasonably within the control of the utility including, but not limited to, the following:

(a) A documented Force Majeure event;

(b) An action or default by an applicant or other person outside of the utility's control, including a cancellation of the request made by the applicant or customer;

(c) Major events, such as storms or system outages;

(d) Safety-related issues that preclude the utility from connecting service;

(e) The applicant's facilities cannot be accessed due to circumstances beyond the utility's control;

(f) The utility's equipment or facilities prevent the reconnection from occurring; or

(g) When the Commission approves a waiver.

Stat. Auth.: ORS Ch. 183 & 756

Stats. Implemented: ORS 756.040

Hist.: PUC 7-2006, f. & cert. ef. 7-6-06

860-021-0328

Reconnection of Residential Energy Utility Service

(1) This rule applies to a service reconnection requested within 20 calendar days of the date of disconnection, after an applicant or customer has satisfied the requirements for service under all applicable rules and regulations, and requested reconnection.

(2) Each energy utility must provide a means by which an applicant or customer may contact the utility on a Business Day so that the applicant or customer may pay applicable charges, submit any necessary credit information, and request reconnection of service. A Business Day is defined as Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding state-recognized holidays.

(3) For energy utility service that has been disconnected in accordance with OAR 860-021-0305(1), (3), (6), (7), or involuntarily disconnected for failure to pay Oregon tariff charges:

(a) An energy utility must reconnect service as soon as reasonably possible, within the normal course of business, after an applicant or customer has satisfied the requirements for and requested reconnection. At a minimum, service must be restored as follows:

(A) For a request for reconnection received during the Business Day, Monday through Thursday, service must be restored by 5:00 p.m. the following day, except when the following day is a state-recognized holiday.

(B) For a request for reconnection received on a Friday Business Day before 3:00 p.m., service must be restored by 5:00 p.m. the following day.

(C) For a request for reconnection received on a Friday Business Day between 3:00 p.m. and 5:00 p.m., service must be restored by the end of the next Business Day.

(b) For a request for reconnection received anytime other than a Business Day: Except as provided under section (6) of this rule, the request for reconnection must be treated as if it were received at 8:00 a.m. on the next Business Day and service must be restored in accordance with Subsection (3)(a)(A) of this rule.

(4) For energy utility service that has been involuntarily disconnected in accordance with OAR 860-021-0305(2), or due to meter tampering, diverting service, or theft of service, an energy utility must reconnect service as soon as reasonably possible, within the normal course of business, but no later than 5:00 p.m. of the next Business Day after the customer has satisfied the requirements for and requested reconnection.

(5) For energy utility service that has been involuntarily disconnected in accordance with OAR 860-021-0315, service will be reconnected in accordance with section (4) of this rule. If the necessity for emergency termination was through no fault of the customer, the energy utility will reconnect in accordance with section (3) of this rule, at no charge to the customer.

(6) An applicant or customer may request reconnection that falls outside of the requirements of sections (3), (4), and (5) of this rule and, for purposes of this rule, such a request will be defined as an After Hours Reconnect. The tariff of each energy utility must specify the hours other than a Business Day when the energy utility will offer an After Hours Reconnect, the terms of the service, and the applicable charges.

(a) At a minimum, an energy utility must:

(A) Provide a means by which an applicant or customer may contact the utility Monday through Friday from 8:00 a.m. to 6:00 p.m., excluding state- or utility-recognized holidays, so that the applicant or customer may pay applicable charges, submit any necessary credit information and request an After Hours Reconnect.

(B) Allow, for a customer request made in accordance with subsection (6)(a)(A) of this rule, an After Hours Reconnect on the same day as the

request, or allow an After Hours Reconnect to be scheduled for any subsequent Monday through Friday, except for state- or utility-recognized holidays.

(b) The utility must notify a customer verbally or in writing of the customer's right to an After Hours Reconnect. The notification must include information that the charges associated with a same day or a scheduled After Hours Reconnect exceed the utility's standard reconnection charge.

(7) Utility fees for service reconnection must be charged as follows:

(a) An applicant or customer must pay the utility's standard reconnection fee for a reconnection made under subsection (3)(a) or (3)(b) of this rule.

(b) An applicant or customer must pay an After Hours Reconnect fee for any reconnection made under subsection (6)(a) of this rule. For an After Hours Reconnect that is completed the same day as the request, the reconnection fee may be higher than for an After Hours Reconnect scheduled for a subsequent day.

(8) Reconnection of service following an interruption of service must comply with the requirements of OAR 860-021-0021.

(9) With Commission concurrence, the reconnection requirements under this rule may be temporarily waived for any cause not reasonably within the control of the utility including, but not limited to, the following:

(a) A documented Force Majeure event;

(b) An action or default by an applicant, customer, or other person outside of the utility's control, including a cancellation of the request made by the applicant or customer;

(c) Major events, such as storms or system outages;

(d) Safety-related issues that preclude the utility from reconnecting service;

(e) The applicant's or customer's facilities cannot be accessed due to circumstances beyond the utility's control;

(f) The utility's equipment or facilities prevent the reconnection from occurring; or

(g) When the Commission approves a waiver.

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; PUC 7-2006, f. & cert. ef. 7-6-06

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Real Estate Agency
Chapter 863

Rule Caption: Client's; Trust Account Fund Disbursals; Investigative Procedures; Progressive Discipline of Licensees.
Adm. Order No.: REA 1-2006
Filed with Sec. of State: 6-29-2006
Certified to be Effective: 6-30-06
Notice Publication Date: 12-1-05
Rules Adopted: 863-015-0186, 863-015-0225, 863-015-0230
Subject: This rulemaking implements HB 2604 (2005 Oregon Law, Chapter 393), passed during the 2005 Legislative Session, which requires the Real Estate Agency to adopt rules to establish a procedure for disbursal of disputed funds from a Clients' Trust Account by a sole practitioner or real estate broker; provide for the progressive discipline of real estate licensees; and to provide for an objective method for investigation of complaints alleging grounds for discipline under ORS 693.301.
Rules Coordinator: Laurie Skillman—(503) 378-4170, ext. 237

863-015-0186
Clients' Trust Accounts — Disbursal of Disputed Funds

(1) A sole practitioner or principal real estate broker may disburse disputed funds in a Clients' Trust Account using the procedures in Sections 3 through 7 of this rule or may disburse funds in a Clients' Trust Account under the terms of a lawful contractual agreement, by law, or under the provisions of ORS chapter 696, chapter 105, OAR 863-015-0185 or 863-025-0025.

(2) For purposes of ORS 696.241(10) and this rule, "disputed funds" are funds in a Clients' Trust Account delivered by a person to a sole practitioner or principal real estate broker pursuant to a written contract and the parties to such contract dispute the disbursal of the funds.

(3) As soon as practicable after receipt of a demand by one of the parties for the disbursal of funds in a Clients' Trust Account, the sole practitioner or principal real estate broker must deliver written notice to all parties that a demand has been made for disbursal of the funds and that such funds may be disbursed to the party who delivered the funds within 20 calendar days of the date of the demand.

(4) The written notice in section (3) of this rule must include substantially the following information:

(a) A party has made a demand for disbursal of funds and the sole practitioner or principal real estate broker may disburse such funds from the Clients' Trust Account to the party who delivered the funds unless:

(A) The parties enter into a written agreement regarding disbursal of the funds and deliver such agreement to the sole practitioner or principal real estate broker within 20 calendar days of the date of the demand for disbursal; or

(B) A party provides proof to the sole practitioner or principal real estate broker that the party has filed a legal claim to such funds within 20 calendar days of the date of the demand for disbursal;

(b) The sole practitioner or principal real estate broker has no legal authority to resolve questions of law or fact regarding disputed funds in a Clients' Trust Account;

(c) The disbursal of the funds from the Clients' Trust Account to the party who delivered the funds will end the responsibility of the sole practitioner or principal real estate broker to account for the funds but will not affect any right or claim a person may have to such funds; and

(d) Both parties may wish to seek legal advice on the matter.

(5) Regardless of whether a party disputes the disbursal of funds as outlined in section (4) of this rule, if the parties have not entered into a written agreement regarding such disbursal or if a party has failed to provide proof of filing a legal claim, the sole practitioner or principal real estate broker may disburse the disputed funds to the person who delivered the funds within 20 calendar days of the date of the demand for disbursal.

(6) Nothing in this rule shall prevent a sole practitioner or principal real estate broker from disbursing such funds pursuant to:

(a) The terms of the original contract between the parties;

(b) Any subsequent agreement between the parties regarding the disbursal of funds provided to the sole practitioner or principal real estate broker within 20 calendar days of the demand for disbursal; or

(c) The requirements of law.

(7) Nothing in this rule shall prevent the broker from filing an action to interplead the disputed funds.

(8) Real estate licensees with property management Clients' Trust Accounts must review and follow the requirements for handling client funds under the Residential Landlord and Tenant statutes in ORS Chapter 90. For any other non-real estate sales transaction disputes, the sole practitioner or principal real estate broker must review the terms of the written contract for handling disputed funds.

Stat. Auth.: ORS 696.385 & ORS 183.335
Stats. Implemented: ORS 696.241 & ORS 696.396
696.810, 696.990 & 696.800 - 696.855
Hist.: REA 4-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-29-06; REA 1-2006, f. 6-29-06, cert.ef. 6-30-06

863-015-0225
Investigation of Licensees: Procedures and Reporting

(1) The agency shall use the methods and procedures in this rule to investigate complaints that allege grounds for discipline under ORS 696.301.

(a) The commissioner or an agency manager shall review the complaint to determine whether there are reasonable grounds to believe that a violation of ORS 696.007 to 696.995, or any rule promulgated thereunder, may have occurred that constitutes grounds for discipline under ORS 696.301. Reasonable grounds means a reasonable belief in facts or circumstances which, if true, would in law constitute a violation.

(b) If the commissioner or an agency manager determines there are reasonable grounds to believe a violation may have occurred, an investigation will be initiated. The individual assigned to investigate the complaint shall gather all relevant facts in an objective, impartial and unbiased manner. The investigative report must contain all facts discovered during the investigation, including facts which may be exculpatory or mitigating.

(c) The individual assigned to investigate the complaint will promptly notify the commissioner or an agency manager if a licensee fails or refuses to cooperate in an investigation.

(d) An investigative interview may be electronically recorded if the person to be interviewed consents to the recording and states such consent on the recording.

(e) The individual assigned to investigate the complaint may not communicate with a licensee or a member of the public about the findings of the investigation, whether a violation may have occurred based on the facts, or whether the agency will initiate administrative action against a licensee.

(f) Individuals assigned to investigate complaints shall not solicit complaints against any licensee.

(g) The scope of an investigation shall be limited to the conduct or transaction(s) that formed the basis initiating the investigation. However, if there are reasonable grounds to believe that additional violations may have

occurred that would result in reprimand, suspension, revocation or license denial, the commissioner or an agency manager may expand the scope of the investigation or authorize additional investigations.

(2) The investigation report shall be written in an objective manner and may not contain any conclusions about whether a violation has occurred or any recommendation regarding discipline.

(3) An agency manager will review the investigation report and file and determine whether the evidence supports charging a person under investigation with a violation of ORS 696.007 to 696.995, or any rule promulgated thereunder. The agency shall not assert, propose to stipulate to, or issue a contested case notice alleging a violation of said statutes and rules without reasonable grounds as defined in section (1)(a) of this rule.

Stat. Auth.: ORS 696.385 & ORS 183.335
Stats. Implemented: ORS 696.396
Hist.: REA 4-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-29-06: REA 1-2006, f. 6-29-06, cert. ef. 6-30-06

863-015-0230
Progressive Discipline of Licensees

(1) The goal of progressive discipline is to correct a licensee's inappropriate behavior, deter the licensee from repeating the conduct, and educate the licensee to improve compliance with applicable statutes and rules. Progressive discipline means the process taken by the agency, which may include using increasingly severe steps or measures when a licensee fails to correct inappropriate behavior or exhibits subsequent instances of inappropriate behavior.

(2) The commissioner may evaluate all relevant factors to determine whether to issue a non-disciplinary educational letter of advice, or to discipline a licensee through reprimand, suspension or revocation under ORS 696.301, including but not limited to:

(a) The nature of the violation;

(b) The harm caused, if any;

(c) Whether the conduct was inadvertent or intentional;

(d) The licensee's experience and education;

(e) Whether the licensee's conduct is substantially similar to conduct or an act for which the licensee was disciplined previously;

(f) Any mitigating or aggravating circumstances;

(g) The licensee's cooperation with the investigation;

(h) Any agency hearing orders addressing similar circumstances; and

(i) The licensee's volume of transactions.

(3) The commissioner may issue a non-disciplinary educational letter of advice to a licensee which includes, but is not limited to the following statements:

(a) The commissioner has determined not to pursue disciplinary action against the licensee; and

(b) The letter is the result of an investigation and closes the investigation; and

(c) The letter is not disciplinary in nature and will not appear in the agency's disciplinary records; and

(d) The purpose of the letter is to educate the licensee; and

(e) The letter will be expunged from the agency's records six years from the date of issuance.

(4) A reprimand is the maximum disciplinary action the commissioner may issue against a licensee if the licensee has committed an act or conduct that constitutes grounds for discipline under ORS 696.301 and such act or conduct does not

(a) Result in significant damage or injury;

(b) Exhibit incompetence in the performance of professional real estate activity;

(c) Exhibit dishonesty or fraudulent conduct; or

(d) Repeat conduct or an act that is substantially similar to conduct or an act for which the real estate licensee was disciplined previously.

(5) The commissioner may impose suspension or revocation only if the licensee has committed an act that constitutes grounds for discipline under ORS 696.301 and such act also meets the requirements of ORS 696.396(2)(c).

Stat. Auth.: ORS 696.385 & 2005 OL, Ch. 393
Stats. Implemented: ORS 696.241, 696.396
Hist.: REA 4-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-29-06; REA 1-2006, f. 6-29-06, cert. ef. 6-30-06

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Secretary of State, Corporation Division
Chapter 160

Rule Caption: Secretary of State certification of providers offering notary public education.
Adm. Order No.: CORP 3-2006
Filed with Sec. of State: 6-19-2006
Certified to be Effective: 6-19-06
Notice Publication Date: 5-1-06
Rules Adopted: 160-100-1000, 160-100-1010, 160-100-1020, 160-100-1030, 160-100-1040, 160-100-1050, 160-100-1060, 160-100-1070, 160-100-1080, 160-100-1090, 160-100-1100, 160-100-1105, 160-100-1110, 160-100-1120, 160-100-1130, 160-100-1140, 160-100-1150
Subject: ORS 194.028 directs the Secretary of State to adopt requirements for certification of providers of notary public education. These rules provide for the review of education provider applications and lesson plans, certification of providers and the listing of providers on the Corporation Division website. They entail amendment and renewal procedures, as well as cancellation and termination of the Certificate of Approval.
Rules Coordinator: Kristine Hume Bustos—(503) 986-2356

160-100-1000
Definitions

(1) Certificate of Approval. The Oregon Secretary of State Certificate of Approval (OAR 160-100-1010) signifies only that the provider named therein offers an education program curriculum similar to the education program curriculum offered by the Secretary of State and has complied with the requirements of these rules. The Certificate of Approval does not imply endorsement of the provider, nor any products or services offered by the provider.

(2) Certificate of Education. The Certificate of Education (OAR 160-100-1060) signifies that the person named therein has completed the approved three-hour education program provided by the provider.

(3) Course of study. For the purposes of this division, "course of study" applies only to a live classroom or on-line education.

(4) Notary public applicant. For the purposes of this division, a "notary public applicant" is a person who applies for a commission as an Oregon notary public, who does not already hold a current notary public commission, and who must attend a three-hour course of instruction in order to qualify for commission as a notary public.

(5) Provider. For purposes of this division, a "provider" is an individual or business entity that provides a notary public education course of study.

(6) Oregon business registration number. For the purposes of these rules, an Oregon business registration number is the number assigned by the Corporation Division to a corporation, partnership or assumed business name that indicates registration in the public record of the Division.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1010
Provider Certificate of Approval

Before offering any course of study pursuant to Oregon Revised Statute Chapter 194.028, a provider must obtain a Certificate of Approval from the Secretary of State for each course of study offered.

(1) To apply for a Certificate of Approval, a provider must submit to the Secretary of State a completed Notary Public Education Provider Application or Amendment form, hereby incorporated by reference, an active Oregon business registration number, and a lesson plan satisfying the requirements in OAR 160-100-1020.

(2) The Secretary of State will issue either a Certificate of Approval, in accordance with paragraph (3), or a deficiency notice, in accordance with OAR 160-100-1030, within 90 days of receipt of an application and lesson plan.

(3) Upon approval of an application and lesson plan, the Secretary of State will send a Certificate of Approval to the provider by first class mail to the address listed on the Notary Public Education Provider Application or Amendment form.

(4) The Certificate of Approval will include the following:

(a) The name of the approved provider as listed on the Notary Public Education Provider Application or Amendment form.

(b) The address listed on the Notary Public Education Provider Application or Amendment form.

(c) The three letter provider identification code issued by the Secretary of State.

(d) The date the course of study was approved by the Secretary of State.

(5) An approved provider must not alter or substitute the lesson plan reviewed and approved by the Secretary of State, unless the revisions are approved by the Secretary of State in accordance with OAR 160-100-1050.

(6) For the purposes of this chapter, a provider must be authorized to transact business in Oregon in order to be certified. Authorization to transact business must be evidenced by an active Oregon business registration number.

(7) For the purposes of this chapter, an approved provider is responsible for all employees, agents, instructors, contractors, and subcontractors providing or involved in providing an approved course of study on behalf of the approved provider and the acts of the employees, agents, instructors, contractors, and subcontractors will be deemed the acts of the approved provider.

(7) The Certificate of Approval will expire 3 years from the date of issuance, and it must be renewed to continue as a state-approved course of instruction. A provider may apply for renewal up to 90 days before the expiration of the Certificate. Upon expiration of the Certificate, the provider must submit a new application, not a renewal, in order to offer state-approved education.

(8) A Certificate of Approval is non-transferable and may not be conveyed to another provider or applied to another course of study.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1020
Lesson Plan

A lesson plan must meet the following requirements:

(1) The lesson plan must be based on the laws of Oregon concerning the functions and duties of a notary public. The lesson plan must cover at least the Oregon Notary Public Knowledge Statements, hereby incorporated by reference. The Oregon Notary Public Knowledge Statements may be obtained from the Secretary of State by request.

(2) The lesson plan must contain a table of contents, and the pages of the lesson plan must be consecutively numbered.

(3) The lesson plan must provide sufficient detail to enable the Secretary to evaluate the specific information to be presented and to determine the accuracy of the information to be presented.

(4) The lesson plan must contain the procedures to ensure that a person attending a course of study is present for the required time.

(5) The lesson plan must include a schedule of the time allotted for the following:

(a) Break periods, if any.

(b) Each major subject area.

(c) Each audio visual aid to be used, if any.

(d) Each student participation activity, if any.

(e) Completion, correction, and discussion of any practice tests used and the method of correction to be used, if any.

(6) If any movie or video is used for instruction, the lesson plan must include a brief synopsis of the information presented therein. The synopsis must detail the specific information presented by the movie or video. In addition, the provider must include the movie or video in the materials presented to the Secretary of State for review.

(7) Copies of any handout materials, workbooks, visuals aids, description of student participation exercises, and practice tests used during the course of study must be submitted for approval with the lesson plan.

(8) If the course provides for an evaluation by the students, time to complete the evaluation must not be included as part of the course of instruction.

(9) All materials submitted to the Secretary of State under this rule become the property of the Secretary of State and may be returned to the provider at the sole discretion of the Secretary.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1030
Deficient Application or Lesson Plan

(1) If the Secretary of State determines that a Notary Public Education Provider Application or Amendment form is incomplete, or that a lesson plan does not satisfy the requirements of ORS Ch. 194.028 or this chapter, the Secretary of State will issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice will be sent by first class mail to the provider's address listed on the Notary Public Education Provider Application or Amendment form.

(2) A provider has 30 days from the date on which the deficiency notice was mailed by the Secretary of State to submit documentation to the Secretary of State curing the deficiencies identified in the deficiency notice.

(3) The Secretary of State may issue more than one deficiency notice to a provider regarding the same Notary Public Education Provider Application or Amendment form and lesson plan at any time during the review process.

(4) The Secretary of State may disapprove a Notary Public Education Provider Application or Amendment form if the deficiencies are not cured in accordance with paragraph (2).

(5) After the disapproval of a provider's application or amendment, the provider has the right to a hearing on the matter, and the proceeding will be conducted in accordance with the contested case procedures set out in ORS 184.413 through 183.500, and the Attorney General's Model Rules of Procedure for Contested Cases.

(6) Upon the effective date of a final order in a contested case, or if the final order is appealed, a final appellate judgment disapproving an application or amendment, a provider may cure the deficiencies identified in the decision by submitting a Notary Public Education Provider Application or Amendment form in accordance with OAR 160-100-1030.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1040
Notification of Changes of Approved Provider Information

Within 30 days of any changes in the information contained in the most recent application approved by the Secretary of State, an approved provider must submit to the Secretary of State a Notary Public Education Provider Application or Amendment form identifying the changes. An approved provider may confirm receipt by the Secretary of State by phone or e-mail.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1050
Lesson Plan Revisions

(1) Within 30 days of the effective date of a new Oregon law or rule concerning the duties and functions of notaries public, an approved provider must revise an approved lesson plan as necessary to ensure that the information provided in an approved course of study reflects the new Oregon law or rule.

(2) Any provider-initiated revisions to the contents or methods of instruction detailed in an approved lesson plan must be approved by the Secretary of State at least 30 days before implementing the proposed revisions in an approved course of study.

(3) To apply for a Certificate of Approval for a revised lesson plan, an approved provider must submit a completed Notary Public Education Provider Application or Amendment form, and a revised lesson plan in accordance with OAR 160-100-1020.

(4) The provisions in OAR 160-100-1010, 160-100-1020, and 160-100-1030 apply to a revised lesson plan.

(5) Upon approval of a revised lesson plan, the Secretary of State will issue a Certificate of Approval pursuant to OAR 160-100-1010.

(6) A provider may only follow the lesson plan corresponding to the most current Certificate of Approval.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1060
Certificate of Education

(1) An approved provider must issue a Certificate of Education to a notary public applicant upon completion of an approved course of study, as provided in section (3).

(2) The Certificate of Education shall be issued by the provider to a notary public applicant only after the person has completed the approved course of study.

(3) The Certificate of Education must consist of a certificate signed by an approved provider or an employee, agent, instructor, contractor, or subcontractor of an approved provider, which contains the following information:

(a) The name of the approved provider as it appears on the Certificate of Approval issued by the Secretary of State for the approved course of study.

(b) The name of the notary public applicant who completed the approved course of study.

(c) The date the notary public applicant completed the approved course of study.

(d) The Notary Education Identification Number, consisting of the Provider Identification Code and a unique six-digit number.

(e) The statements that:

(i) The Certificate of Education must be valid for a period of six months from the date of issuance; and

(ii) The student must provide the Notary Education Identification Number on the notary public application when submitted to the Secretary of State.

(4) The Certificate of Education of an approved course of study is for six months from the date of issuance.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1070
List of Attendees

(1) An approved provider must maintain a list of persons who attend each session of an approved course of study.

(2) The List of Attendees must be maintained for a period of five years from the date of issuance of the Certificates of Education corresponding to that session.

(3) The list must include the following:

(a) The name of the approved provider as listed in the Certificate of Approval for the approved course of study.

(b) The provider identification code issued by the Secretary of State.

(c) The name of the instructor or instructors who taught the approved course of study.

(d) The date, time, and location of the approved course of study.

(e) The names of all the attendees in alphabetical order by the last name of the attendee.

(f) The Notary Education Identification Number corresponding to the attendee, if any.

(4) An approved provider must not collect the social security numbers of any attendees.

(5) Upon request, an approved provider must submit a list of attendees in a data format approved by the Secretary of State.

(6) An approved provider, former approved provider, or employee, agent, instructor, contractor, or subcontractor of an approved provider or former approved provider must not copy or release any list of attendees or any information contained therein to any person, except the Secretary of State, Attorney General, a district attorney, or a city attorney.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1080
Secretary of State Attending Approved Course of Study

An approved provider must permit the Secretary of State or representatives of the Secretary of State to attend any approved course of study, without prior notice and at no charge, for the purpose of observation, monitoring, auditing, and investigating the instruction given.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1090
Duty to Respond to a Written Request from the Secretary of State

An approved provider must respond in writing within 30 days of receiving a written request for information from the Secretary of State. A written request may be sent to the mailing address, facsimile number, or e-mail address listed on the most current Notary Public Education Provider Application or Amendment form filed pursuant to OAR 160-100-1020 or 160-100-1050.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1100
Cancellation or Delay of Scheduled Approved Course of Study

(1) Before charging any fees to a notary public applicant for an approved course of study, an approved provider must disclose the refund policy of the approved provider.

(2) An approved provider must refund all fees within 30 days of a scheduled course date to any notary public applicant who registered to attend an approved course of study if one of the following occurs:

(a) An instructor fails to appear at the scheduled time, date, or place of the approved course of study;

(b) An approved course of study is delayed in starting more than 15 minutes after the scheduled time, and a notary public applicant immediately informs the approved provider of his or her request for a refund, and the notary public applicant leaves the approved course of study before its start; or

(c) The provider does not hold a current Certificate of Approval from the Secretary of State.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1105
Complaints Against an Approved Provider

(1) A person may file a complaint against an approved provider with the Secretary of State. A complaint shall be submitted on the standard form provided by the Secretary of State, signed and dated by the person filing the complaint. A complaint that does not comply with the requirements of this section shall not be filed, responded to or acted upon by the Secretary of State.

(2) The Secretary of State may commence an investigation of an approved provider as a result of information received from any source.

(3) Complaint forms received by the Secretary of State are not exempt from disclosure under Public Records Law, and shall be available to the approved provider and others in conformity with ORS 192.410 to 192.505.

(4) An investigation of the Secretary of State under paragraphs (1) and (2) of this section may include:

(a) An initial request for information from the accused provider;

(b) A copy of the complaint forwarded to the accused; and

(c) A request for supporting documentation and other sources of information.

(5) A provider, upon request by the Secretary of State, shall provide accurate, true and complete copies of the requested information.

(6) Upon a finding by the Secretary of State, copies of the finding shall be mailed to the complainant and the accused.

(7) Failure of an approved provider to comply with Secretary of State investigation directives shall result in revocation of the Certificate of Approval, subject to the provisions of ORS 183.413 to 183.470.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1110
List of Approved Providers

(1) The Secretary of State may also make a list of approved providers available online at the Corporation Division's website. The online list of approved providers may be searchable by a county in which approved providers provide approved courses of study.

(2) The Secretary of State may include the following information on the list of approved providers for each approved provider:

(a) The name of approved provider in accordance with section (1).

(b) Contact information – a mailing address; a telephone number; a fax number; an e-mail address; and a website address.

(c) The county or counties in which approved providers provide approved courses of study.

(3) The Secretary of State may only update the list of approved providers to add, delete, or amend approved provider information that is filed in accordance with OAR 160-100-1040. A list of approved providers may be updated by the first day of each month following the month during which there were additions, deletions, or amendments to the list of approved providers.

(4) The Secretary of State reserves the right to delete any information from the list compiled pursuant ORS 194.028 or section (2) of this rule that the Secretary of State determines is misleading to the public or of an inappropriate nature.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1120
Renewal of a Certificate of Approval

Ninety days before the certificate's expiration, the Secretary of State will notify a provider, by e-mail, fax, or written mail, of the need to renew the provider's Certificate of Approval.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1130
Grounds for Termination of a Certificate of Approval

The Secretary of State may terminate a Certificate of Approval upon any of the following grounds:

(1) Violation of any of the provisions of this chapter or ORS 194.028.

(2) Misrepresentation of the laws of Oregon concerning the duties and functions of a notary public.

(3) Deviation from the lesson plan for a course of study approved by the Secretary of State.

(4) Failure to respond to a request from the Secretary of State.

(5) Representations by the provider that any product, goods, or services provided by the provider are endorsed, recommended or required by the Secretary of State. Certification only recognizes that the education program curriculum of the provider is similar to the state's curriculum.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1140
Termination of Certificate of Approval

(1) If the Secretary of State proposes to terminate the Certificate of Approval of a provider, opportunity for hearing shall be accorded as provided in the contested case procedures set out in ORS 183.413 through 183.500 and the Attorney General's Model Rules of Procedure for Contested Cases.

(2) If the provider does not request a hearing, termination shall be effective 21 days after the termination notice.

(3) The cancellation of the provider's Certificate of Approval does not bar the Secretary of State from instituting or continuing an investigation or disciplinary proceedings.

(4) Upon completion of the disciplinary proceedings, the Secretary of State may enter an order finding the facts and stating the conclusion that the fact would or would not have constituted grounds for termination of the Certificate of Approval if the Certificate of Approval had still been in effect.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

160-100-1150
Cancellation of Certificate of Approval

(1) An approved provider may cancel its Certificate of Approval by submitting a written notice of cancellation to the Secretary of State. Unless otherwise stated in the notice of cancellation, the effective date of the cancellation of the Certificate of Approval is 30 days after receipt of the notice of cancellation. The provider may confirm receipt by the Secretary of State by phone or e-mail.

(2) Within 30 days of the effective date of a cancellation of a Certificate of Approval, a provider must refund all fees to all individuals who paid to take an approved course from a provider, if the course is scheduled after the effective date of the cancellation.

Stat. Auth.: ORS 194.028
Stats. Implemented: ORS 194.028
Hist.: CORP 3-2006, f. & cert. ef. 6-19-06

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Rule Caption: Updates current rules governing distinguishability to clarify and simplify name availability criteria.
Adm. Order No.: CORP 4-2006
Filed with Sec. of State: 6-26-2006
Certified to be Effective: 6-26-06
Notice Publication Date: 6-1-06
Rules Adopted: 160-010-0011, 160-010-0012, 160-010-0013, 160-010-0014
Rules Amended: 160-010-0010
Subject: There rules detail the criteria used to determine if business names, including corporations, partnerships and assumed business names, may be registered with the Corporation Division. The statutory standards is that names may only be registered if they are distinguishable on record. These rules define what does and does not make a name distinguishable.

No changes have been made to the substance of the current rule.
Rules Coordinator: Kristine Hume Bustos—(503) 986-2356

160-010-0010
Definitions

For the purposes of OAR 160-010-0010 through 160-010-0014:

(1) "Distinguishable" means visually distinct, in writing, as opposed to a comparison of words as they sound. Thus, homonyms, such as "fair" and "fare" are permitted; whereas heteronyms such as "wind" and "wind" are not distinguishable.

(2) "Entity identifier" means the words "corporation", "incorporated", "limited", "limited liability company", "limited liability partnership", "business trust", "professional corporation" or "limited partnership" or any abbreviation or derivation thereof. An entity identifier must be separate from other words or parts of words in the business name to be considered an entity identifier. Example: "ProCorp" does not have an entity identifier. "ProCorp, Inc." does.

(3) "Key Word" means a word other than an article, preposition, conjunction, or entity identifier at the end of a business name.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648
Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580, 554.005 & 648.051
Hist.: CC 14-1986, f. & ef. 7-23-86; Renumbered from 815-050-0041, 815-050-0043, 815-050-0045, 815-050-0051 & 815-050-0055, CC 2-1988, f. 9-28-88, cert. ef. 10-3-88; CORP 1-1991, f. & cert. ef. 1-22-91; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-1994, f. 12-30-94, cert. ef. 1-1-95; CORP 3-1995, f. 8-31-95, cert. ef. 9-1-95; CORP 4-2006, f. & cert. ef. 6-26-06

160-010-0011
General Guidelines

This rule furnishes general guidelines to determine whether a proposed name is distinguishable on the active records of the Secretary of State Business Registry office. For the purposes of determining whether a name is available for registration, OAR 160-010-0010 through 160-010-0014 will be applied jointly.

(1) The records consist of business, professional, cooperative and nonprofit corporations, limited liability companies, limited liability partnerships, limited partnerships, business trust names, reserved or registered names, and assumed business names.

(2) Registration or filing of a name by the Secretary of State Business Registry office only advises the public that the name is registered to individuals or a particular entity. Registration or filing of a name does not grant exclusive rights or interests in that name. A name may be available for registration; however, someone else may hold a prior right to that name, or the name may be too similar to another, and may result in a case of legal action brought against the registrant for dilution or unfair competition of someone else's business.

(3) The Secretary of State's role is ministerial. The Secretary of State does not have the power to determine or settle competing claims to a name under other statutes or under the common law. Unresolved disputes between parties regarding ownership rights to a business name should be directed to the appropriate court of jurisdiction.

(4) Business entity, reserved, or registered names that become inactive through administrative or voluntary dissolution, cancellation, or failure to renew are not considered part of the active records, and inactive names will be considered available for purposes of registration.

(5) Names submitted for registration must be comprised of the English letters "a" through "z," and the Arabic and Roman numerals 0 through 9, in integers or spelled out.

(6) The following special characters and punctuation marks will also be allowed in the name, however they will not, by themselves, make a name distinguishable:

(a) Special Characters – asterisk (*); "at" sign (@); backslash (\); left brace ({); right brace (}); caret (^); dollar sign ($); "equal to" sign (=); "greater than" sign (>); "less than" sign (<); number sign (#); percentage sign (%); plus sign (+); tilde (~); and underscore (_).

(b) Punctuation Marks – apostrophe ('); left bracket ([ ); right bracket( ]); colon (:); comma (,); dash or hyphen (-); exclamation point (!); left parenthesis (( ); right parenthesis ( )); period (.); question mark (?); single quote mark ("); double quote mark (" "); semicolon (;); and slash (/).

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648
Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 &648.051
Hist.: CORP 4-2006, f. & cert. ef. 6-26-06

160-010-0012
Distinguishable on Record

For purposes of the reservation, registration, or use of a name under ORS chapters 58, 60, 62, 63, 65, 67, 70, 128, 554, and 648, a name is distinguishable on the records of the Secretary of State Business Registry office from the name of any other active organized entity, and from a reserved or registered name, if

(1) Each name contains one or more different letters or numerals, or has a different sequence of letters or numerals, except that adding or deleting the letter "s" to make a word plural, singular, or possessive shall not cause a name to be distinguishable;

(2) One of the key words is different;

(3) The key words are the same, but they are in a different order; or

(4) The key words are the same, but the spelling is creative or unusual.

(5) The difference in key words is between how a number is expressed, as a numeral, Roman numeral, or word representing a numeral.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648
Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 &648.051
Hist.: CORP 4-2006, f. & cert. ef. 6-26-06

160-0010-0013
Not Distinguishable on Record

A name is not distinguishable on the records of the Secretary of State Business Registry office from the name of any other active organized entity, or from a reserved or registered name, if the names only differ in one or more of the following ways:

(1) Entity identifiers
(2) Punctuation or special characters
(3) Capitalization
(4) Spacing
(5) The presence or absence of an article, preposition, or conjunction, or a symbol for that word, including "a," "an," "and," "at," "by," "for," "in," "plus," "the," "to," and "with." Examples of symbols include "&," "@," and "+."
(6) An "s" is added or deleted to make the word plural, singular, or possessive.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648
Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 &648.051
Hist.: CORP 4-2006, f. & cert. ef. 6-26-06

160-010-0014
Prohibitions

(1) An entity identifier cannot be used with an assumed business name, unless all the registrants on the assumed business name are entities identified in the name.
(2) The Secretary of State Business Registry office shall not approve requested names that imply in any way that the business is an agency of the state, or any of its political subdivisions, without proof of authorization to register such a name.

Stat. Auth.: ORS 56, 58, 60, 62, 63, 65, 68, 70, 128, 183, 554 & 648
Stats. Implemented: ORS 58.085, 60.094, 62.131, 63.094, 65.094, 68.735, 70.010, 128.580; 554.005 &648.051
Hist.: CORP 4-2006, f. & cert. ef. 6-26-06

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Secretary of State, Elections Division
Chapter 165

Rule Caption: Updates enforcement actions for campaign finance civil penalty election law violations.
Adm. Order No.: ELECT 10-2006(Temp)
Filed with Sec. of State: 7-6-2006
Certified to be Effective: 7-6-06 thru 1-2-07
Notice Publication Date:
Rules Amended: 165-013-0010
Subject: ORS 260.215(4) directs the Secretary of State to require a candidate or treasurer of a principal campaign committee to provide documentation of not more than 8 transactions previously supplied on campaign finance reports. Pursuant to ORS 260.200(3), this temporary amendment would exempt from disclosure any bank account number(s), credit card number(s) or social security number(s) supplied as documentation. This amendment also sets forth penalties for failing to provide documentation to a spot check review request. Appendix A of this rule is updated to include statutory changes that were passed in the 2005 Legislative Session.
Rules Coordinator: Brenda Bayes—(503) 986-1518

165-013-0010
Penalty Matrix for Other Campaign Finance Violations

(1) This penalty matrix applies to civil penalties for campaign finance violations not covered by the penalty matrices in the Campaign Finance Manual.
(2)(a) Spot Check Review. The Secretary of State, Elections Division, will hold exempt from disclosure as a public record any bank account number(s), credit card number(s) or social security number(s) received as required documentation in response to a request for documentation necessary to perform a spot check review in accordance with ORS 260.215(4).
(b) If a principal campaign committee fails to provide documentation or provides insufficient documentation in response to a request for documentation necessary to perform a spot check review, each omitted or insufficient item is a violation of ORS 260.055(1).
(c) Omitted or insufficient information submitted after the deadline provided for in the notice of spot check review, but prior to the deadline for a candidate or treasurer to request a hearing may result in a 50% per item reduction of the penalty, if the candidate or treasurer also submits a written statement explaining why it was not possible through the exercise of reasonable diligence to provide the information on or before the deadline provided for in the notice of spot check review. If a public hearing is requested, the omitted or insufficient information may be submitted up to the date of the hearing. In such an event, the candidate or treasurer will be entitled to a 50% per item reduction of the assessed penalty if the candidate or treasurer establishes at the hearing the it was not possible through the exercise of reasonable diligence to provide the information on or before the deadline provided for in the notice of spot check review.
(d) The candidate or treasurer who filed the last report for the committee relating to the election, along with the candidate is responsible for submitting all requested documentation for all reports encompassed by the spot check review.
(3) Mitigating Circumstances. Except as specifically provided in paragraph (2)(c), the only mitigating circumstances that will be considered in a campaign finance violation covered by this rule include:
(a) The violation is a direct result of a valid personal emergency of the candidate or treasurer. A valid personal emergency is an emergency, such as a serious personal illness or death in the immediate family of the candidate or treasurer which caused the violation to occur. Personal emergency does not include a common cold or flu, or a long-term illness where other arrangements could have been made. In this case, independent written verification must be provided;
(b) The violation is the direct result of an error by the elections filing officer;
(c) The violation is the direct result of clearly-established fraud, embezzlement, or other criminal activity against the committee, committee treasurer or candidate, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or bookkeeper or the person who actually engaged in the criminal activity;
(d) The violation is the direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to, committee records. ("Calamitous event" means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight); or
(e) The violation is the direct result of failure of a professional delivery service to deliver documents in the time guaranteed for delivery by written receipt of the service provider (this does not include delivery by fax).
(4)(a) Penalty Matrix. These mitigating circumstances may be considered in reducing, in whole or in part, the civil penalty. If the violation is a direct result of an error by the elections filing officer, the violation is waived and no penalty is assessed.
(b) The penalty amount for a violation will be calculated against the same candidate or treasurer for a period based on the number of violations by the candidate or treasurer of the same offense in the two years preceding the date the violation occurs.
(c) For purposes of determining penalty amounts for violations of campaign finance violations covered by this rule Appendix A of this rule will apply. [Appendix not included. See ED. NOTE.]

[ED. NOTE: The Appendix referenced is available from the agency.]
Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 260.232
Hist.: ELECT 13-2000, f. 7-31-00, cert. ef. 8-4-00; ELECT 22-2003, f. & cert. ef. 12-5-03; ELECT 1-2004, f. & cert. ef. 2-13-04; ELECT 16-2005, f. & cert. ef. 12-30-05; ELECT 10-2006(Temp), f. & cert.ef. 7-6-06 thru 1-2-07

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Travel Information Council
Chapter 733

Rule Caption: Modify Logo Sign criteria to meet federal guidlines; repeal duplicate language; add new logo Riders.
Adm. Order No.: TIC 2-2006
Filed with Sec. of State: 6-21-2006
Certified to be Effective: 6-21-06
Notice Publication Date: 5-1-06
Rules Amended: 733-030-0021, 733-030-0036, 733-030-0045, 733-030-0080
Rules Repealed: 733-030-0041
Subject: The Travel Information Council held a quarterly meeting on April 3, 2006. The Council proposed rule changes to make criteria for Logo Signs consistent with the guidelines in the federal Manual on Uniform Traffic control Devices; to re-assign separate rules for Expressways in rule for Interstate and Secondary highways and repeal the duplicated Expressway rules; and to add new legends for Logo Riders and clarify the approved size and width of Logo Riders. Having received no public comment, the Council voted to adopt the changes at the June 12, 2006 meeting.
Rules Coordinator: Angela Willhite—(503) 378-4508

733-030-0021
Criteria for Specific Information Permitted

(1) Each qualified motorist business identified on a sign panel shall have given written assurance to the Council of its conformity with all appli-

cable laws concerning the provision of public accommodations without regard to race, religion, color, age, sex, or national origin, meet all applicable Federal and State ADA guidelines, and shall not be in breach of that assurance. Each qualified business will offer services to all citizens.

(2)(a) If the qualified motorist business is a gas, food, lodging, or Tourist Attraction facility, it must be located within one mile of the interchange or intersection measured by vehicle distance from the center point of the terminus of the exit ramp on an interchange and from the center of an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any qualified motorist business set out in this section location within nine miles of an interchange or intersection, but more than one mile from the interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060.

(b) Facilities requesting signing from an Interstate or Expressway interchange and located within a city with a population of 15,000 or more and where there are sufficient numbers of services within one mile of that interchange or intersection, are not eligible for a mileage waiver and shall be located within one mile of the interchange or intersection. If there is not a sufficient amount of services available at any given interchange or intersection in a city with a population of 15,000 or more, then any qualified motorist business set out in this section located within two miles of an interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060. A maximum of two supplemental signs per facility shall be allowed within urban areas. A facility has the right to appeal the conditions set forth in this paragraph through a waiver to the Council. A seven-year review will be conducted for those logo signs installed following the rule adoption.

(3) If the qualified motorist business is a camping facility, it must be located within three miles of the interchange measured by vehicle distance from the center point of the terminus of the exit ramp of an interchange or the center of an intersection at an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any qualified motorist business set out in this paragraph located within 15 miles of an interchange or intersection, but more than three miles from an interchange or intersection, may apply to the Council for a waiver under the provisions of rule 733-030-0060.

(4) The types of service permitted shall be limited to "GAS", "FOOD", "LODGING" "CAMPING" or "TOURIST ATTRACTION". To qualify for displaying a logo on a sign panel all services must display permanent on premise signing which is visible from the roadway and sufficient to direct motorists to the appropriate entrance from the roadway. The on premise signing shall display the Assumed Business Name as stated on logo plaques. Facilities that operate under and/or provide service using more than one brand name shall be limited to displaying not more than two brand names per plaque.

(a) "GAS" shall include:

(A) Vehicle services, including gas and/or alternative fuels, oil, and water;

(B) Restroom facilities and drinking water;

(C) Continuous operation at least 16 hours per day, 7 days a week for businesses located on the interstate system and expressways and continuous operation at least 12 hours per day, 7 days a week on the primary and secondary system; and

(D) Telephone service;

(E) FOOD services located within GAS facilities, that meet all requirements under 733-030-0021(4)(b) except for (E), may display their logo on the logo plaque for the GAS facility in which they are located. Each GAS plaque shall be limited to the addition of only one FOOD service. Brand names that are reflected as part of the GAS facility's registered business name may be included on the logo plaque.

(b) "FOOD" shall include:

(A) Appropriate business & health department licensing for the providing of meals; facilities are required to maintain a valid health permit or license for the type of facility operated.

(B) Continuous operation to serve at least two meals per day, at least 6 days per week.

(C) Telephone service and restroom facilities;

(D) The primary business operation is the providing of meals; and

(E) Seating for at least 20 people. FOOD facilities that have two distinct brand name restaurants in one building may display the logos of both FOOD services on one FOOD logo plaque. FOOD facilities located within GAS facilities, which do not meet FOOD seating requirements, may be displayed on the GAS logo for that facility. See 733-030-0021(4)(a)(E);

(c) "LODGING" shall include:

(A) Licensing where required;

(B) Adequate sleeping accommodations;

(C) Telephone services and restroom facilities.

(D) Bed & Breakfast facilities, provided they maintain valid food and lodging health department licenses

(d) "CAMPING" shall include:

(A) Licensing where required;

(B) Adequate parking accommodations;

(C) Modern sanitary facilities and drinking water.

(e) "TOURIST ATTRACTION" shall include:

(A) Adequate parking;

(B) Restrooms provided;

(C) Drinking water required;

(D) Facility be reasonably close to a public telephone;

(E) Open at least six hours a day; six days a week of continuous operation during its normal business season.

(F) Licensing where required;

(G) Attendant/Docent/Guide on duty during all operating hours.

(H) Attractions involving manufacturing or production, such as industrial facilities or wineries must meet all conditions under (e)(A)–(G) and must provide the opportunity for visitors to observe the production or manufacturing process or facilities.

(I) Historical facilities and visitor centers must meet all conditions under (e)(A)–(G) and must provide:

(i) Documentation showing that the facility meets the definition of the authorizing state agency that develops criteria for these facilities

(ii) Historical tour routes may qualify with a waiver given by the Council if such a tour route is sufficiently signed to guide the motorist safely and conveniently through the tour.

(iii) Historical sites must show registration through State or Federal designators;

(5) Historical museum offerings must:

(a) Exist on a permanent basis for essentially aesthetic or educational purposes;

(b) Offerings must be the primary source of business of the requesting facility;

(c) Museum offerings must be exhibited to the public on a regular basis through buildings owned and operated by the museum.

(6) The number of sign panels permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of logos permitted on a sign panel is specified in rule 733-030-0036 for the interstate system, rule 733-030-0041 for expressways, and rule 733-030-0045 for the primary and secondary system.

(7) A qualified motorist business, which fails to meet the requirements of section (4) of this rule, may request a waiver from the Council under the provision of 733-030-0060.

Stat. Auth.: ORS 377.700 - 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 1-1984, f. & ef. 1-13-84; TIC 3-1985, f. & ef. 6-4-85; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00: TIC 2-2000, f. 10-13-00, cert. ef. 11-1-00; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05; TIC 2-2004, f. & cert. ef. 11-12-04; TIC 2-2006, f. & cert. ef. 6-21-06

733-030-0036
Special Requirements — Interstate Highways and Expressways

(1) Location:

(a) Except as provided in rule 733-030-0016 and in paragraph (2)(b) and (c) of this rule a separate sign panel shall be provided for each type of service for which logos are displayed.

(b) The proposed location must be reviewed and approved by the engineer.

(c) Sign panels shall not be erected at an interchange where the motorist cannot conveniently re-enter the highway and continue in the same direction of travel or at interchanges between an interstate highway and a fully access controlled freeway or an interchange between interstate highways.

(d) At single-exit interchanges where service facilities are not visible from a ramp terminal, supplemental sign panels shall be installed along the ramp or at the ramp terminal, and may be provided along the crossroad. These supplemental sign panels shall be duplicates of the corresponding sign panels along the main traveled way but reduced in size. GAS supplemental sign panels for facilities that also display a FOOD service on their logo plaque, shall only display their GAS logo on their supplemental sign panels. The supplemental sign panels shall include the distances to the business and directional arrows in lieu of words. The minimum letter height should be four inches except that any legend on a symbol shall be proportionate to the size of the symbol. Supplemental sign panels may be used on ramps and crossroads at double exit interchanges. There shall be no more than 18 plaques total being displayed along any one-exit ramp. Of those 18, a maximum of ten can be for one type of service. A maximum of six plaques per type of facility shall be displayed per direction being signed.

Maximum board size shall be eight spaces. On channelized off-ramps, supplemental logo signs should be placed in advance of the channelized markings. Separate signs, for the same type of service, may be installed on opposite sides of the ramp to direct motorists into the proper lane for those facilities displayed on the board. [Exhibit not included. See ED. NOTE.]

(2) Composition:

(a) Single exit interchanges. The name of the type of service followed by the exit number shall be displayed in one line above the business signs. This does not apply to sign panels already erected at the time these rules are adopted. At unnumbered interchanges the directional legend NEXT RIGHT (LEFT) shall be substituted for the exit number. "GAS," "FOOD," "LODGING," "CAMPING," and "TOURIST ATTRACTION sign panels shall be limited to six logos each.

(b) Double exit interchanges. Sign panels shall consist of two sections, one for each exit. The top section shall display the logo for the first exit and the lower section shall display the logo for the second exit. The name of the type of service followed by the exit number shall be displayed in a line above the logos in each section. The exit number requirements of this section do not apply to sign panels erected at the time these rules are adopted. At unnumbered interchanges, the legends NEXT RIGHT (LEFT) shall be substituted for the exit numbers. Where a type of motorist service is to be signed for at only one exit, one section of the sign panel may be omitted or a single exit interchange sign panel may be used. The number of logos on the sign panel (total of both sections) shall be limited to six for "GAS," "FOOD," "LODGING," and "CAMPING" and "TOURIST ATTRACTION."

(c) Remote rural interchanges. In remote rural areas, where not more than two qualified motorist businesses are available for each of two or more types of services, logos for two types of service shall be displayed in combination on a sign panel. The name of each type of service shall be displayed in combination on a sign panel. The name of each type of service shall be displayed above its respective logo, and the exit number shall be displayed above the name of the type of services. The exit number requirements of this paragraph do not apply to sign panels erected at the time these rules are adopted. At unnumbered interchanges, the legend NEXT RIGHT (LEFT) shall be substituted for the exit number.

(3) Size:

(a) Logos: each logo plaque shall not exceed 60 inches in width and 36 inches in height, including border.

(b) Legends. All letters used in the name of type of service and the directional legend shall be 10-inch capital letters. Numbers shall be 10 inches in height.

[ED. NOTE: Exhibits referenced are available from the agency.]
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 1-1991, f. & cert. ef. 12-23-91; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 2-2006, f. & cert. ef. 6-21-06

733-030-0045
Special Requirements — Primary and Secondary System

(1) Location.

(a) The proposed location must be reviewed and approved by the engineer. In urban areas, no more than two supplemental signs per facility will be allowed.

(b) Intersections. Logos shall not be displayed for any business if its building or on-premise signing is visible and/or recognizable on the traveled way for a distance of 300 feet or more from the intersection. Increased distances may be allowed for businesses providing camping or repair services to Recreational Vehicles (RV) where issues of safety and RV maneuvering are concerned. Visibility and recognition are determined by being able to recognize the facility by observing the building or existing signing adjacent to or attached to the facility, as to the type of service (Gas, Food, Lodging, Camping) for which it has applied. A facility that is visible within 300 feet or more, but is not recognizable, may qualify for signing if a favorable determination is made by the Travel Information Council. However, in rural towns with a population of 500 persons or less, where there are minimal services meeting eligibility criteria, and where the nearest available services are at least 25 miles from that town, the Council, upon consultation with the Engineer, may consider installing logo signs in cases where the business is visible on the traveled way the last 300 feet from the intersection. Supplemental sign panels similar to those as described in OAR 733-030-0036(1)(d) may be provided on the crossroad.

(2) Composition. A maximum of six logos for each type of service shall be displayed along each approach to the intersection. A maximum of two logos for each of three different types of services may be combined on the same sign panel. The name of each type of service shall be displayed above its logo together with an appropriate legend such as NEXT RIGHT (LEFT) or a directional arrow.

(3) Size:

(a) Each logo shall be contained within a 24-inch-wide and 18-inch-high rectangular background area, including border;

(b) Legends: All letters used in the name of the type of service on the sign panel shall be six- inch capital letters.

(4) Combination services signing (i.e., legend reading "FOOD/LODGING," displaying one facility's logo plaque) will be allowed in rural locations only. The customer applying for signing is the only facility available in the geographical area. Approval for Dual Services Signing will be under an agreement between TIC and the customer/facility. If another qualified facility is built in the area, the facility with the dual services signing will be required to display their plaques on two logo boards, one for each service. Facilities approved for Dual Services Signing will be required to pay 1-1/3 the annual fee for a facility in their area.

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 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2005(Temp), f. & cert. ef. 3-14-05 thru 9-9-05; TIC 2-2005, f. & cert. ef. 6-16-05; TIC 2-2006, f. & cert. ef. 6-21-06

733-030-0080
Requirements for Logo Riders

(1) Riders with the words "Diesel," "Propane," "24 hour," "RV Dump," "RV Parking," "Biodiesel," "Auto Repair," or "Wifi," or a rider containing a combination of two legends not exceeding the width of the logo, may be placed on a sign panel underneath any qualified motorist service business that offers those products or services.

(2) In order to have a rider installed, the motorist service business must submit a request for each rider for approval by the Council. At the time of approval, the applicant must pay a one-time installation fee of $100 for an individual rider, or $125 for a combination rider. The fee for removing each rider is $45.

(3) The standard size for an individual rider shall be 7 inches high with 6-inch high letters. The combination rider shall be 7 inches high with 6-inch letters on all Interstate Highways and Expressways, and 7 inches high with 5-inch letters on all other highways. The length of either an individual or combination rider shall not exceed the width of the logo. The color shall be blue with white letters. The rider panel shall be furnished and installed by the Council.

(4) The Council is responsible for the maintenance and replacement of the rider if it is damaged or wears out.

(5) A rider with the words "Card-Lock Only" shall be required for all gas facilities that are exclusively card-lock stations. At the time of approval, the applicant must pay a one time fee of $100 for each Card-Lock Only rider.

(6) Riders may be installed for seasonal facilities or for facilities who qualify only with an approved waiver and can be or are the only facility installed on a post. The rider must be a concise, one line description of the waived issue. Examples of acceptable riders include, but are not limited to, "Weekends Only", "Open Thurs-Sunday", "Open 1-4pm Daily", Open May-Sept", Open Oct-April".

(7) Riders required as part of a facility criteria waiver or seasonal closure will be assessed a $100.00 fee prior to installation. Sign revision fees of $100.00 per rider will be assessed when the facility changes the days or hours of operation or takes other waiver related action that requires a change in the rider message and therefore manufacture and installation of new riders.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 3-1982, f. & ef. 6-1-82; TIC 4-1985, f. & ef. 6-4-85; TIC 5-1985, f. & ef. 12-13-85; TIC 1-1987(Temp), f. & ef. 3-6-87; TIC 5-1988, f. & cert. ef. 12-23-88; TIC 3-1989, f. & cert. ef. 10-27-89; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 2-2006, f. & cert. ef. 6-21-06

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Water Resources Department
Chapter 690

Rule Caption: Modifies well construction and licensing rules to implement Senate Bill 579 (Chapter 496, Oregon Laws 2001).
Adm. Order No.: WRD 2-2006
Filed with Sec. of State: 6-20-2006
Certified to be Effective: 6-20-06
Notice Publication Date: 2-1-2006
Rules Amended: 690-200-0050, 690-205-0005, 690-205-0010, 690-205-0020, 690-205-0025, 690-205-0055, 690-205-0120, 690-205-0145, 690-205-0155, 690-205-0175, 690-205-0185, 690-205-0200, 690-205-0210, 690-220-0030, 690-220-0095, 690-225-0020, 690-225-0030, 690-225-0060, 690-225-0110, 690-240-0005, 690-240-

0010, 690-240-0015, 690-240-0035, 690-240-0055, 690-240-0060, 690-240-0065, 690-240-0070, 690-240-0220, 690-240-0280, 690-240-0320, 690-240-0330, 690-240-0340, 690-240-0355, 690-240-0375, 690-240-0395, 690-240-0485, 690-240-0500, 690-240-0510, 690-240-0560, 690-240-0580, 690-240-0610, 690-240-0640

Subject: The Water Resources Commission adopted rules relating to Water Supply Well Constructor and Monitoring Well Constructor licensing and bonding (OAR Chapter 690, Divisions 200, 205, 220, 225 and 240). These adopted rules implement SB 579 (Chapter 496, Oregon Laws 2001) allowing a Water Well Constructor to carry a single license with endorsements that indicate what type of wells they are authorized to construct. Previously, a license was required for each license type.

Rules Coordinator: Debbie Colbert—(503) 986-0878

690-200-0050
Definitions

The Water Resources Commission uses the definitions of the words listed below in the administration and enforcement of Oregon's Ground Water Law and the Rules and Regulations for the Construction and Alteration of Wells. No other definitions of these same words apply:

(1) "Abandonment, Permanent" means to remove a well from service by completely filling it in such a manner that vertical movement of water within the well bore and within the annular space surrounding the well casing, is effectively and permanently prevented. If a portion of a well is to be abandoned in order to prevent commingling, waste, or loss of artesian pressure, the abandonment shall conform with the requirements of OAR chapter 690, division 220 for water supply wells. This term is synonymous with "decommission."

(2) "Abandonment, Temporary" means to remove a drilling machine from a well site after completing or altering a well provided the well is not immediately put into service, or to remove a well from service with the intent of using it in the future.

(3) "Access Port" means a minimum 1/2-inch tapped hole and plug or a 1/2-inch capped pipe welded onto the casing in the upper portion of a water supply well, or a minimum 1/2 inch dedicated probe/transducer pipe to permit entry of water-level measuring devices into the water supply well in order to determine the water level.

(4) "Air Gap" means a complete physical break between the outlet end of the discharge pipe or other conduit and the discharged substance. The break shall be at least twice the inside diameter of the pipe or conduit. (Back-siphon prevention)

(5) "Airline" means a water level measuring device consisting of a pressure gauge attached to an airtight line or pipe of known length, within the water supply well bore, extending from land surface to below the pumping level. The device will allow the water level to be computed by measuring the stable air pressure remaining in the line after completely purging water from within the line.

(6) "Air/Vacuum Relief Valve" means a device to automatically relieve or break vacuum. (Back-siphon prevention)

(7) "Altering a Well" means the deepening, reaming, hydrofracturing, casing, re-casing, perforating, re-perforating, installation of liner pipe, packers, seals, and any other material change in the design or construction of a well.

(8) "Annular Space" means the space between the drillhole wall and the outer well casing.

(9) "Aquifer" means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout in characteristics such as potentiometric head, chemistry, and temperature (see **Figure 200-2**).

(10) "Artesian Aquifer" means a confined aquifer in which ground water is under sufficient head to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface, the well is a flowing artesian well (see **Figure 200-2**).

(11) "Artesian Water Supply Well" means a water supply well in which ground water is under sufficient pressure to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian water supply well.

(12) "Automatic Low-Pressure Drain" means a self-activating device designed and constructed to intercept incidental leakage and drain that portion of an irrigation pipeline or any other method of conveyance whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down. (Back-siphon prevention)

(13) "Back-Siphon Prevention Device" means a safety device used to prevent water pollution or contamination by preventing flow of a mixture of water and/or chemicals in the opposite direction of that intended. (Back-siphon prevention)

(14) "Bored Well" means a well constructed with the use of earth augers turned either by hand or by power equipment.

(15) "Buried Slab Type Well" means a dug well in which well casing is used to case the upper hole. A slab, sealed with cement grout, is placed between the upper hole and lower drillhole, and the remainder of the annulus is filled with concrete.

(16) "Casing" means the outer tubing, pipe, or conduit, welded or thread coupled, and installed in the borehole during or after drilling to support the sides of the well and prevent caving. Casing can be used, in conjunction with proper seal placement, to shut off water, gas, or contaminated fluids from entering the hole, and to prevent waste of ground water.

(17) "Casing Seal" means the water tight seal established in the well bore between the well casing and the drillhole wall to prevent the inflow and movement of surface water or shallow ground water in the well annulus, or to prevent the outflow or movement of water under artesian or hydrostatic pressures.

(18) "Check Valve" means a certified device designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (Back-siphon prevention)

(19) "Chemigation" means the method of applying agricultural chemicals and fertilizer through an irrigation system.

(20) "Clay" means a fine-grained, inorganic material having plastic properties and with a predominant grain size of less than 0.002 mm.

(21) "Commission" means the Oregon Water Resources Commission.

(22) "Committee" means the Oregon Ground Water Advisory Committee created by ORS 536.090.

(23) "Community Well" means a water supply well, whether publicly or privately owned, which serves or is intended to serve more than three connections for residences or other connections for the purpose of supplying water for drinking, culinary, or household uses.

(24) "Confined Animal Feeding or Holding Area" means the concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, swine, and dairy confinement areas, slaughterhouse or shipping terminal holding pens where the animal waste is allowed to build up on the ground. Pastures and areas adjacent to buildings where animals and animal waste is confined by a physical barrier such as concrete are exempt.

(25) "Confining Formation" means the "impermeable" stratum immediately overlying an artesian (confined) aquifer (see Figure 200-2).

(26) "Consolidated Formation" means materials that have become firm through natural rock-forming processes. It includes, but is not limited to, such materials as basalt, sandstone, shale, hard claystone, and granite.

(27) "Contamination" means an impairment of water quality by chemicals, radionuclides, biologic organisms or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

(28) "Continuing Education" means that education required as a condition of licensure under ORS 537.747, to maintain the skills necessary for the protection of ground water, the health and general welfare of the citizens of Oregon and the competent practice of the construction, alteration, abandonment, conversion, and maintenance of water supply wells, monitoring wells, and geotechnical holes.

(29) "Continuing Education Committee" means the Well Constructor Continuing Education Committee authorized under Chapter 496, Oregon Laws 2001 (ORS 537.765).

(30) "Continuing Education Course" means a formal offering of instruction or information to licensees that provides continuing education credits.

(31) "Continuing Education Credit" (CEC) means a minimum of 50 minutes of instruction or information approved by the Continuing Education Committee.

(32) "Converting" a well means changing the use of an existing well or hole not previously used to either withdraw or monitor water such that the well or hole can be used to either withdraw or monitor water.

(33) "Deepening a well" means extending the well bore of an existing well through previously undisturbed native material. Deepening is a type of alteration.

(34) "Department" means the Oregon Water Resources Department.

(35) "Director" means the Director of the Department or the Director's authorized representatives.

(36) "Documentation of Completion" means written evidence or documentation demonstrating attendance and completion of a continuing education course, including but not limited to: a certificate of completion,

diploma, transcript, certified class roster, or other documentation as approved by the Continuing Education Committee.

(37) "Domestic Well" means a water supply well used to serve no more than three residences for the purpose of supplying water for drinking, culinary, or household uses, and which is not used as a public water supply.

(38) "Drawdown" means the difference in vertical distance between the pumping level and the static water level in a well.

(39) "Drive Point Well" means a well constructed by driving into the ground a well-point fitted to the end of a pipe section or series of pipe sections.

(40) "Dug Well" means a well in which the excavation is made by the use of digging equipment such as backhoes, clam shell buckets, or sand buckets. (See Hand dug well)

(41) "Excavation" means a free-standing cavity with greater width than depth constructed in the earth's surface which has a primary purpose other than seeking water or water quality monitoring.

(42) "Figure", when used herein, refers to an illustration and is made a part of the primary article and section by reference.

(43) "Filter Pack Well" means a well in which the area immediately surrounding the well screen or perforated pipe within the water-producing zone is filled with graded granular material.

(44) "Geologic Formation" means an igneous, sedimentary, or metamorphic material that is relatively homogeneous and is sufficiently recognized as to be distinguished from the adjacent material. The term is synonymous with "formation."

(45) "Geologist" means an individual registered by the State of Oregon to practice geology.

(46) "Geotechnical hole" means a hole constructed to collect or evaluate subsurface data or information, monitor movement of landslide features, or to stabilize or dewater landslide features. Geotechnical holes are not monitoring wells or water supply wells as defined below. Various classes and examples of geotechnical holes are listed in OAR 690-240-0035(6)–(9).

(47) "Grout" means approved cement, concrete, or bentonite sealing material used to fill an annular space of a well or to abandon a well.

(48) "Grout Pipe" means a pipe which is used to place grout at the bottom of the sealing interval of a well.

(49) "Hand dug well" means a well in which the excavation is only made by the use of picks, shovels, spades, or other similar hand operated implements. (See Dug Well)

(50) "Hazardous Materials Training" means training as defined by OAR 437-002-0100 Adoption by Reference Subdivision H Hazardous Materials 1910.120 Hazardous Waste Operations and Emergency Response.

(51) "Hazardous Waste" means a substance as defined by ORS 466.005.

(52) "Hazardous Waste Disposal Site" means a geographical site in which or upon which hazardous waste is disposed.

(53) "Hazardous Waste Storage Site" means the geographical site upon which hazardous waste is stored.

(54) "Hazardous Waste Treatment Site" means the geographical site upon which or a facility in which hazardous waste is treated.

(55) "Health Hazard" means a condition where there are sufficient concentrations of biological, chemical, or physical, including radiological, contaminants in the water that are likely to cause human illness, disorders, or disability. These include but are not limited to, naturally occurring substances, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes. Sufficient concentrations of a contaminant include but are not limited to contaminant levels set by the Oregon Department of Environmental Quality and Oregon Health Division.

(56) "Health Threat" means a condition where there is an impending health hazard. The threat may be posed by, but not limited to: a conduit for contamination, or a well affecting migration of a contaminant plume, or the use of contaminated water. A well in which the construction is not verified by a water supply well report or geophysical techniques may be considered a conduit for contamination in certain circumstances. Those circumstances include, but are not limited to: an unused and neglected well or a well for which no surface seal was required. A well in which the casing seal, sanitary seal, or watertight cap has failed, or was inadequately installed may be considered a conduit for contamination.

(57) "Horizontal Well" means a well that intentionally deviates more than 20 degrees from true vertical at any point.

(58) "Hydrofracturing" means the use of high pressure liquid, sand, packers or other material to open or widen fractures in consolidated formations for the purpose of increasing well yield.

(59) "Hydrologic Cycle" is the general pattern of water movement by evaporation from sea to atmosphere, by precipitation onto land, and by return to sea under influence of gravity.

(60) "Impermeable Sealing Material" means cement, concrete, or bentonite which is used to fill the open annulus between the lower and upper sealing intervals.

(61) "Inspection Port" means an orifice or other viewing device from which the low-pressure drain and check valve may be observed.

(62) "Jetted Well" means a well in which the drillhole excavation is made by the use of a high velocity jet of water.

(63) "Leakage" means movement of surface and/ or subsurface water around the well casing or seal.

(64) "Liner Pipe" means the inner tubing, pipe, or conduit installed inside the well casing or lower well bore. The liner pipe is used to protect against caving formations and is not permanently affixed to the drillhole wall or casing.

(65) "Lower Drillhole" means that part of the well bore extending below the surface seal interval in a well.

(66) "Mineralized Water" means any naturally occurring ground water containing an amount of dissolved chemical constituents limiting the beneficial uses to which the water may be applied.

(67) "Monitoring Well" means a well designed and constructed to determine the physical (including water level), chemical, biological, or radiological properties of ground water.

(68) "Monitoring Well Constructor" means any person who has a current water well constructor's license with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(69) "Monitoring Well Constructor's License" means a Water Well Constructor's License with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(70) "Municipal or Quasi-Municipal Well" means a water supply well owned by a municipality or nonprofit corporation that may be used as a community or public water supply.

(71) "Order" means any action satisfying the definition given in ORS Chapter 183 or any other action so designated in ORS 537.505 to 537.795.

(72) "Other Hole" means a hole other than a water supply well, a monitoring well, or geotechnical hole, however constructed, in naturally occurring or artificially emplaced earth materials, through which ground water can become contaminated. Holes constructed under ORS Chapters 517, 520, and 522 are not subject to these rules. Other holes are regulated under OAR 690-240. Examples of other holes are listed in 690-240-0030.

(73) "Perched Ground Water" means ground water held above the regional or main water table by a less permeable underlying earth or rock material (see **Figure 200-2**).

(74) "Permeability" means the ability of material to transmit fluid, usually described in units of gallons per day per square foot of cross-section area. It is related to the effectiveness with which pore spaces transmit fluids.

(75) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(76) "Petcock Valve" is a valve used to contain pressure which when opened will drain the line or pipe.

(77) "Piezometer" means a type of monitoring well designed solely to obtain ground water levels. Piezometers are prohibited in areas of known or reasonably suspected contamination. This term is synonymous with "observation well"(See OAR 690-240).

(78) "Pitless Adaptor" means a commercially manufactured unit or device designed for attachment to one or more openings through a well casing, which will permit water service pipes to pass through the wall of a well casing or extension thereof and prevent entrance of contaminants into the well or ground water.

(79) "Pitless Unit" means a commercially manufactured unit extending the upper terminal of the well casing to above land surface, constructed and installed so as to prevent the entrance of contaminants into the well and to protect the ground water supply, conduct water from the well, and provide full access to the well and water system parts therein.

(80) "Porosity" means the ratio of the volume of voids in the geologic formation being drilled to the overall volume of the material without regard to size, shape, interconnection, or arrangement of openings.

(81) "Potable Water" means water which is sufficiently free from biological, chemical, physical, or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects.

(82) "Potentiometric Surface" means the level to which water will rise in tightly cased artesian wells (see Figure 200-2).

(83) "Pressure Grouting" means a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

(84) "Professional" means any person licensed or registered by the State of Oregon to construct monitoring wells, water supply wells, or practice geology or civil engineering.

(85) "Public-at-Large" means a person not actively engaged in the well industry.

(86) "Public Water System" means a system for the provision to the public of piped water for human consumption, if such a system has more than three service connections or supplies water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by ten or more individuals per day or is a facility licensed by the Oregon Health Division.

(87) "Public Well" means a water supply well, whether publicly or privately owned, other than a municipal well, where water is provided for or is available through the single user for public consumption. This includes, but is not limited to, a school, a farm labor camp, an industrial establishment, a recreational facility, a restaurant, a motel, or a group care home.

(88) "Pumping Level" means the level of the water surface in a well while it is being pumped or bailed.

(89) "Pump Test" means the procedure involving pumping water for a specified period of time to determine the yield characteristics of an aquifer.

(90) "Refusal to Renew" means a provision in an order, or as allowed by ORS 537.747, that prohibits renewal of a well constructor's license, for a specified term not to exceed one year from the expiration date of the current license.

(91) "Remediation Well" means a well used for extracting contaminates and/or contaminated ground water from an aquifer. This term is synonymous with "extraction well" and "recovery well."

(92) "Respondent" means the person against whom an enforcement action is taken.

(93) "Responsible Party" means the person or agency that is in charge of construction or maintenance and is either in violation as specified in a notice of violation or who may benefit from that violation.

(94) "Rough Drilling Log" means a record kept on the well site of the information needed to complete the well report for the well being constructed.

(95) "Revoke" means termination of a well constructor's license.

(96) "Sand" means a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

(97) "Sanitary Seal" means a tight fitting properly sized threaded, welded, or gasketed cap placed on the top of the permanent well casing to prevent entry of water and foreign material.

(98) "Sealant": See Grout

(99) "Silt" means an unconsolidated sediment composed predominantly of particles between 0.06 mm and 0.005 mm in diameter.

(100) "Slope Stability Geotechnical Hole" means a geotechnical hole excavated, drilled or bored for studying and/or monitoring movement of landslide features, including water levels, or other mass-wasting features to detect zones of movement and establish whether movement is constant, accelerating, or responding to remedial measures. Hole(s) excavated, drilled or bored for the purpose of slope remediation or stabilization shall be considered a slope stability geotechnical hole. Slope stability geotechnical holes are not monitoring wells, piezometers, or water supply wells.

(101) "Sponsor" means an institution, professional organization, individual, or business that offers continuing education courses to licensees. This term is synonymous with provider.

(102) "Static Water Level" means the stabilized level or elevation of water surface in a well not being pumped.

(103) "Stratum" means a bed or layer of a formation that consists throughout of approximately the same type of consolidated or unconsolidated material.

(104) "Sump" means a hole dug to a depth of ten feet or less with a diameter greater than ten feet in which ground water is sought or encountered.

(105) "Suspension" means the temporary removal of the privilege to construct wells under an existing license for a period of time not to exceed one year.

(106) "System Interlock" means an interlocking mechanism used to link irrigation pumps and chemical injection units, other pumps, or supply tanks so designed that in the event of irrigation pump malfunction or failure, shutdown of the chemical injection units will occur. (Back-siphon prevention)

(107) "Unconsolidated Formation" means naturally occurring, loosely cemented, or poorly indurated materials including clay, sand, silt, and gravel.

(108) "Underground Injection" means the emplacement or discharge of fluids to the subsurface.

(109) "Underground Injection System" means a well, improved sump, sewage drain hole, subsurface fluid distribution system, or other system or ground water point source used for the emplacement or discharge of fluids.

(110) "Upper Oversize Drillhole" means that part of the well bore extending from land surface to the bottom of the surface seal interval.

(111) "Violation" means an infraction of any statute, rule, standard, order, license, compliance schedule, or any part thereof and includes both acts and omissions.

(112) "Water Supply Well" means a well, other than a monitoring well, that is used to beneficially withdraw or beneficially inject ground or surface water. Water supply wells include, but are not limited to, community, dewatering, domestic, irrigation, industrial, municipal, and aquifer storage and recovery wells.

(113) "Water Supply Well Constructor" means any person who has a current water well constructor's license with a water supply well endorsement issued in accordance with ORS 537.747(3).

(114) "Water Supply Well Constructor's License" means a Water Well Constructor's License with a water supply well endorsement issued in accordance with ORS 537.747(3).

(115) "Water Supply Well Drilling Machine" means any power-driven driving, jetting, percussion, rotary, boring, digging, augering machine, or other equipment used in the construction or alteration of water supply wells.

(116) "Water Table" means the upper surface of an unconfined water body, the surface of which is at atmospheric pressure and fluctuates seasonally. The water table is defined by the levels at which water stands in wells that penetrate the water body (see Figure 200-2).

(117) "Water Well Constructor's License" means a license to construct, alter, deepen, abandon or convert wells issued in accordance with ORS 537.747(3). Endorsements are issued to the license and are specific to the type of well a constructor is qualified to construct, alter, deepen, abandon or convert.

(118) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

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

Stat. Auth.: ORS 536.027, 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 9, f. & ef. 12-9-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 12-1982, f. & ef. 12-14-82; Renumbered from 690-060-0050 & 690-064-0000 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 21-1990, f. & cert. ef. 12-14-90; WRD 1-1991, f. & cert. ef. 2-8-91; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0005

License or Permit Required to Construct Water Supply Wells

(1) Unless otherwise provided in these rules, any person who constructs, alters or abandons water supply wells for another person shall have a Water Supply Well Constructor's license or work under the supervision of a licensed Water Supply Well Constructor.

(2) If a person advertises services and/or enters into contracts for the construction, alteration or abandonment of water supply wells for another person, that person shall furnish a $10,000 Water Well Constructor's Bond or Irrevocable Letter of Credit to the Water Resources Commission and must be a licensed Water Supply Well Constructor.

(3) A property owner who constructs, alters, or abandons a water supply well on their own property shall have a Landowner Well Permit as described in OAR 690-205-0175 for each water supply well on which work is done.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0010

Water Supply Well Constructor License Examination

(1) The Water Resources Department administers the written examination required under ORS 537.747. Separate examinations are administered for each license endorsement. The Department schedules the examination on the second Monday during the months of January, April, July and October. Examinees must pay a $20.00 exam fee. Special accommodations may be given to those individuals who cannot attend the regularly sched-

uled examination dates. Requests shall be considered on a case-by-case basis. The examination tests the applicant's knowledge of:

(a) Oregon laws and administrative rules on the use of ground water, water supply well constructor licensing requirements, the construction of water supply wells, and the preparing and filing of Start Cards and Water Supply Well Reports;

(b) Hydrogeology, the occurrence and movement of ground water, and the design, construction and development of water supply wells; and

(c) Types, uses, and maintenance of drilling tools and equipment, drilling problems and corrective procedures, repair of faulty water supply wells, sealing of water supply wells, and safety rules and practices.

(2) An applicant who fails to pass an endorsement examination may retake an examination for the same endorsement after three months and the payment of another examination fee.

(3) Passing examination scores are valid for three years from the date of the examination.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0020
Water Supply Well Constructor's License, Experience Requirements and Trainee Card

(1) License. To qualify for a Water Supply Well Constructor's License, a person shall:

(a) Be at least 18 years old;

(b) Pass a written examination;

(c) Have a minimum of one year experience, during the previous 36 month period, in water supply well construction, conversion, alteration, or abandonment. This experience shall include the operation of well drilling machinery for water supply well construction, alteration, conversion, or abandonment on a minimum of fifteen water supply wells or a demonstration of equivalent experience in the operation of well drilling machinery. The following are acceptable as evidence of experience:

(A) Water supply well reports, or rough well logs with applicants' name entered, for each of the 15 wells. The name, address, and telephone number of the person responsible for the construction of each well shall be included on each report or log.

(B) Income tax returns showing source of drilling income for a period of time, or worker's compensation account information or the equivalent may be established to satisfy the one year of active construction requirement.

(C) Any other evidence the Director may deem suitable.

(D) A license held in another state shall not substitute for required evidence of experience.

(d) Pay a license fee.

(2) Trainee. If an applicant passes the written Water Supply Well Constructor's License examination, but cannot meet the experience requirement, the Commission may issue a trainee card. To qualify for a Water Supply Well Constructor Trainee Card, a person must:

(a) Be at least 18 years old;

(b) Pass a written examination; and

(c) Be supervised by a person who holds a valid Water Supply Well Constructor's License.

(3) Trainee card. A trainee card is valid for three (3) years from the date the examination was passed.

(4) Supervision. Supervision as it relates to any person who holds a Water Supply Well Constructor Trainee Card:

(a) A trainee may operate a cable tool drilling machine without a licensed Water Supply Well Constructor physically present at the well site only if:

(A) The licensed constructor can reach the well site within two hours if so requested by an authorized representative of the Department; and

(B) The licensed constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(b) A licensed Water Supply Well Constructor must physically be on the site at all times when a cable tool drilling machine is:

(A) Drilling within a flowing artesian well;

(B) Setting or advancing casing;

(C) Setting liner;

(D) Perforating casing;

(E) Setting well screens;

(F) Placing packers;

(G) Placing casing seals;

(c) A Water Supply Well Constructor trainee may operate a non-cable tool water supply well drilling machine without a licensed Water Supply Well Constructor physically present at the well site only during the following events:

(A) Air test or pump test of the well;

(B) Gravel packing operations;

(C) Developing a completed well;

(D) Removal of the drill stem from the well.

(d) Activities under subsection (4)(c)(A)-(D) of this rule shall proceed only if:

(A) The licensed Water Supply Well Constructor can reach the site within one hour if so requested by an authorized representative of the Department; and

(B) The licensed Water Supply Well Constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(e) An authorized representative of the Department in whose jurisdiction the water supply well is being constructed has the authority to:

(A) Grant an extension to the time limits stated above when a request, showing good cause, is received from the bonded constructor in advance for each particular well; and

(B) Place additional restrictions on the trainee, including requiring the constructor to be on the site at all times while the drilling machine is operating, when the authorized Department representative determines that either the drilling environment or the knowledge and/or experience of the trainee warrant closer supervision.

(f) For a Water Supply Well Constructor Trainee to operate a water supply well drilling machine without a licensed Water Supply Well Constructor present, the trainee's card must be endorsed with the name of the bonded Water Supply Well Constructor responsible for the construction of the water supply well.

(5) Other supervision requirements for persons not licensed or permitted to construct water supply wells, or who do not hold a Water Supply Well Constructor Trainee Card:

(a) Persons who are in the act of constructing, altering, converting or abandoning water supply wells must be supervised by a licensed Water Supply Well Constructor who is physically present at the well site at all times during construction, alteration, conversion, or abandonment activity.

(b) The supervising Water Supply Well Constructor is responsible for all applicable statutes and rules in construction, alteration, conversion, or abandonment of the water supply well.

(6) Persons who satisfy all requirements of ORS 537.747(3) shall be issued a Water Supply Well Constructor's License. The responsibilities for issuing and securing a Water Supply Well Constructor's License or trainee card are listed in subsections (a) and (b) of this section.

(a) The Water Supply Well Constructor's License applicant is responsible for:

(A) Completing an application or renewal form for a new or renewed license or trainee card;

(B) Submitting the application or renewal form to the Water Resources Department along with the required fees;

(C) Carrying the license or trainee card whenever constructing, altering, converting, or abandoning any water supply well; and

(D) Providing the Water Resources Department, within 30 days, notification of any change of mailing address.

(E) Providing the Water Resources Department documentation satisfying the continuing education requirements set forth in OAR 690-205-0035 through 690-205-0120.

(b) The Water Resources Department is responsible for:

(A) Designing and providing Water Supply Well Constructor license(s) and trainee cards;

(B) Designing and providing application forms and renewal forms for licenses and application forms for trainee cards;

(C) Processing applications and renewals for licenses and applications for trainee cards;

(D) Returning incomplete application and renewal forms to applicants for completion; and

(E) Sending new and renewed licenses to applicants who have completed the application or renewal form and submitted the required fee. This does not preclude refusal to renew as outlined in OAR 690-205-0025(4).

(7) Bonded Water Supply Well Constructor. For a person to possess a bonded Water Supply Well Constructor's License, the person must provide to the Department a properly executed Water Well Constructor's Bond or Irrevocable Letter of Credit. The Water Resources Department shall indicate on the constructor's license a bonded classification.

(8) Representatives of the Water Resources Department may ask anyone constructing, altering, or abandoning a water supply well to present their license or trainee card as proof of eligibility to construct, alter, convert, or abandon water supply wells in the State of Oregon. Licensed individuals shall display their license or trainee card and photo identification when they are requested to do so by Water Resources Department personnel.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0025
Term of Water Well Constructor License and License Fees

(1) The Department issues all Water Supply Well Constructor licenses. License fees are established by ORS 537.747. A penalty applies to late renewals.

(2) Fees for new licenses and renewal licenses are the same. The fee for a two year license is $150. All licenses expire on June 30 of the second year.

(3) A $100 penalty applies when a licensee renews a license within 12 months of the expiration date. There is no charge for a Trainee Card.

(4) Water Supply Well Constructors who have not made arrangements with the Water Resources Department to pay civil penalties which are assessed against them shall not be issued a license renewal or a new license until after arrangements for payment have been agreed to by the Department. Water Supply Well Constructors who have made arrangements for payment of civil penalties and have failed to meet the terms of the agreement, except in certain cases of bankruptcy, may not have their license renewed or a new license issued until all outstanding civil penalties owed to the Department have been paid.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0020; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0055
Documentation

(1) Each licensee is responsible for maintaining their own continuing education records. Except as provided in OAR 690-205-0110(2), each licensee shall provide the Department with evidence of compliance with the continuing education requirement on a form approved by the Continuing Education Committee prior to or at the time of license renewal.

(2) Licensees who do not provide documentation of completion of the continuing education requirement or receive a waiver shall not have their license(s), or appropriate endorsement(s), renewed until this requirement is satisfied.

(3) Licensees who provide documentation of completion of the continuing education requirement within the 12 months after their license expires may either pay the $100 late penalty fee or requalify for a new Water Supply Well Constructor's License or endorsement in accordance with ORS 537.747(3). If a licensee fails to provide documentation of completion of the continuing education requirement within 12 months after expiration of their license or endorsement the person must comply with the requirements of ORS 537.747(3) for a new Water Supply Well Constructor's License or endorsement.

(4) CECs acquired during a renewal period in excess of the minimum CECs required may not be applied to future licensing periods.

(5) When an individual obtains a new Water Supply Well Constructor's License that expires within 14 months or less, the continuing education requirement shall be prorated such that only seven (7) CECs are required at the first renewal. Of the seven (7) required CECs:

(a) A maximum of two (2) CECs may be in Hazardous Materials training;

(b) A maximum of two (2) CECs may be in safety/first aid/CPR; and

(c) A minimum of one (1) CEC shall pertain to ground water and well construction statutes under ORS 537.505 to 537.795 and 537.992, and administrative rules under OAR 690-200 through 690-240.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 1-2003, f. & cert. ef. 3-14-03; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0120
Waivers

(1) The Director may waive the continuing education requirements for a licensed Water Supply Well Constructor upon written request demonstrating inability to attend continuing education courses because of health, military duty or other circumstances beyond the control of the constructor.

(2) Licensees who are denied a waiver may appeal to the Commission by filing a written exception with the Department within 60 days of service of the Director's order.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 1-2003, f. & cert. ef. 3-14-03; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0145
Contracting for Services

Only Oregon licensed and bonded Water Supply Well Constructors may advertise services or enter into a contract, either written or oral, to construct, alter, convert, or abandon a water supply well. Any written bid for a project which includes the construction, alteration, conversion, or abandonment of a water supply well must provide:

(1) A bid or estimate for the work associated with water supply well construction signed by a Water Supply Well Constructor, who is licensed and bonded in the State of Oregon; and

(2) A statement by the licensed and bonded Water Supply Well Constructor that the work will be completed in accordance with Oregon Ground Water Law (ORS Chapter 537) and the Rules and Regulations for the Construction, Maintenance, and Abandonment of Water Supply Wells in Oregon (OAR chapter 690, divisions 200 - 230).

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0030; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0155
Water Supply Well Constructor and Landowner Well Bonds or Letters of Credit

(1) The Water Resources Commission shall only accept bonds from corporations licensed by the Oregon Department of Insurance and Finance to issue fidelity and surety insurance. The Water Resources Department shall only accept irrevocable letters of credit from a bank as described in ORS 706.008.

(2) If the issuing corporation cancels a bond, the corporation shall provide notice of cancellation to the Water Resources Department by registered or certified mail. If the issuing bank cancels a letter of credit, the bank shall provide notice of cancellation to the Water Resources Department by registered or certified mail. The cancellation shall not take effect earlier than the 30th day after the date of mailing in accordance with ORS 742.366(2).

(3) When issuing a final enforcement order that may place a bond or irrevocable letter of credit in jeopardy, the Director may mail a copy of the order to the address of record of the surety company issuing the bond, or the bank issuing the irrevocable letter of credit.

(4) All wells shall be constructed under a bond or irrevocable letter of credit. The bond or letter of credit shall cover construction, alteration, conversion, or abandonment for each well under that bond or letter of credit for a period of three years after the date the well report is filed with the commission, whether or not the bond or letter of credit has been subsequently canceled.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0024; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0040; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0175
Landowner Well Construction Permit, Fee and Bond

(1) The Water Resources Commission requires a permit, permit fee, and bond or irrevocable letter of credit, for each water supply well constructed, altered, converted, or abandoned by a landowner, unless the landowner is a licensed and bonded Water Supply Well Constructor. The landowner permit and bond shall be obtained prior to beginning work on a well.

(2) To receive a Landowner Well permit, a person must submit the following to the Director:

(a) A completed application form provided by the Commission, containing:

(A) The property owner's name, address and telephone number;

(B) The surety company's name, address and telephone number;

(C) The proposed location of the well by township, range, section, tax-lot number if assigned, and street address;

(D) The proposed use of the water supply well; and

(E) The type of proposed work; and

(F) Well design plan on form approved by the Department.

(b) A properly executed Landowner's Water Well Bond or Irrevocable Letter of Credit for $5,000 to the State of Oregon; and

(c) A $25 permit fee.

(3) Only the owner of record, a member of the immediate family of the owner of record, or a full time employee of the owner of record, (whose main duties are other than the construction of wells), may operate a well drilling machine under a landowner's permit.

(4) A landowner permit issued pursuant to these rules shall expire six months from the date of issuance.

(a) A water well report shall be submitted within 30 days of expiration of the landowner permit, or within 30 days of completion of the well, whichever occurs first.

(5) If the landowner permit expires, a landowner may reapply for a new landowner permit by complying with the requirements described in sections (1), (2) and (3) of this rule.

(6) The Department may deny a landowner permit if it is determined that the construction, alteration, abandonment, or conversion of the proposed well is a health threat, a health hazard, a source of contamination, or a source of waste of the ground water resource.

Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0026; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-2001, f. & cert. ef. 11-15-01: WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0050; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0185
Water Supply Well Drilling Machines

(1) All water supply well drilling machines being operated, other than under a landowner's permit, shall be plainly marked either with the bonded Water Supply Well Constructor's license number, the name of the bonded Water Supply Well Constructor, or the name of the well drilling business. The markings shall be permanently affixed on each side of the vehicle. Good quality paint or commercial decal numbers shall be used in placing the identification information on the drilling machine. In no case shall the constructor's license number, name, or business name, be inscribed with crayon, chalk, marking keel, pencil, or other temporary markings.

(2) In all cases, the license number, name, or business name, of the bonded Water Supply Well Constructor shall be removed from the drilling machine immediately upon change of ownership or change of control of the drilling machine.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0030 & 690-060-0035; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0060; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0200
Water Supply Well Construction Notice Required (Start Card)

(1) Each bonded Water Supply Well Constructor licensed to operate in the State of Oregon and each landowner holding a landowner's permit shall provide notice as required in ORS 537.762 before commencing the construction, alteration, or abandonment of any water supply well or conversion of any monitoring well, geotechnical hole, or other hole to a water supply well. The start card shall contain the following information:

(a) Name and mailing address of the landowner;

(b) Street address of the well;

(c) The approximate location of the water supply well; and

(d) The proposed depth, diameter, and purpose or use if the well is new, altered, or converted.

(2) All start cards for new water supply wells, deepening a well, or conversion of monitoring wells, geotechnical holes, or other holes shall be submitted with a $125 start card fee. OAR 690-205-0175 shall apply to landowners who construct, alter, convert, or abandon a water supply well.

(3) Forms for making these reports and submitting fees shall be furnished by the Water Resources Department.

(4) Each start card shall be mailed, hand-delivered during regular business hours or transmitted by Department-approved electronic submittal to the Water Resources Department in Salem no later than the day construction, conversion, alteration, or abandonment is commenced.

(a) Start cards submitted electronically shall be submitted before commencing construction, alteration, conversion or abandonment of any water supply well.

(5) In addition to the start card required under (4) of this rule, the constructor shall provide a legible copy of the start card to the Oregon Water Resources Department (OWRD) region office within which the water supply well is being constructed, altered, converted, or abandoned before commencing the construction, alteration, conversion or abandonment of any water supply well, using one of the following options:

(a) By regular mail no later than three (3) calendar days (72 hours) prior to commencement of work; or

(b) By hand delivery, during regular office hours, before commencing the construction, alteration, conversion or abandonment of any water supply well or

(c) By facsimile transmission (FAX) before commencing the construction, alteration, conversion or abandonment of any water supply well. If this method is used, a legible copy of the start card shall also be mailed, or delivered to the appropriate OWRD region office no later than the day work is commenced.

(d) Start cards submitted electronically under Section (4)(a) of this rule have satisfied the notification requirement to the OWRD region office.

(6) If a start card has been filed under section (4) and (5) of this rule and additional wells are required on the same or contiguous tax lot and for the same landowner, then start cards for the additional wells shall be filed no later than the day work begins.

(7) The Director or region office may provide an alternative means of notification. If an alternative means of notification is used, the start card shall be mailed or delivered to the region office within one week of beginning work on the water supply well. A Water Supply Well Constructor whose license has been restricted by order shall provide notice as stipulated in the order.

(8) Once received by the Department, the start card shall be confidential for a period of one year after it is received or until the water supply well report required by OAR 690-205-0210 is received, whichever is shorter.

(9) The start card may be used in an administrative enforcement action at any time, including the period of confidentiality. Once the start card is used for enforcement reasons, it is no longer confidential.

NOTE: WRD region office fax numbers are listed in Table 205-1. Region boundaries are shown in Figure 205-1.
[ED. NOTE: Tables and Figures referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0035; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-1989(Temp), f. & cert. ef. 9-29-89; WRD 10-1989, f. & cert. ef. 11-20-89; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2002, f. & cert. ef. 9-6-02; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0070; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-205-0210
Well Report Required (Water Supply Well Log)

(1) A water well report (water well log) shall be prepared for each water supply well constructed, altered, converted, or abandoned. This requirement includes unsuccessful wells and wells exempt from appropriation permit requirements under ORS 537.545. The log shall be certified as correct by signature of the Water Supply Well Constructor constructing the water supply well. The completed log shall also be certified by the bonded Water Supply Well Constructor responsible for construction of the well. A water well report must be submitted by each bonded constructor (if drilling responsibility is shifted to a different bonded constructor), showing the work performed by each bonded constructor.

(2) The log shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the Water Supply Well Constructor, and the second copy shall be given to the customer who contracted for the construction of the water supply well.

(3) The bonded Water Supply Well Constructor shall file the water well log with the Director within 30 days after the completion of the construction, alteration, conversion or abandonment of the water supply well.

(4) The trainee or Water Supply Well Constructor operating the water supply well drilling machine shall maintain a rough log of all geologic strata encountered and all materials used in the construction of the water supply well. This log shall be available for inspection by the Watermaster, or other authorized agent of the Water Resources Department at any time before the water well report is received by the Department. The rough drilling log shall be in handwritten or electronic form, or a voice recording.

(5) In the event a constructor leaves any drilling equipment or other tools in a water supply well, this fact shall be entered on the water well report.

(6) A copy of any special authorizations or special standards issued by the Director shall be attached to the water supply well report.

(7) The report of water well construction required in section (1) of this rule shall be recorded on a form provided or previously approved in writing by the Department. The form shall include, as a minimum, the following:

(a) Name and Address of Landowner;

(b) Started/Completed date;

(c) Location of the well by county, Township, Range, Section, tax lot number, if assigned, street address, or nearest address, and either the 1/4, 1/4 section or Latitude and Longitude as established by a global positioning system (GPS);

(d) Start card number;

(e) Well identification label number (well tag number);

(f) Use of well;

(g) Type of work;

(h) Temperature of water; and

(i) Such additional information as required by the Department.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0040; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0080; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-220-0030
Permanent Abandonment

(1) Any water supply well that is to be permanently abandoned shall be completely filled in such a manner that vertical movement of water within the well bore, including vertical movement of water within the annular space surrounding the well casing, is effectively and permanently prevented. If a dry or non-producing water supply well is to be permanently abandoned, it shall be abandoned in accordance with these standards. Unless otherwise stated in these rules, all permanent water supply well abandonments shall be performed by a licensed Water Supply Well Constructor.

(2) The abandonment procedure shall be recorded on a form provided by or previously approved in writing by the Department. The form shall include, as a minimum, all the requirements as listed in OAR 690-205-0080(7), plus:

(a) Method of abandonment;

(b) If assigned, the well identification tag number, original start card number, and owner's well number of the abandoned well.

(3) When a well that has a well identification tag on it is permanently abandoned, the well identification tag shall be destroyed. The well identification tag shall not be reused.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3, f. & ef. 2-18-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-063-0010; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-220-0095
Abandonment of Dug Wells

(1) Abandonment of a dug water supply well shall be approved by the Department before work is started. The Department shall be notified of the proposed abandonment. The notification shall include:

(a) Location;

(b) Name of the owner;

(c) Well diameter;

(d) Well depth;

(e) Depth to water;

(f) Type of well casing or liner material if any; and

(g) The proposed method of abandonment.

(2) A method to be used in the abandonment will be approved by the Department if the method will adequately protect the ground water resource. Dug wells penetrating more than one water bearing zone shall be abandoned in a manner to eliminate the possibility of leakage from one water bearing zone to another.

(3) The well shall be abandoned by a licensed Water Supply Well Constructor, a landowner with a landowner well construction permit and bond, or by a landowner in the presence of the watermaster or other Department representative.

Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-225-0020
Investigation of Alleged Violations

(1) The Water Resources Director, upon the Director's own initiative, or upon complaint alleging violation of statutes, standards or rules governing construction, alteration, or abandonment of wells may cause an investigation to determine whether a violation has occurred. If the investigation indicates that a violation has occurred, the Director shall notify the persons believed responsible for the violation including but not limited to:

(a) Any Water Supply Well Constructor involved; or

(b) The landowner, if the violation involves construction, alteration, operation, or abandonment of a well.

(2) Enforcement and civil penalty assessment for "other than well constructors" is described in OAR 690-260.

Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-225-0030
Enforcement Actions

(1) If, after notice and opportunity for hearing under ORS 183.310 to 183.550 the Director determines that one or more violations have occurred, the Director may impose one or more of the following:

(a) Provide a specified time for remedy;

(b) Assess a civil penalty in accordance with the schedule of civil penalties in OAR 690-225-0110;

(c) Suspend, revoke, or refuse to renew the licenses when one or more persons responsible for the violation hold a Water Supply Well Constructor's License;

(d) Require that a person whose license has been refused renewal pass the Water Supply Well Constructor's License examination before a new license is issued;

(e) Impose any reasonable conditions on the Water Supply Well Constructor's License to insure correction of the violation and future compliance with the law. These conditions may include but are not limited to:

(A) Fulfilling any outstanding obligations which are the result of administrative action before the constructor can offer any services or construct, alter or abandon any well;

(B) Requiring additional advance notice to be given to the Department of construction, alteration or abandonment of any well;

(C) Requiring a seal placement notice be given to the Department 24 hours in advance of placing the seal; or

(D) Any other conditions the Director feels are appropriate.

(f) Order the landowner to repair or meet other conditions on use of the well, or order discontinuance of use and proper abandonment pursuant to ORS 537.775;

(g) Make demand on the Water Well Constructor's Bond or on the Landowner's Water Well Bond. This may occur only if the Director has given the notice required in OAR 690-225-0020 to the persons responsible for the violation within three years after the date the well report is filed with the Department. If no well report has been filed, the three year limitation shall not apply until such time as a well report is filed;

(h) Take any other action authorized by law.

(2) An order may specify a schedule of escalating or cumulative sanctions to be assessed on specified dates until satisfactory correction of the violation has been completed.

(3) Any Water Supply Well Constructor whose license is suspended or revoked shall not contract for well construction services or operate well drilling machines in the State of Oregon during the suspension or revocation period.

Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-225-0060
Change in Enforcement Status

(1) In the interest of achieving compliance, the Director at any time may reevaluate the status of the violations and take appropriate action, including reduction of the enforcement level or remission of all or part of any civil penalties assessed.

(2) The Director may terminate proceedings against a Water Supply Well Constructor if the constructor provides acceptable evidence that:

(a) The landowner does not permit the constructor to be present at any inspection made by the Director; or

(b) That the constructor is capable of complying with recommendations made by the Director, but the landowner does not permit the constructor to comply. In such cases, the landowner is responsible for bringing the well into compliance pursuant to ORS 537.535, and if the landowner was not a party to the original enforcement proceeding the Director may initiate a proceeding to ensure that the landowner does so.

Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-225-0110
Schedule of Civil Penalties

(1) The amount of civil penalty shall be determined consistent with the following schedule:

(a) Not less than $25 nor more than $250 for each occurrence defined in these rules as a minor violation;

(b) Not less than $50 nor more than $1,000 for each occurrence defined in these rules as a major violation;

(c) First occurrence, in a calendar year, of a missing or late start card fee shall be $150;

(d) Second occurrence, in a calendar year, of a missing or late start card fee shall be $250;

(e) Third, and each subsequent, occurrence, in a calendar year, of a missing or late start card fee shall be $250 and may include suspension of the Water Supply Well Constructor's license, and any other action authorized by law.

(2) For purposes of assessing a civil penalty, the start card fee referred to in subsections (1)(c), (d), and (e) of this rule shall not be considered late

if it is received in the Salem office of the Water Resources Department within five days of the receipt of the start card, provided the start card was submitted in a timely manner as described in OAR 690-205-0200.

(3) **Table 1** lists minor violations of well construction standards. All other violations are declared to be major.

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-1989(Temp), f. & cert. ef. 9-29-89; WRD 10-1989, f. & cert. ef. 11-20-89; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0005
Introduction

(1) Monitoring wells and geotechnical holes drilled to allow ground water and geologic determinations are constructed in a variety of environments and under a variety of conditions. Improper construction, maintenance, operation, and abandonment can allow deterioration of ground water quality and supply. Although enforcement actions may be exercised against other parties, the landowner of the property where the monitoring well or geotechnical hole is constructed is ultimately responsible for the condition, use, maintenance, conversion, and abandonment of the monitoring well, or geotechnical hole.

(2) Holes other than monitoring wells, water supply wells, or geotechnical holes which are drilled, excavated, or otherwise constructed in the earth's surface can also provide an avenue for deterioration of ground water quality. Improper construction, maintenance, use, and abandonment of other holes can pose a significant risk to ground water. **Table 240-1** lists common subsurface borings and indicates which administrative rule governs the construction, conversion, maintenance, alteration, and abandonment of the boring.

(3) Ground water problems are difficult, expensive, and time consuming to correct. The Water Resources Commission (Commission) has been authorized to develop standards for wells drilled for the purpose of monitoring ground water in order to protect the state's ground waters. The Commission has also been authorized to develop standards for other holes through which ground water may become contaminated. The rules set forth herein are adopted to provide that protection. Their purpose is to prevent and eliminate ground water contamination, waste, and loss of artesian pressure.

(4) The Commission may develop additional rules as needed prescribing standards for the construction, operation, maintenance, and abandonment of other specific types of wells and holes to protect ground water.

(5) Except for the Commission's power to adopt rules, the Commission may delegate to the Water Resources Director the exercise or discharge in the Commission's name of any power, duty or function of whatever character, vested in or imposed by law upon the Commission. The official act of the Director acting in the Commission's name and by the Commission's authority shall be considered to be an official act of the Commission. The Commission delegates to the Director full authority to act in the Commission's name where that delegation is reflected in these rules.

(6) Under the provisions of ORS 537.780, the Commission is authorized to adopt such procedural rules and regulations as deemed necessary to carry out its function in compliance with the Ground Water Act of 1955. In fulfillment of these responsibilities and to ensure the preservation of the public welfare, safety, and health, the Commission has established these rules and regulations as the minimum standards for the construction, alteration, abandonment, conversion, and maintenance of monitoring wells in Oregon.

(7) Monitoring wells are wells as defined in ORS 537.515(9). A license and licensing fee, bond, examination, well report, and start card are required for construction, conversion, alteration, or abandonment of a monitoring well. In addition, a start card fee is required for new construction, deepening a well, and conversion.

(8) To protect the ground water resource, the Commission has the authority to regulate geotechnical holes under ORS 537.780(1)(c)(A). Construction of geotechnical holes requires either a Water Supply Well Constructor or Monitoring Well Constructor's License or Oregon registration as a geologist or civil engineer. If any one of the criteria in OAR 690-240-0035(2)(a)-(d) is met, a geotechnical hole report must be submitted.

(9) To protect the ground water resource, the Commission has the authority, under ORS 537.780(1)(c)(A), to regulate any hole through which ground water may be contaminated. Construction of holes other than water supply wells and monitoring wells does not require a license and licensing fee, bond, examination, well report, start card, and start card fee.

(10) Holes constructed under ORS chapters 517, 520, and 522, and rules promulgated from those statutes, are the responsibility of the Oregon Department of Geology and Mineral Industries and are not subject to these rules. These include, but are not limited to, holes constructed for the purposes of exploring for, or producing, petroleum, minerals, or geothermal resources.

(11) The rules and regulations set forth herein shall become effective upon adoption by the Water Resources Commission.

(12) Under no circumstances shall a monitoring well, piezometer, geotechnical hole, or other hole be constructed in a manner that allows commingling or leakage of ground water by gravity flow or artesian pressure from one aquifer to another. (See definition of aquifer.)

(13) The rules and regulations set forth herein provide the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of monitoring wells, geotechnical holes, and other holes. After the effective date of adoption of these rules and regulations, no monitoring well, geotechnical hole, or other hole shall be constructed, altered, converted, or abandoned contrary to the provisions of these rules and regulations without prior approval from the Water Resources Department. Violation of these standards may result in enforcement under OAR chapter 690, division 240, including suspension or revocation of a constructor's license, imposition of civil penalties on the landowner or constructor, action on a bond, or other sanctions authorized by law.

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0010
Definitions

The following definitions apply to terms as used in monitoring well, geotechnical hole and other hole rules, OAR 690-240-0005 to 690-240-0640. No other definitions of these same words apply:

(1) "Abandonment, Permanent" means to remove all or any portion of a monitoring well from service by filling it in such a manner that vertical movement of water within the well bore and within the annular space surrounding the well casing is effectively and permanently prevented. This term is synonymous with "decommission".

(2) "Abandonment, Temporary" means to remove a drilling machine from a well site after completing or altering a well provided the well is not immediately put into service, or to remove a well from service with the intent of using it in the future.

(3) "Altering a Well" means the deepening, installation of seals, adding, removing or replacing casing, and any other material change in the design or construction of a well.

(4) "Annular Space" means the space between the drillhole wall and the outer well casing.

(5) "Aquifer" means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout in characteristics such as potentiometric head, chemistry, and temperature. (Figure 240-1)

(6) "Area of Known or Reasonably Suspected Contamination" means a site that is currently under investigation by the Oregon Department of Environmental Quality, U.S. Environmental Protection Agency, or other state or federal agency for the presence of contaminants, or a site where a prudent person would suspect contamination after conducting an appropriate inquiry consistent with good commercial or customary practice as to the nature of the property.

(7) "Artesian Aquifer" means a confined aquifer in which ground water is under sufficient head to rise above the level at which it was first encountered whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian well. (Figure 240-1).

(8) "Artesian Monitoring Well" means a monitoring well in which ground water is under sufficient pressure to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian monitoring well.

(9) "Bored Well" means a well constructed with the use of earth augers turned either by hand or by power equipment.

(10) "Casing" means the outer tubing, pipe, or conduit, welded or thread coupled, and installed in the borehole during or after drilling to support the sides of the well and prevent caving. Casing can be used, in conjunction with proper seal placement, to shut off water, gas, or contaminated fluids from entering the hole, and to prevent waste of ground water.

(11) "Casing Seal" means the water tight seal established in the well bore between the well casing and the drillhole wall, above the filter pack seal, to prevent the inflow and movement of surface water or shallow ground water in the well annulus, or to prevent the outflow or movement of water under artesian or hydrostatic pressures.

(12) "Civil Engineer" means an individual registered by the State of Oregon to practice civil engineering.

(13) "Clay" means a fine-grained, inorganic material having plastic properties and with a predominant grain size of less than 0.002 mm.

(14) "Commission" means the Oregon Water Resources Commission.

(15) "Committee" means the Oregon Ground Water Advisory Committee created by ORS 536.090.

(16) "Confining Formation" means the "impermeable" stratum immediately overlying an artesian (confined) aquifer. (Figure 240-1)

(17) "Consolidated Formation" means materials that have become firm through natural rock-forming processes. It includes, but is not limited to, materials such as basalt, sandstone, shale, hard claystone, and granite.

(18) "Contamination" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance that does not occur naturally in ground water or that occurs naturally but at a lower concentration.

(19) "Continuing Education" means that education required as a condition of licensure under ORS 537.747, to maintain the skills necessary for the protection of ground water, the health and general welfare of the citizens of Oregon and the competent practice of the construction, alteration, abandonment, conversion, and maintenance of water supply wells, monitoring wells, and geotechnical holes.

(20) "Continuing Education Committee" means the Well Constructor Continuing Education Committee authorized under Chapter 496, Oregon Laws 2001 (ORS 537.765).

(21) "Continuing Education Course" means a formal offering of instruction or information to licensees that provides continuing education credits.

(22) "Continuing Education Credit" (CEC) means a minimum of 50 minutes of instruction or information approved by the Continuing Education Committee.

(23) "Converting" a well means changing the use of an existing well or hole not previously used to either withdraw or monitor water such that the well or hole can be used to either withdraw or monitor water.

(24) "Deepening a well" means extending the well bore of an existing well through previously undisturbed native material. Deepening is a type of alteration.

(25) "Department" means the Oregon Water Resources Department.

(26) "Director" means the Director of the Department or the Director's authorized representatives.

(27) "Documentation of Completion" means written evidence or documentation demonstrating attendance and completion of a continuing education course, including but not limited to: a certificate of completion, diploma, transcript, certified class roster, or other documentation as approved by the Continuing Education Committee.

(28) "Dug Well" means a well in which the excavation is made by the use of digging equipment such as backhoes, clam shell buckets, or sand buckets. (See Hand dug well)

(29) "Excavation" means a free-standing cavity with greater width than depth constructed in the earth's surface which has a primary purpose other than seeking water or water quality monitoring.

(30) "Figure", when used herein, refers to an illustration and is made a part of the primary article and section by reference.

(31) "Filter Pack" means the granular material placed in the annular space between the well screen and the borehole.

(32) "Filter Pack Seal" means the fine grained sand or dry bentonite which is placed in the annulus above the filter pack and prevents grout infiltration into the filter pack.

(33) "Geologic Formation" means an igneous, sedimentary or metamorphic material that is relatively homogeneous and is sufficiently recognized as to be distinguished from the adjacent material. The term is synonymous with "formation".

(34) "Geologist" means an individual registered by the State of Oregon to practice geology.

(35) "Geotechnical hole" means a hole constructed to collect or evaluate subsurface data or information, monitor movement of landslide features, or to stabilize or dewater landslide features. Geotechnical holes are not monitoring wells or water supply wells as defined below. Various classes and examples of geotechnical holes are listed in OAR 690-240-0035(6)-(9).

(36) "Grout" means approved cement, concrete or bentonite sealing material used to fill an annular space of a well or to abandon a well.

(37) "Grout Pipe" means a pipe which is used to place grout at the bottom of the sealing interval of a well.

(38) "Hand dug well" means a well in which the excavation is only made by the use of picks, shovels, spades, or other similar hand operated implements. (See Dug Well)

(39) "Hazardous Materials Training" means training as defined by OAR 437-002-0100 Adoption by Reference Subdivision H Hazardous Materials 1910.120 Hazardous Waste Operations and Emergency Response.

(40) "Hazardous Waste" means a substance as defined by ORS 466.005.

(41) "Health Hazard" means a condition where there are sufficient concentrations of biological, chemical, or physical, including radiological, contaminants in the water that are likely to cause human illness, disorders, or disability. These include, but are not limited to naturally occurring substances, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes. Sufficient concentrations of a contaminant include but are not limited to contaminant levels set by the Oregon Department of Environmental Quality and Oregon Health Division.

(42) "Health Threat" means a condition where there is an impending health hazard. The threat may be posed by, but not limited to: a conduit for contamination, or a well affecting migration of a contaminant plume, or the use of contaminated water. A well in which the construction is not verified by a monitoring well report or geophysical techniques may be considered a conduit for contamination in certain circumstances. Those circumstances include, but are not limited to: an unused and neglected well or a well for which no surface seal was required. A well in which the casing seal, filter pack seal, or watertight cap has failed, or was inadequately installed may be considered a conduit for contamination.

(43) "Horizontal Well" means a well that intentionally deviates more than 20 degrees from true vertical at any point.

(44) "Hydrologic Cycle" is the general pattern of water movement by evaporation from sea to atmosphere, by precipitation onto land, and by return to sea under influence of gravity.

(45) "Impermeable Sealing Material" means cement or bentonite which is used to fill the open annulus.

(46) "Jetted Well" means a well in which the drillhole excavation is made by the use of a high velocity jet of water.

(47) "Leakage" means movement of surface and/ or subsurface water around the well casing or seal.

(48) "Monitoring Well" means a well designed and constructed to determine the physical (including water level), chemical, biological, or radiological properties of ground water.

(49) "Monitoring Well Constructor" means any person who has a current water well constructor's license with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(50) "Monitoring Well Constructor's License" means a Water Well Constructor's License with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(51) "Monitoring Well Drilling Machine" means any driving, jetting, percussion, rotary, boring, auguring, or other equipment used in the construction, alteration, or abandonment of monitoring wells.

(52) "Order" means any action satisfying the definition given in ORS Chapter 183 or any other action so designated in ORS 537.505 to 537.795.

(53) "Other Hole" means a hole other than a water supply well, monitoring well, or geotechnical hole, however constructed, in naturally occurring or artificially emplaced earth materials through which ground water can become contaminated. Holes constructed under ORS Chapters 517, 520, and 522 are not subject to these rules. Examples of other holes are listed in OAR 690-240-0030.

(54) "Perched Ground Water" means ground water held above the regional or main water table by a less permeable underlying earth or rock material. (**Figure 240-1**)

(55) "Permeability" means the ability of material to transmit fluid, usually described in units of gallons per day per square foot of cross-section area. It is related to the effectiveness with which pore spaces transmit fluids.

(56) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(57) "Petcock Valve" is a valve used to contain pressure which when opened will drain the line or pipe.

(58) "Piezometer" means a type of monitoring well designed solely to obtain ground water levels. Piezometers are prohibited in areas of known or reasonably suspected contamination. This term is synonymous with observation well.

(59) "Porosity" means the ratio of the volume of voids in the geologic formation being drilled to the overall volume of the material without regard to size, shape, interconnection, or arrangement of openings.

(60) "Potable Water" means water which is sufficiently free from biological, chemical, physical, or radiological impurities so that users thereof

will not be exposed to or threatened with exposure to disease or harmful physiological effects.

(61) "Potentiometric Surface" means the level to which water will rise in tightly cased wells. (**Figure 240-1**).

(62) "Pressure Grouting" means a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

(63) "Professional" means any person licensed or registered by the State of Oregon to construct monitoring wells, water supply wells, or practice geology or civil engineering.

(64) "Public-at-Large" means a person not actively engaged in the well industry.

(65) "Refusal to Renew" means a provision in an order, or as allowed by ORS 537.747, that prohibits renewal of a well constructor's license, for a specified term not to exceed one year from the expiration date of the current license.

(66) "Remediation Well" means a well used for extracting contaminated ground water from an aquifer. This term is synonymous with "extraction well" and "recovery well".

(67) "Respondent" means the person against whom an enforcement action is taken.

(68) "Responsible Party" means the person or agency that is in charge of construction or maintenance, or the landowner of record and is either in violation as specified in a notice of violation or who may benefit from that violation.

(69) "Rough Drilling Log" means a record kept on the well site of the information needed to complete the well report for the well being constructed.

(70) "Revoke" means termination of a well constructor's license.

(71) "Sand" means a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

(72) "Silt" means an unconsolidated sediment composed predominantly of particles between 0.06 mm and 0.002 mm in diameter.

(73) "Slope Stability Geotechnical Hole" means a geotechnical hole excavated, drilled or bored for studying and/or monitoring movement of landslide features, including water levels, or other mass-wasting features to detect zones of movement and establish whether movement is constant, accelerating, or responding to remedial measures. Hole(s) excavated, drilled or bored for the purpose of slope remediation or stabilization shall be considered a slope stability geotechnical hole. Slope stability geotechnical holes are not monitoring wells, piezometers, or water supply wells.

(74) "Sponsor" means an institution, professional organization, individual, or business that offers continuing education courses to licensees. This term is synonymous with provider.

(75) "Static Water Level" means the stabilized level or elevation of water surface in a well not being pumped.

(76) "Stratum" means a bed or layer of a formation that consists throughout of approximately the same type of consolidated or unconsolidated material.

(77) "Sump" means a hole dug to a depth of ten feet or less with a diameter greater than ten feet in which ground water is sought or encountered.

(78) "Suspension" means the temporary removal of the privilege to construct wells under an existing license for a period of time not to exceed one year.

(79) "Unconsolidated Formation" means naturally occurring, loosely cemented, or poorly indurated materials including clay, sand, silt, and gravel.

(80) "Underground Injection" means the emplacement or discharge of fluids to the subsurface.

(81) "Underground Injection System" means a well, improved sump, sewage drain hole, subsurface fluid distribution system, or other system or ground water point source used for the emplacement or discharge of fluids.

(82) "Upper Oversize Drillhole" means that part of the well bore extending from land surface to the bottom of the surface seal interval.

(83) "Violation" means an infraction of any statute, rule, standard, order, license, compliance schedule, or any part thereof and includes both acts and omissions.

(84) "Water Supply Well" means a well, other than a monitoring well, that is used to beneficially withdraw or beneficially inject ground water. Water supply wells include, but are not limited to, community, dewatering, domestic, irrigation, industrial, municipal, and aquifer storage and recovery wells.

(85) "Water Supply Well Constructor" means any person who has a current water well constructor's license with a water supply well endorsement issued in accordance with ORS 537.747(3).

(86) "Water Supply Well Constructor's License" means a Water Well Constructor's License with a water supply well endorsement issued in accordance with ORS 537.747(3).

(87) "Water Table" means the upper surface of an unconfined water body, the surface of which is at atmospheric pressure and fluctuates seasonally. The water table is defined by the levels at which water stands in wells that penetrate the water body. (See **Figure 240-1**)

(88) "Water Well Constructor's License" means a license to construct, alter, deepen, abandon or convert wells issued in accordance with ORS 537.747(3). Endorsements are issued to the license and are specific to the type of well a constructor is qualified to construct, alter, deepen, abandon or convert.

(89) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in ORS 522.055 is regulated by the Department of Geology and Mineral Industries.

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

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0015

Delegation of Responsibility for Monitoring Wells, Geotechnical Holes and Other Holes

(1) The Director may, by memorandum of understanding, delegate to another state agency direct control and management of monitoring wells, geotechnical holes and other holes when the other state agency implements these standards, as a minimum, for the construction, operation, maintenance, and abandonment of monitoring wells, geotechnical holes and other holes.

(2) Such delegation shall be revoked at such time as the agency intentionally or repeatedly fails to enforce the standards.

(3) The Water Resources Department shall provide notice to all Oregon licensed Monitoring and Water Supply Well Constructors and professional geologists and civil engineers registered in Oregon whenever authority is delegated to or revoked from another state agency.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0035

Geotechnical Holes: General Performance and Responsibility Requirements

(1) A geotechnical hole is defined in OAR 690-240-0010(35). Geotechnical holes may be either cased or uncased and are constructed to evaluate subsurface data or information (geologic, hydrogeologic, chemical, or other physical characteristics). Geotechnical holes are not "wells" because their construction and/or duration of use are different than wells and therefore are not subject to the same requirements as wells. Geotechnical holes are broken into the following classifications:

(a) Temporary (abandoned within 72 hours) geotechnical holes;

(b) Cased permanent geotechnical holes;

(c) Uncased permanent geotechnical holes; or

(d) Slope stability geotechnical holes.

(2) A geotechnical hole report, signed by the responsible professional, must be submitted to the department if any of the criteria listed in subsections (a) through (d) below is met. The geotechnical hole is:

(a) Greater than 18 feet deep; or

(b) Within 50 feet of a water supply or monitoring well; or

(c) Used to make a determination of water quality; or

(d) Constructed in an area of known or reasonably suspected contamination.

(3) Geotechnical holes greater than ten feet in depth and less than eighteen feet in depth that do not meet any of the criteria spelled out in OAR 690-240-0035(2) shall have a professional person as described in OAR 690-240-0035(4)(c) responsible for the construction and abandonment of the geotechnical hole but do not require a 'Geotechnical Hole Report' to be filed.

(4)(a) Although enforcement actions may be exercised against other parties, the landowner of the property where the geotechnical hole is

constructed is ultimately responsible for the condition, use, maintenance, and abandonment of the geotechnical hole;

(b) Conversion of a geotechnical hole to a water supply or monitoring well shall be considered by the Water Resources Department on a case by case basis;

(c) When a geotechnical hole report is required, or if it is between 10' and 18', any person (professional) who is responsible for the construction, alteration or abandonment of a geotechnical hole shall have one of the following certifications:

(A) A current Oregon Monitoring Well Constructor's License;

(B) A current Oregon Water Supply Well Constructor's License;

(C) Be registered by the State of Oregon as a Professional Geologist; or

(D) Be registered by the State of Oregon as a Professional Civil Engineer.

(d) The professional shall show proof of license or registration and a current photo identification to Department employees upon request.

(e) In order to protect the ground water resource, all geotechnical holes shall be constructed, operated, used, maintained, and abandoned in such a manner as to prevent contamination or waste of ground water, or loss of artesian pressure.

(f) If the geotechnical hole is completed above ground, it shall have a minimum casing height of one foot above finished grade and a lockable cap with lock shall be attached to the top of the casing. If a geotechnical hole, except a slope stability hole, is completed flush with the land surface, a lockable watertight cap with lock, shall be attached to the top of the casing. A vault or monument designed to be watertight, level with the ground surface, shall be installed to prevent the inflow of surface water. The cover must be designed to withstand the maximum expected loadings.

(5)(a) A 'Geotechnical Hole Report' shall be prepared for each geotechnical hole, including unsuccessful geotechnical holes, constructed, altered, converted, or abandoned if the hole meets any of the requirements of OAR 690-240-0035(2) above.

(b) The 'Geotechnical Hole Report' shall be filed with the Department within 30 days of the completion of the geotechnical hole;

(c) The report shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the professional, and the second copy shall be given to the landowner or customer who contracted for the construction of the geotechnical hole;

(d) In the event any drilling equipment or other tools are left in a geotechnical hole the professional shall enter this fact on the Geotechnical Hole Report;

(e) A copy of any special authorizations or special standards issued by the Director shall be attached to the Geotechnical Hole Report. See OAR 690-240-0006 for information concerning special standards;

(f) The report of geotechnical hole construction shall include, as a minimum, the following:

(A) Landowner name and address;

(B) Started/Completed date;

(C) Location of the geotechnical hole by County, Township, Range, Section, tax lot number, if assigned, street address, or nearest address, and either the 1/4, 1/4 section or Latitude and Longitude as established by a global positioning system (GPS);

(D) Use of geotechnical hole;

(E) Type of geotechnical hole;

(F) Depth;

(G) Map showing location of geotechnical hole on site must be attached and shall include an approximate scale and a north arrow;

(H) General hydrologic and geologic information as indicated on the Geotechnical Hole Report; and

(I) Such additional information as required by the Department.

(6) Temporary geotechnical holes:

(a) Temporary geotechnical holes include but are not limited to: drive points, soil and rock borings, temporary sample holes, permeability test holes, and soil vapor holes;

(b) Temporary geotechnical holes shall be abandoned within 72 hours of initial construction;

(c) Any temporary casing that has been installed shall be removed as part of the abandonment.

(7) Cased permanent geotechnical holes:

(a) Cased permanent geotechnical holes include but are not limited to: gas migration holes, cathodic protection holes, vapor extraction holes, and air sparging holes;

(b) If permanent casing is installed in a geotechnical hole, it shall meet the casing requirements in OAR 690-240-0430, 690-210-0210, or 690-210-0190 and the sealing requirements in OAR 690-240-0475.

(8) Uncased permanent geotechnical holes:

(a) Uncased permanent geotechnical holes include but are not limited to: pneumatic and electrical piezometers;

(b) Temporary casing can be used during the construction of the uncased permanent geotechnical hole but must be removed prior to completion. Surface casing (5 feet maximum) may be installed for placement of logging or recording equipment.

(9) Slope stability geotechnical holes.

(a) Slope stability geotechnical holes include but are not limited to: slope instrumentation holes such as slope inclinometers, and slope remedial holes.

(b) Slope stability geotechnical holes are defined in OAR 690-240-0010(72). Such holes shall be constructed, operated, used, maintained, and abandoned in such a manner as to prevent contamination or waste of ground water.

(c) When a Geotechnical Hole Report is required under OAR 690-240-0035(2) for a slope stability geotechnical hole that is constructed to facilitate water level measurements, an affidavit from an engineer or geologist qualified to perform geotechnical investigations shall be attached to the Geotechnical Hole Report. The affidavit shall have the qualified engineer or geologist's stamp on it and shall certify that the slope stability geotechnical hole is on a landslide or a mass-wasting feature.

(10) Geotechnical Holes abandonment:

(a) Geotechnical holes shall be abandoned so that they do not:

(A) Connect water bearing zones or aquifers;

(B) Allow water to move vertically with any greater facility than in the undisturbed condition prior to construction of the geotechnical hole; or

(C) Allow surface water to enter the hole.

(b) Temporary geotechnical holes constructed to collect a water quality sample shall be abandoned in accordance with OAR 690-240-0510.

Stat. Auth.: ORS 537.780

Stats. Implemented:

Hist.: WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0055

License Required to Construct Monitoring Wells

(1) Unless otherwise provided in these rules, any person who constructs, alters or abandons monitoring wells for another person shall have a Monitoring Well Constructor's License or work under the supervision of a licensed Monitoring Well Constructor.

(2) If a person advertises services or enters into contracts for the construction, alteration or abandonment of monitoring wells for another person, that person shall furnish a $10,000 Water Well Constructor's Bond or Irrevocable Letter of Credit to the Water Resources Commission and must be a licensed Monitoring Well Constructor.

(3) A property owner who constructs, alters, or abandons a monitoring well on their own property shall have a Landowner Well Permit as described in OAR 690-240-0340 for each monitoring well on which work is done.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 536.090 & 537.505 - 537.795

Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0060

Monitoring Well Constructor License Examination

(1) The Water Resources Department administers the written examination required under ORS 537.747. Separate examinations are administered for each license endorsement. The Department schedules the examination on the second Monday during the months of January, April, July and October. Examinees must pay a $20 exam fee. Special accommodations may be given to those individuals who cannot attend the regularly scheduled examination dates. Requests shall be considered on a case-by-case basis. The examination tests the applicant's knowledge of:

(a) Oregon laws and administrative rules on the use of ground water, monitoring well constructor licensing requirements, the construction of monitoring wells and/or geotechnical holes, and the preparing and filing of Start Cards and Monitoring Well Reports;

(b) Hydrogeology, the occurrence and movement of ground water and contaminants, and the design, construction and development of monitoring wells; and

(c) Types, uses, and maintenance of drilling tools and equipment, drilling problems and corrective procedures, repair of faulty monitoring wells, sealing of monitoring wells, and safety rules and practices.

(2) An applicant who fails to pass an endorsement examination may retake an examination for the same endorsement after three months and the payment of another examination fee.

(3) Passing examination scores are valid for three years from the date of the examination.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0065
Monitoring Well Constructor License, Experience Requirements and Trainee Card

(1) License. To qualify for a Monitoring Well Constructor's License, a person shall:

(a) Be at least 18 years old;

(b) Pass a written examination;

(c) Have a minimum of one year experience, during the previous 36 month period, in monitoring well construction, alteration, or abandonment. This experience shall include the operation of well drilling machinery for monitoring well construction, alteration, conversion, or abandonment on a minimum of fifteen monitoring wells or a demonstration of equivalent experience in the operation of well drilling machinery. The following are acceptable as evidence of experience:

(A) Monitoring well reports or rough well logs with applicant's name entered for each of the 15 wells. The name, address and telephone number of the person responsible for the construction of each monitoring well shall be included on each report or log;

(B) Income tax returns showing source of drilling income for a period of time, or worker's compensation account information or the equivalent may be established to satisfy the one year of active construction requirement;

(C) Any other evidence the Director may deem suitable;

(D) A license held in another state shall not substitute for required evidence of experience.

(d) Pay a license fee.

(2) Trainee. If an applicant passes the written Monitoring Well Constructor's License examination, but cannot meet the experience requirement the Commission may issue a trainee card. To qualify for a Monitoring Well Constructor Trainee Card, a person must:

(a) Be at least 18 years old;

(b) Pass a written examination; and

(c) Be supervised by a person who holds a valid Monitoring Well Constructor's License.

(3) Trainee Card. A Trainee Card is valid for three (3) years from the date the examination was passed.

(4) Supervision. Supervision as it relates to any person who holds a Monitoring Well Constructor Trainee Card:

(a) A Trainee may operate a cable tool monitoring well drilling machine without a licensed Monitoring Well Constructor physically present at the well site only if:

(A) The licensed constructor can reach the well site within two hours if so requested by an authorized representative of the Department; and

(B) The licensed constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(b) A licensed Monitoring Well Constructor must physically be on the site at all times when a cable tool drilling machine is:

(A) Drilling within a flowing artesian well;

(B) Setting or advancing casing;

(C) Setting liner;

(D) Perforating casing;

(E) Setting well screens;

(F) Placing packers;

(G) Drilling into, through, or below ground water suspected or known to be contaminated; and

(H) Placing casing seals.

(c) A Monitoring Well Constructor trainee may operate a non-cable tool monitoring well drilling machine without a licensed Monitoring Well Constructor physically present at the well site only during removal of the drill stem from the monitoring well.

(d) Activities under subsection (3)(c) of this rule shall proceed only if:

(A) The licensed Monitoring Well Constructor can reach the site within one hour if so requested by an authorized representative of the Department; and

(B) The licensed Monitoring Well Constructor has signed the rough drilling log within eight working hours prior to the representative's visit.

(e) An authorized representative of the Department in whose jurisdiction the monitoring well is being constructed has the authority to:

(A) Grant an extension to the time limits stated above when a request, showing good cause, is received from the bonded constructor in advance for each particular well; and

(B) Place additional restrictions on the trainee, including requiring the constructor to be on the site at all times while the drilling machine is operating, when the Department representative determines that either the drilling environment or the knowledge and/or experience of the trainee warrant closer supervision.

(f) For a Monitoring Well Constructor trainee to operate a monitoring well drilling machine without a licensed Monitoring Well Constructor present, the trainee's card must be endorsed with the name of the bonded Monitoring Well Constructor responsible for the construction of the monitoring well.

(5) Other supervision requirements for persons not licensed or permitted to construct monitoring wells, or who do not hold a Monitoring Well Constructor trainee card:

(a) Persons who are in the act of constructing, altering, converting or abandoning monitoring wells must be supervised by a licensed Monitoring Well Constructor who is physically present at the well site at all times during construction, alteration, conversion, or abandonment activity.

(b) The supervising Monitoring Well Constructor is responsible for all applicable statutes and rules in construction, alteration, conversion, or abandonment of the monitoring well.

(6) Persons who satisfy all requirements of ORS 537.747(3) shall be issued a Monitoring Well Constructor's License. The responsibilities for issuing and securing a Monitoring Well Constructor's License or trainee card are listed in subsections (a) and (b) of this section.

(a) The Monitoring Well Constructor's License applicant is responsible for:

(A) Completing an application or renewal form for a new or renewed license or trainee card;

(B) Submitting the application or renewal form to the Water Resources Department along with the required fees;

(C) Carrying the license or trainee card whenever constructing, altering, converting, or abandoning any monitoring well; and

(D) Providing the Water Resources Department, within 30 days, notification of any change of mailing address.

(E) Providing the Water Resources Department documentation satisfying the continuing education requirements set forth in OAR 690-240-0200 through 690-240-0280.

(b) The Water Resources Department is responsible for:

(A) Designing and providing Monitoring Well Constructor license(s) and trainee cards;

(B) Designing and providing application forms and renewal forms for licenses and application forms for trainee cards;

(C) Processing applications and renewals for licenses and applications for trainee cards; and

(D) Returning incomplete application and renewal forms to applicants for completion.

(E) Sending new and renewed licenses to applicants who have completed the application or renewal form and submitted the required fee. This does not preclude refusal to renew as outlined in OAR 690-240-0070(4).

(7) Bonded Monitoring Well Constructor. For a person to possess a bonded Monitoring Well Constructor's License, the person shall provide to the Department a properly executed Water Well Constructor's Bond or Irrevocable Letter of Credit. The Water Resources Department shall indicate on the constructor's license a bonded classification.

(8) Representatives of the Water Resources Department may ask anyone constructing, altering, or abandoning a monitoring well to present their license or trainee card as proof of eligibility to construct, alter, convert, or abandon monitoring wells in the State of Oregon. Licensed individuals shall display their license or trainee card and photo identification when they are requested to do so by Water Resources Department personnel or other agency personnel to whom monitoring well regulation has been delegated.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0070
Terms of Monitoring Well Constructor License and License Fees

(1) The Department issues all Monitoring Well Constructor licenses. License fees are established by ORS 537.747. A penalty applies to late renewals.

(2) Fees for new licenses and renewal licenses are the same. The fee for a two year license is $150. All licenses expire on June 30 of the second year.

(3) A $100 penalty applies when a licensee renews a license within 12 months of the expiration date. There is no charge for a Trainee Card.

(4) Monitoring Well Constructors who have not made arrangements with the Water Resources Department to pay civil penalties which are

assessed against them shall not be issued a license renewal or a new license until after arrangements for payment have been agreed to by the Department. Monitoring Well Constructors who have made arrangements for payment of civil penalties and have failed to meet the terms of the agreement, except in certain cases of bankruptcy, may not have their license renewed or a new license issued until all outstanding civil penalties owed to the Department have been paid.

Stat. Auth.: ORS 537 & 742
Stats. Implemented: ORS 537 & 742
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0220
Documentation

(1) Each licensee is responsible for maintaining their continuing education records. Except as provided in OAR 690-240-0270(2), each licensee shall provide the Department with evidence of compliance with the continuing education requirement on a form approved by the Continuing Education Committee prior to or at the time of license renewal.

(2) Licensees who do not provide documentation of completion of the continuing education requirement or receive a waiver shall not have their license(s), or appropriate endorsement(s), renewed until this requirement is satisfied.

(3) Licensees who provide documentation of completion of the continuing education requirement within the 12 months after their license expires may either pay the $100 late penalty fee or requalify for a new Monitoring Well Constructor's License or endorsement in accordance with ORS 537.747(3). If a licensee fails to provide documentation of completion of the continuing education requirement within 12 months after expiration of their license or endorsement the person must comply with the requirements of ORS 537.747(3) for a new Monitoring Well Constructor's License or endorsement.

(4) CECs acquired during a renewal period in excess of the minimum CECs required may not be applied to future licensing periods.

(5) When an individual obtains a new Monitoring Well Constructor's License that expires within 14 months or less, the continuing education requirement shall be prorated such that only seven (7) CECs are required at the first renewal. Of the seven (7) required CECs:

(a) A maximum of two (2) CECs may be in Hazardous Materials training;

(b) A maximum of two (2) CECs may be in safety/first aid/CPR; and

(c) A minimum of one (1) CEC shall pertain to ground water and well construction statutes under ORS 537.505 to 537.795 and 537.992, and administrative rules under OAR 690-200 through 690-240.

Stat. Auth.: ORS 537 & 742
Stats. Implemented: ORS 537 & 742
Hist.: WRD 1-2003, f. & cert. ef. 3-14-03; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0280
Waivers

(1) The Director may waive the continuing education requirements for a licensed Monitoring Well Constructor upon written request demonstrating inability to attend continuing education courses because of health, military duty or other circumstances beyond the control of the constructor.

(2) Licensees who are denied a waiver may appeal to the Commission by filing a written exception with the Department within 60 days of service of the Director's order.

Stat. Auth.: ORS 537 & 742
Stats. Implemented: ORS 537 & 742
Hist.: WRD 1-2003, f. & cert. ef. 3-14-03; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0320
Contracting for Services

Only Oregon licensed and bonded Monitoring Well Constructors may advertise services or enter into a contract, either written or oral, to construct, alter, convert, or abandon a monitoring well. Any written bid for a project which includes the construction, alteration, conversion, or abandonment of a monitoring well must provide:

(1) A bid or estimate for the work associated with monitoring well construction signed by a Monitoring Well Constructor, who is licensed and bonded in the State of Oregon.

(2) A statement by the licensed and bonded Monitoring Well Constructor that the work will be completed in accordance with Oregon Ground Water Law (ORS chapter 537) and the Rules for the Construction, Maintenance, Alteration, Conversion, and Abandonment of Monitoring Wells, Geotechnical Holes, and Other Holes in Oregon (OAR chapter 690, division 240).

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0075; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0330
Monitoring Well Constructor and Landowner Well Bonds or Letters of Credit

(1) The Water Resources Department shall accept bonds only from corporations licensed by the Oregon Department of Insurance and Finance to issue fidelity and surety insurance. The Water Resources Department shall accept irrevocable letters of credit only from a bank as described in ORS 706.008.

(2) If the issuing corporation cancels a bond, the corporation shall provide notice of cancellation to the Water Resources Department by registered or certified mail. If the issuing bank cancels a letter of credit, the bank shall provide notice of cancellation to the Water Resources Department by registered or certified mail. The cancellation shall not take effect earlier than the 30th day after the date of mailing in accordance with ORS 742.366(2).

(3) When issuing a final enforcement order that may place a bond or irrevocable letter of credit in jeopardy, the Director may mail a copy of the order to the address of record of the surety company issuing the bond, or the bank issuing the irrevocable letter of credit.

(4) All wells shall be constructed under a bond or irrevocable letter of credit. The bond or letter of credit shall cover construction, alteration, conversion, or abandonment for each well under that bond or letter of credit for a period of three years after the date the well report is filed with the commission, whether or not the bond or letter of credit has been subsequently canceled.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0080; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0340
Landowner Well Construction Permit, Fee and Bond

(1) The Water Resources Commission requires a permit, permit fee, and bond or irrevocable letter of credit, for each monitoring well constructed, altered, converted, or abandoned by a landowner, unless the landowner is a licensed and bonded Monitoring Well Constructor. The landowner permit and bond shall be obtained prior to beginning work on a well.

(2) To receive a Landowner Well permit, a person must submit the following to the Director:

(a) A completed application form provided by the Commission, containing, as a minimum:

(A) The property owner's name, address and telephone number;

(B) The surety company's name, address and telephone number;

(C) The proposed location of the well by township, range, section, tax-lot number if assigned, and street address;

(D) The proposed use of the monitor well; and

(E) The type of proposed work; and

(F) Well design plan on form approved by the Department.

(b) A properly executed Landowner's Water Well Bond or Irrevocable Letter of Credit for $5,000 to the State of Oregon; and

(c) A $25 permit fee.

(3) Only the owner of record, a member of the immediate family of the owner of record, or a full time employee of the owner of record, (whose main duties are other than the construction of wells), may operate a well drilling machine under a landowner's permit.

(4) A landowner permit issued pursuant to these rules shall expire six months from the date of issuance.

(a) A monitor well report shall be submitted within 30 days of expiration of the landowner permit, or within 30 days of completion of the well, whichever occurs first.

(5) If the landowner permit expires, a landowner may reapply for a new landowner permit by complying with the requirements described in sections (1), (2) and (3) of this rule.

(6) The Department may deny a landowner permit if it is determined that the construction, alteration, abandonment, or conversion of the proposed well is a health threat, a health hazard, a source of contamination, or a source of waste of the ground water resource.

Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented:
Hist.: WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2002, f. & cert. ef. 9-6-02; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0082; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0355
Monitoring Well Drilling Machines

(1) All monitoring well drilling machines being operated, other than under a landowner's permit, shall be plainly marked either with the bonded Monitoring Well Constructor's license number, the name of the bonded Monitoring Well Constructor, or the name of the well drilling business. The markings shall be permanently affixed on each side of the vehicle. Good quality paint or commercial decal numbers shall be used in placing the identification information on the drilling machine. In no case shall the constructor's license number, name, or business name, be inscribed with crayon, chalk, marking keel, pencil, or other temporary markings.

(2) In all cases, the license number, name, or business name, of the bonded Monitoring Well Constructor shall be removed from the drilling machine immediately upon change of ownership or change of control of the drilling machine.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0085; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0375
Monitoring Well Construction Notice Required (Start Card)

(1) Each bonded Monitoring Well Constructor licensed to operate in the State of Oregon and each landowner holding a landowner's permit shall provide notice as required in ORS 537.762 before commencing the construction, alteration, or abandonment of any monitoring well or conversion of any other hole, geotechnical hole, or water supply well to a monitoring well. The start card shall contain the following information:

(a) Name and mailing address of the landowner;

(b) Street address of the well;

(c) The approximate location of the monitoring well; and

(d) The proposed depth, diameter, and purpose or use if the well is new, altered, or converted.

(2) All start cards for new monitoring wells, deepening a well, or conversion of other holes, geotechnical holes, or water supply wells shall be submitted with a $125 start card fee. A start card fee is not required to abandon a monitoring well. OAR 690-240-0340 shall apply to landowners who construct, alter, convert, or abandon a monitoring well.

(3) Forms for making these reports and submitting fees shall be furnished by the Water Resources Department.

(4) Each start card shall be mailed, hand-delivered during regular business hours or transmitted by Department-approved electronic submittal to the Water Resources Department in Salem no later than the day construction, conversion, alteration, or abandonment is commenced.

(a) Start cards submitted electronically shall be submitted before commencing construction, alteration, conversion or abandonment of any monitoring well.

(5) In addition to the start card required under section (4) of this rule, the constructor shall provide a legible copy of the start card to the Oregon Water Resources Department (OWRD) region office within which the monitoring well is being constructed, altered, converted or abandoned before commencing the construction, alteration, conversion or abandonment of any monitoring well, using one of the following options:

(a) By regular mail no later than three (3) calendar days (72 hours) prior to commencement of work; or

(b) By hand delivery, during regular office hours, before commencing the construction, alteration, conversion or abandonment of any monitoring well; or

(c) By facsimile transmission (FAX) before commencing the construction, alteration, conversion or abandonment of any monitoring well. If this method is used, a legible copy of the start card shall also be mailed or delivered to the appropriate OWRD region office no later than the day work is commenced.

(d) Start cards submitted electronically under Section (4)(a) of this rule have satisfied the notification requirement to the OWRD region office.

(6) If a start card has been filed under section (4) and (5) of this rule and additional wells are required on the same or contiguous tax lot and for the same landowner, then start cards for the additional wells shall be filed no later than the day work begins.

(7) The Director or region office may provide an alternate means of notification. If an alternative means of notification is used, the start card shall be mailed or delivered to the region office within one week of beginning work on the monitoring well. A Monitoring Well Constructor whose license has been restricted by order shall provide notice as stipulated in the order.

(8) Once received by the Department, the start card shall be confidential for a period of one year after it is received or until the monitoring well report required by OAR 690-240-0395 is received, whichever is shorter.

(9) The start card may be used in an administrative enforcement action at any time, including the period of confidentiality. Once the start card is used for enforcement reasons, it is no longer confidential.

NOTE: Region office fax and telephone numbers are listed in Table 240-2. Water Resources Department Regional boundaries are shown in Figure 240-2.

[ED. NOTE: Tables and Figures referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 2-2002, f. & cert. ef. 9-6-02; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0090; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0395
Monitoring Well Report Required (Monitoring Well Log)

(1) A monitoring well report shall be prepared for each monitoring well constructed, altered, converted, or abandoned including unsuccessful monitoring wells. The log shall be certified as correct by signature of the Monitoring Well Constructor constructing the monitoring well. The completed log shall also be certified by the bonded Monitoring Well Constructor responsible for construction of the monitoring well. A monitoring well report must be submitted by each bonded constructor (if drilling responsibility is shifted to a different bonded constructor), showing the work performed by each bonded constructor.

(2) The log shall be prepared in triplicate on forms furnished or previously approved in writing by the Water Resources Department. The original shall be furnished to the Director, the first copy shall be retained by the Monitoring Well Constructor, and the second copy shall be given to the customer who contracted for the construction of the monitoring well.

(3) The bonded Monitoring Well Constructor shall file the monitoring well log with the Director within 30 days after the completion of the construction, alteration, conversion, or abandonment of the monitoring well.

(4) The trainee or Monitoring Well Constructor operating the monitoring well drilling machine shall maintain a rough log of all geologic strata encountered and all materials used in the construction of the monitoring well. This log shall be available for inspection by the Watermaster or other authorized agent of the Water Resources Department or other delegated agency representative at any time before the monitoring well report is received by the Department. The rough drilling log shall be in handwritten or electronic form, or a voice recording.

(5) In the event a constructor leaves any drilling equipment or other tools in a monitoring well this fact shall be entered on the monitoring well report.

(6) A copy of any special authorizations or special standards issued by the Director shall be attached to the monitoring well report.

(7) The report of monitoring well construction required in section (1) of this rule shall be recorded on a form provided or previously approved in writing by the Department. The form shall include, as a minimum, the following:

(a) Name and Address of Landowner;

(b) Started/Completed date;

(c) Location of the well by county, Township, Range, Section, tax lot number, if assigned, street address, or nearest address, and either the 1/4, 1/4 section or Latitude and Longitude as established by a global positioning system (GPS);

(d) Start card number;

(e) Well identification label number (well tag number);

(f) Use of well;

(g) Type of work;

(h) Type and amount of sealant used and measured weight of the grout slurry as required in OAR 690-240-0475(2)(g);

(i) Temperature of water;

(j) Map showing location of monitoring well on site, must be attached and shall include an approximate scale and a north arrow;

(k) Such additional information as required by the Department.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0095; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0485
Monitoring Well Development

(1) The monitoring well development shall not affect the integrity of the casing or seal. Monitoring well development shall not occur prior to 24 hours after annular seal placement if cement grout or a bentonite grout slurry is used, or 12 hours after annular seal placement if dry bentonite is used. The well may be developed prior to placement of the annular sealing material.

(2) The monitoring well development should:

(a) Remove any water or drilling fluid introduced into the well during drilling;

(b) Stabilize the filter pack and formation materials opposite the well screen;

(c) Minimize the amount of fine-grained sediment entering the well; and

(d) Maximize well efficiency.

(3) As long as the well is not altered, the monitoring well development may be performed by other than a licensed and bonded Monitoring Well Constructor.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0131; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0500
Completion of Monitoring Wells

(1) A Monitoring Well Constructor or permitted landowner constructing their own well shall not remove the drilling machine from a monitoring well site, unless it is immediately replaced by another monitoring well drilling machine in operating condition, prior to completion or abandonment of the monitoring well in compliance with OAR 690-240-0005 through 690-240-0540.

(2) Installation of the protective metal posts does not require a Monitoring Well Constructor's License, providing the surface seal is not disturbed.

(3) Installation of the protective posts described in OAR 690-240-0420 shall be completed within one week of placement of the seal.

(4) If installation of the protective measures as described in OAR 690-240-0420 are not completed within 24 hours of seal placement, the monitoring well shall be marked using one of the following methods:

(a) Placement of three stakes around the well connected with fluorescent survey tape;

(b) Placement of construction barricades around the well; or

(c) Use of other protective measures as approved by the Water Resources Department.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0132; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0510
Abandonment of Monitoring Wells

Proper abandonment of monitoring wells will prevent both vertical movement of water within the well bore and infiltration of surface water into the well:

(1) In areas where ground water contamination has been identified, except as described in number (4) below, abandonment shall require the borehole to be completely redrilled to a minimum of the original diameter. All casing, screen, annular sealing material, drill cuttings, debris, and filter pack material shall be removed prior to sealing.

(2) In areas where ground water contamination has not been identified, if it can be verified that the monitoring well was constructed in accordance with these rules, it shall be abandoned by filling the well from the bottom up with an approved sealant as described in OAR 690-240-0475. The casing shall then be removed below grade, as compatible with local site conditions and land practices. The following are acceptable methods of original well construction verification:

(a) A well report in accordance with OAR 690-240-0395;

(b) Well construction information submitted to the Oregon Department of Environmental Quality;

(c) Information obtained through down-hole geophysical logging; or

(d) Other information as approved by the Water Resources Department.

(3) In areas where ground water contamination is not present, and if the monitoring well construction cannot be verified by means listed in section (2) of this rule, the well shall be abandoned according to section (1) of this rule.

(4) In contaminated areas where remediation has occurred, an approved special standard is required to abandon a well unless it is abandoned according to section (1) of this rule. Abandonment procedures will be considered on a case by case basis. The Department will consult with the state or federal agency that supervised the remediation in determining the appropriate abandonment method. In cases where there was no agency oversight, the Department will consider any information supplied by the licensed and bonded Monitoring Well Constructor in determining the appropriate abandonment procedure.

(5) Grout slurries shall be placed from the bottom up by a grout pipe to avoid segregation or dilution of the sealant. The discharge end of the grout pipe shall be submerged in the grout to avoid breaking the seal while filling the annular space. Grout slurries used to abandon monitoring wells shall conform to the requirements of OAR 690-240-0475.

(6) The abandonment procedure shall be recorded on a form provided by or previously approved in writing by the Department. The form shall include, as a minimum, all the requirements as listed in OAR 690-240-0395, plus:

(a) Method of abandonment;

(b) If assigned, the well identification number, original start card number, and owner's well number of the abandoned well.

(7) When abandoning artesian monitoring wells, in addition to sections (1)-(6) of this rule, the flow shall be confined or restricted by cement grout applied under pressure, or by the use of a suitable well packer, or a wooden plug placed at the bottom of the confining formation immediately above the artesian water bearing zone. An approved sealant shall be used to fill the well to land surface as specified in OAR 690-240-0475.

(8) Monitoring wells that were constructed under special standards will require the abandonment method to be approved by the Department.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0135; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0560
Investigation of Alleged Violations

(1) The Water Resources Director, upon the Director's own initiative, or upon complaint alleging violation of statutes, standards or rules governing licensing of Monitoring Well Constructors and/or, construction, alteration, conversion, maintenance, or abandonment of monitoring wells, geotechnical holes or other holes may cause an investigation to determine whether a violation has occurred. If the investigation indicates that a violation has occurred, the Director shall notify the persons believed responsible for the violation including but not limited to:

(a) Any Monitoring Well Constructor involved;

(b) The landowner, if the violation involves construction, alteration, conversion, maintenance, operation or abandonment of a well, geotechnical hole, or other hole;

(c) The agency that has been delegated authority over a particular class of wells, geotechnical holes, or other holes and/or

(d) Any registered geologist or civil engineer in construction, alteration, or abandonment of a geotechnical hole.

(2) Enforcement and civil penalty assessment for "other than well constructors" is described in OAR 690-260.

Stat. Auth.: ORS 536.090 & 537.505 - 537.7952
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0150; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0580
Enforcement Actions

(1) If, after notice and opportunity for hearing under ORS 183.310 to 183.550 the Director determines that one or more violations have occurred, the Director may impose one or more of the following:

(a) Provide a specified time for remedy;

(b) Assess a civil penalty in accordance with the schedule of civil penalties in OAR 690-240-0640;

(c) Suspend, revoke, or refuse to renew the license(s) when one or more persons responsible for the violation hold a Monitoring Well Constructor's License;

(d) Require that a person whose license has been refused renewal pass the Monitoring Well Constructor's License examination before a new license is issued or the current license is renewed;

(e) Impose any reasonable conditions on the Monitoring Well Constructor's License to ensure correction of the violation and future compliance with the law. These conditions may include but are not limited to:

(A) Fulfilling any outstanding obligations which are the result of administrative action before the constructor can offer any services or construct, alter, convert, or abandon any monitoring well;

(B) Requiring additional advance notice to be given to the Department of construction, alteration or abandonment of any monitoring well;

(C) Requiring a seal placement notice be given to the Department up to 72 hours in advance of placing the seal; or

(D) Any other conditions the Director deems appropriate.

(f) Order the landowner to repair or meet other conditions on use of the well, or order discontinuance of the use and order proper abandonment pursuant to ORS 537.775;

(g) Make demand on the Water Well Constructor's bond or the Landowner's Water Well Bond. This may occur only if the Director has given the notice required in OAR 690-240-0560 to the persons responsible for the violation within three years after the date the monitoring well report is filed with the Department. If no monitoring well report has been filed, the three year limitation shall not apply until such time as a well report is filed; or

(h) Take any other action authorized by law.

(2) An order may specify a schedule of escalating or cumulative sanctions to be assessed on specified dates until the violation has been satisfactorily corrected.

(3) Any Monitoring Well Constructor whose license is suspended or revoked shall not contract for well construction services or operate well drilling machines in the State of Oregon during the suspension or revocation period.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0155; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0610
Change in Enforcement Status

(1) In the interest of achieving compliance, the Director at any time may reevaluate the status of the violation(s) and take appropriate action, including reduction of the enforcement level or remission of all or part of any civil penalties assessed.

(2) The Director may terminate proceedings against a Monitoring Well Constructor if the constructor provides acceptable evidence that:

(a) The landowner does not permit the constructor to be present at any inspection made by the Director; or

(b) That the constructor is capable of complying with recommendations made by the Director, but the landowner does not permit the constructor to comply. In such cases, the landowner is responsible for bringing the well into compliance pursuant to ORS 537.535, and if the landowner was not a party to the original enforcement proceeding the Director may initiate a proceeding to ensure that the landowner does so.

Stat. Auth.: ORS 537 & 742
Stats. Implemented: ORS 537 & 742
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0170; WRD 2-2006, f. & cert. ef. 6-20-06

690-240-0640
Schedule of Civil Penalties

(1) The amount of civil penalty shall be determined consistent with the following schedule:

(a) Not less than $25 nor more than $250 for each occurrence defined in these rules as a minor violation;

(b) Not less than $50 nor more than $1,000 for each occurrence defined in these rules as a major violation;

(c) First occurrence, in a calendar year, of a missing or late start card fee shall be $150;

(d) Second occurrence, in a calendar year, of a missing or late start card fee shall be $250; and

(e) Third, and each subsequent, occurrence, in a calendar year, of a missing or late start card fee shall be $250 and may include suspension of the Monitoring Well Constructor's License, and any other action authorized by law.

(2) For purposes of assessing a civil penalty, the start card fee referred to in subsections (1)(c), (d), and (e) of this rule shall not be considered late if it is received in the Salem office of the Water Resources Department within five days of the receipt of the start card, provided the start card was submitted in a timely manner as defined in OAR 690-240-0375.

(3) Table 240-3 lists minor violations related to monitoring well construction and geotechnical holes. All other violations are declared to be major.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0180; WRD 2-2006, f. & cert. ef. 6-20-06

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Rule Caption: Requirement for pump testing of nonexempt wells.
Adm. Order No.: WRD 3-2006
Filed with Sec. of State: 6-20-2006
Certified to be Effective: 6-20-06
Notice Publication Date: 2-1-06
Rules Amended: 690-217-0020
Subject: The Water Resources Commission adopted rules relating to pump testing of nonexempt well (OAR Chapter 690, Division 217) to implement changes that would waive the pump test requirements for certain permits and certificates, unless required by the Director. The rules also reduce the requirements for well owners or operators to conduct follow-up testing of wells, unless required by the Director.
Rules Coordinator: Debbie Colbert—(503) 986-0878

690-217-0020
Requirements and Due Dates for Pump Tests

(1) For water right applications received on or after December 20, 1988, a pump test as described in OAR 690-217-0005 to 690-217-0055 is required before a certificate of water right will be issued. The results of the test shall be submitted on the pump test report form.

(2) For water right permits or certificates with priority dates before December 20, 1988, a pump test as described in OAR 690-217-0005 to 690-217-0055 and subsequent pump test requirements every ten years shall be waived unless required by the Director. The Director may require pump tests as provided in ORS 537.772 in specific cases or areas as determined to be necessary. Such areas may include, but are not limited to, critical ground water areas or serious water management problem areas as defined in OAR 690-085-0020.

(3) If a landowner owns multiple wells producing from the same aquifer and has tested one of those wells, he may request exemptions for all other of those wells which are within five miles of the tested well and which produce water from the same aquifer. If a well is more than five miles from the tested well, or produces from a different aquifer, it must be tested separately. Requests for exemptions shall be in writing and include water well reports or other documentation showing the water producing zones for each well.

(4) In cases where a well provides the source of water for more than one water right permit or certificate, it shall be indicated on the pump test report that the pump test applies to multiple water rights. The permit or certificate numbers of all the water rights the pump test applies to shall be listed on the pump test report.

Stat. Auth.: ORS 537
Stats. Implemented:
Hist.: WRD 25-1988, f. & cert. ef. 12-20-88; WRD 3-2006, f. & cert. ef. 6-20-06

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137-048-0120	1-1-06	Amend	2-1-06
137-048-0130	1-1-06	Amend	2-1-06
137-048-0200	1-1-06	Amend	2-1-06
137-048-0210	1-1-06	Amend	2-1-06
137-048-0220	1-1-06	Amend	2-1-06
137-048-0230	1-1-06	Amend	2-1-06
137-048-0240	1-1-06	Amend	2-1-06
137-048-0250	1-1-06	Amend	2-1-06
137-048-0260	1-1-06	Amend	2-1-06
137-048-0300	1-1-06	Amend	2-1-06
137-048-0310	1-1-06	Amend	2-1-06
137-048-0320	1-1-06	Amend	2-1-06
137-049-0100	1-1-06	Amend	2-1-06
137-049-0120	1-1-06	Amend	2-1-06
137-049-0130	1-1-06	Amend	2-1-06
137-049-0140	1-1-06	Amend	2-1-06
137-049-0150	1-1-06	Amend	2-1-06
137-049-0160	1-1-06	Amend	2-1-06
137-049-0200	1-1-06	Amend	2-1-06
137-049-0210	1-1-06	Amend	2-1-06
137-049-0220	1-1-06	Amend	2-1-06
137-049-0260	1-1-06	Amend	2-1-06
137-049-0280	1-1-06	Amend	2-1-06
137-049-0290	1-1-06	Amend	2-1-06
137-049-0300	1-1-06	Amend	2-1-06
137-049-0310	1-1-06	Amend	2-1-06
137-049-0320	1-1-06	Amend	2-1-06
137-049-0330	1-1-06	Amend	2-1-06
137-049-0360	1-1-06	Amend	2-1-06
137-049-0370	1-1-06	Amend	2-1-06
137-049-0380	1-1-06	Amend	2-1-06
137-049-0390	1-1-06	Amend	2-1-06
137-049-0395	1-1-06	Adopt	2-1-06
137-049-0400	1-1-06	Amend	2-1-06
137-049-0420	1-1-06	Amend	2-1-06
137-049-0430	1-1-06	Amend	2-1-06
137-049-0440	1-1-06	Amend	2-1-06
137-049-0450	1-1-06	Amend	2-1-06
137-049-0460	1-1-06	Amend	2-1-06
137-049-0610	1-1-06	Amend	2-1-06
137-049-0620	1-1-06	Amend	2-1-06
137-049-0630	1-1-06	Amend	2-1-06
137-049-0640	1-1-06	Amend	2-1-06
137-049-0645	1-1-06	Adopt	2-1-06
137-049-0650	1-1-06	Amend	2-1-06
137-049-0660	1-1-06	Amend	2-1-06
137-049-0670	1-1-06	Amend	2-1-06
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137-055-1090	1-3-06	Amend	2-1-06
137-055-1100	1-3-06	Amend	2-1-06
137-055-1120	1-3-06	Amend	2-1-06
137-055-1120(T)	1-3-06	Repeal	2-1-06
137-055-1140	1-3-06	Amend	2-1-06
137-055-1140	7-3-06	Amend	8-1-06
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137-055-1160(T)	1-3-06	Repeal	2-1-06
137-055-1180	1-3-06	Amend	2-1-06
137-055-1180(T)	1-3-06	Repeal	2-1-06
137-055-1600	1-3-06	Amend	2-1-06
137-055-2045	1-3-06	Adopt	2-1-06
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137-055-3140	1-3-06	Amend(T)	2-1-06
137-055-3140	7-3-06	Amend	8-1-06
137-055-3220	1-3-06	Amend	2-1-06
137-055-3240	1-3-06	Amend	2-1-06
137-055-3240(T)	1-3-06	Repeal	2-1-06
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137-055-3430(T)	1-3-06	Repeal	2-1-06
137-055-3440	1-3-06	Amend	2-1-06
137-055-3440(T)	1-3-06	Repeal	2-1-06
137-055-3480	1-3-06	Amend	2-1-06
137-055-3490	1-3-06	Amend	2-1-06
137-055-3490(T)	1-3-06	Repeal	2-1-06
137-055-3500(T)	1-3-06	Repeal	2-1-06
137-055-3640	1-3-06	Amend	2-1-06
137-055-3660	1-3-06	Amend	2-1-06
137-055-4060	1-3-06	Amend	2-1-06
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137-055-4120(T)	1-3-06	Repeal	2-1-06
137-055-4130	1-3-06	Amend	2-1-06
137-055-4160	1-3-06	Amend	2-1-06
137-055-4300	1-3-06	Amend	2-1-06
137-055-4320	1-3-06	Amend	2-1-06
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137-055-4540(T)	1-3-06	Repeal	2-1-06
137-055-4560	1-3-06	Amend	2-1-06
137-055-5020	1-3-06	Amend	2-1-06
137-055-5020(T)	1-3-06	Repeal	2-1-06
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137-055-5110	1-3-06	Amend	2-1-06
137-055-5110	7-3-06	Amend	8-1-06
137-055-5110(T)	1-3-06	Repeal	2-1-06
137-055-5120	1-3-06	Amend	2-1-06
137-055-5120	7-3-06	Amend	8-1-06
137-055-5120(T)	1-3-06	Repeal	2-1-06
137-055-5125	1-3-06	Repeal	2-1-06
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137-055-5400(T)	1-3-06	Repeal	2-1-06
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137-055-5510	1-3-06	Amend	2-1-06
137-055-5510(T)	1-3-06	Repeal	2-1-06
137-055-5520	1-3-06	Amend	2-1-06
137-055-5520(T)	1-3-06	Repeal	2-1-06
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137-055-6021(T)	1-3-06	Repeal	2-1-06
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137-055-6040	1-3-06	Amend	2-1-06
137-055-6200	1-3-06	Amend	2-1-06
137-055-6200(T)	1-3-06	Repeal	2-1-06
137-055-6210	1-3-06	Amend	2-1-06
137-055-6210	7-3-06	Amend	8-1-06
137-055-6220	1-3-06	Amend	2-1-06
137-055-6260	1-3-06	Amend	2-1-06
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150-305.145(3)-(E)	1-1-06	Repeal	2-1-06
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150-305.230	1-1-06	Amend	2-1-06
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150-305.230(2)	1-1-06	Repeal	2-1-06
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150-306.135	1-1-06	Adopt	2-1-06
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150-314.415(1)(e)-(B)	1-1-06	Renumber	2-1-06
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160-100-1020	6-19-06	Adopt	8-1-06
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165-007-0250	4-14-06	Amend(T)	5-1-06
165-007-0280	12-14-05	Adopt	1-1-06
165-010-0005	12-14-05	Amend	1-1-06
165-010-0120	12-30-05	Adopt	2-1-06
165-012-0005	12-30-05	Amend	2-1-06
165-012-0240	12-30-05	Adopt	2-1-06
165-012-1010	12-30-05	Suspend	2-1-06
165-013-0010	12-30-05	Amend	2-1-06
165-013-0010	7-6-06	Amend	8-1-06
165-013-0020	12-30-05	Amend	2-1-06
165-014-0005	12-14-05	Amend	1-1-06
165-014-0110	12-14-05	Amend	1-1-06
165-016-0015	4-18-06	Repeal	6-1-06
165-016-0035	4-18-06	Repeal	6-1-06
165-016-0040	4-18-06	Amend	6-1-06
165-016-0045	4-18-06	Amend	6-1-06
165-016-0050	4-18-06	Amend	6-1-06
165-016-0055	4-18-06	Amend	6-1-06
165-016-0060	4-18-06	Amend	6-1-06
165-016-0065	4-18-06	Repeal	6-1-06
165-016-0070	4-18-06	Amend	6-1-06
165-016-0080	4-18-06	Amend	6-1-06
165-016-0095	4-18-06	Amend	6-1-06
165-020-0005	12-14-05	Amend	1-1-06
165-022-0000	4-18-06	Amend	6-1-06
165-022-0020	4-18-06	Repeal	6-1-06
165-022-0030	4-18-06	Amend	6-1-06
165-022-0040	4-18-06	Amend	6-1-06
165-022-0050	4-18-06	Amend	6-1-06
165-022-0060	4-18-06	Amend	6-1-06
166-400-0005	4-17-06	Repeal	6-1-06
166-400-0010	4-17-06	Am. & Ren.	6-1-06
166-400-0015	4-17-06	Am. & Ren.	6-1-06
166-400-0020	4-17-06	Am. & Ren.	6-1-06
166-400-0025	4-17-06	Am. & Ren.	6-1-06
166-400-0030	4-17-06	Am. & Ren.	6-1-06
166-400-0035	4-17-06	Am. & Ren.	6-1-06
166-400-0040	4-17-06	Am. & Ren.	6-1-06
166-400-0045	4-17-06	Am. & Ren.	6-1-06
166-400-0050	4-17-06	Am. & Ren.	6-1-06
166-400-0055	4-17-06	Am. & Ren.	6-1-06
166-400-0060	4-17-06	Am. & Ren.	6-1-06
166-400-0065	4-17-06	Am. & Ren.	6-1-06
170-030-0055	12-15-05	Adopt	1-1-06
170-060-1010	6-1-06	Amend	7-1-06
177-010-0100	3-1-06	Amend	4-1-06
177-035-0000	12-31-05	Repeal	2-1-06
177-035-0110	12-31-05	Repeal	2-1-06
177-035-0115	12-31-05	Repeal	2-1-06
177-035-0120	12-31-05	Repeal	2-1-06
177-035-0130	12-31-05	Repeal	2-1-06
177-035-0140	12-31-05	Repeal	2-1-06
177-035-0150	12-31-05	Repeal	2-1-06
177-035-0160	12-31-05	Repeal	2-1-06
177-035-0200	12-31-05	Repeal	2-1-06
177-035-0210	12-31-05	Repeal	2-1-06
177-035-0220	12-31-05	Repeal	2-1-06
177-035-0230	12-31-05	Repeal	2-1-06
177-035-0300	12-31-05	Repeal	2-1-06
177-035-0310	12-31-05	Repeal	2-1-06
177-035-0400	12-31-05	Repeal	2-1-06
177-035-0600	12-31-05	Repeal	2-1-06
177-036-0000	12-31-05	Adopt	2-1-06
177-036-0000(T)	12-31-05	Repeal	2-1-06
177-036-0010	12-31-05	Adopt	2-1-06
177-036-0010(T)	12-31-05	Repeal	2-1-06
177-036-0020	12-31-05	Adopt	2-1-06
177-036-0020(T)	12-31-05	Repeal	2-1-06
177-036-0030	12-31-05	Adopt	2-1-06
177-036-0030(T)	12-31-05	Repeal	2-1-06

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177-036-0040(T)	12-31-05	Repeal	2-1-06
177-036-0050	12-31-05	Adopt	2-1-06
177-036-0050(T)	12-31-05	Repeal	2-1-06
177-036-0055	12-31-05	Adopt	2-1-06
177-036-0055(T)	12-31-05	Repeal	2-1-06
177-036-0060	12-31-05	Adopt	2-1-06
177-036-0060(T)	12-31-05	Repeal	2-1-06
177-036-0070	12-31-05	Adopt	2-1-06
177-036-0070(T)	12-31-05	Repeal	2-1-06
177-036-0080	12-31-05	Adopt	2-1-06
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177-036-0090(T)	12-31-05	Repeal	2-1-06
177-036-0100	12-31-05	Adopt	2-1-06
177-036-0100(T)	12-31-05	Repeal	2-1-06
177-036-0110	12-31-05	Adopt	2-1-06
177-036-0110(T)	12-31-05	Repeal	2-1-06
177-036-0115	12-31-05	Adopt	2-1-06
177-036-0115(T)	12-31-05	Repeal	2-1-06
177-036-0120	12-31-05	Adopt	2-1-06
177-036-0120(T)	12-31-05	Repeal	2-1-06
177-036-0130	12-31-05	Adopt	2-1-06
177-036-0130(T)	12-31-05	Repeal	2-1-06
177-036-0140	12-31-05	Adopt	2-1-06
177-036-0140(T)	12-31-05	Repeal	2-1-06
177-036-0150	12-31-05	Adopt	2-1-06
177-036-0150(T)	12-31-05	Repeal	2-1-06
177-036-0160	12-31-05	Adopt	2-1-06
177-036-0160(T)	12-31-05	Repeal	2-1-06
177-036-0170	12-31-05	Adopt	2-1-06
177-036-0170(T)	12-31-05	Repeal	2-1-06
177-036-0180	12-31-05	Adopt	2-1-06
177-036-0180(T)	12-31-05	Repeal	2-1-06
177-036-0190	12-31-05	Adopt	2-1-06
177-036-0190(T)	12-31-05	Repeal	2-1-06
177-036-0200	12-31-05	Adopt	2-1-06
177-036-0200(T)	12-31-05	Repeal	2-1-06
177-036-0210	12-31-05	Adopt	2-1-06
177-036-0210(T)	12-31-05	Repeal	2-1-06
177-037-0000	12-31-05	Adopt	2-1-06
177-037-0000(T)	12-31-05	Repeal	2-1-06
177-037-0010	12-31-05	Adopt	2-1-06
177-037-0010(T)	12-31-05	Repeal	2-1-06
177-037-0020	12-31-05	Adopt	2-1-06
177-037-0020(T)	12-31-05	Repeal	2-1-06
177-037-0030	12-31-05	Adopt	2-1-06
177-037-0030(T)	12-31-05	Repeal	2-1-06
177-037-0040	12-31-05	Adopt	2-1-06
177-037-0040(T)	12-31-05	Repeal	2-1-06
177-037-0050	12-31-05	Adopt	2-1-06
177-037-0050(T)	12-31-05	Repeal	2-1-06
177-037-0060	12-31-05	Adopt	2-1-06
177-037-0060(T)	12-31-05	Repeal	2-1-06
177-037-0070	12-31-05	Adopt	2-1-06
177-037-0070(T)	12-31-05	Repeal	2-1-06
177-040-0000	3-1-06	Amend	4-1-06
177-040-0010	12-31-05	Amend	2-1-06
177-040-0017	12-31-05	Amend	2-1-06
177-040-0017(T)	12-31-05	Repeal	2-1-06
177-040-0026	11-23-05	Amend(T)	1-1-06
177-040-0026	1-25-06	Amend	3-1-06
177-040-0026(T)	1-25-06	Repeal	3-1-06
177-040-0029	12-31-05	Amend	2-1-06
177-040-0105	12-31-05	Amend	2-1-06
177-040-0160	4-27-06	Amend	6-1-06
177-040-0300	3-1-06	Adopt	4-1-06
177-040-0310	3-1-06	Adopt	4-1-06
177-040-0320	3-1-06	Adopt	4-1-06
177-046-0020	12-31-05	Amend	2-1-06
177-046-0020(T)	12-31-05	Repeal	2-1-06
177-046-0110	12-31-05	Amend	2-1-06
177-046-0110(T)	12-31-05	Repeal	2-1-06
177-050-0025	12-31-05	Amend	2-1-06
177-050-0025(T)	12-31-05	Repeal	2-1-06
177-050-0027	12-31-05	Amend	2-1-06
177-050-0027(T)	12-31-05	Repeal	2-1-06
177-050-0037	12-31-05	Amend	2-1-06
177-070-0025	12-31-05	Amend	2-1-06
177-070-0025(T)	12-31-05	Repeal	2-1-06
177-070-0035	12-31-05	Amend	2-1-06
177-070-0035(T)	12-31-05	Repeal	2-1-06
177-083-0000	4-9-06	Adopt	5-1-06
177-083-0010	4-9-06	Adopt	5-1-06
177-083-0020	4-9-06	Adopt	5-1-06
177-083-0030	4-9-06	Adopt	5-1-06
177-083-0040	4-9-06	Adopt	5-1-06
177-083-0050	4-9-06	Adopt	5-1-06
177-083-0060	4-9-06	Adopt	5-1-06
177-083-0070	4-9-06	Adopt	5-1-06
177-085-0005	12-31-05	Amend	2-1-06
177-085-0005(T)	12-31-05	Repeal	2-1-06
177-085-0015	12-31-05	Amend	2-1-06
177-085-0015(T)	12-31-05	Repeal	2-1-06
177-085-0020	12-31-05	Amend	2-1-06
177-085-0020(T)	12-31-05	Repeal	2-1-06
177-085-0025	12-31-05	Amend	2-1-06
177-085-0025(T)	12-31-05	Repeal	2-1-06
177-085-0030	12-31-05	Amend	2-1-06
177-085-0030(T)	12-31-05	Repeal	2-1-06
177-085-0035	12-31-05	Amend	2-1-06
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177-085-0065(T)	12-31-05	Repeal	2-1-06
177-200-0010	6-26-06	Amend(T)	7-1-06
177-200-0020	12-31-05	Amend	2-1-06
177-200-0020(T)	12-31-05	Repeal	2-1-06
213-001-0000	4-12-06	Amend	5-1-06
213-003-0001	4-12-06	Amend	5-1-06
213-005-0002	4-12-06	Amend	5-1-06
213-013-0001	4-12-06	Amend	5-1-06
213-017-0005	4-12-06	Amend	5-1-06
213-017-0006	4-12-06	Amend	5-1-06
213-017-0007	4-12-06	Amend	5-1-06

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213-018-0020	7-1-06	Amend	8-1-06
213-019-0008	4-12-06	Amend	5-1-06
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213-019-0012	4-12-06	Amend	5-1-06
213-019-0015	4-12-06	Amend	5-1-06
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220-001-0020	5-15-06	Repeal	6-1-06
220-001-0030	5-15-06	Repeal	6-1-06
220-001-0040	5-15-06	Repeal	6-1-06
220-001-0050	5-15-06	Repeal	6-1-06
220-005-0005	12-30-05	Amend(T)	2-1-06
220-005-0005	5-15-06	Repeal	6-1-06
220-005-0010	12-30-05	Amend(T)	2-1-06
220-005-0010	5-15-06	Repeal	6-1-06
220-005-0015	12-30-05	Amend(T)	2-1-06
220-005-0015	5-15-06	Repeal	6-1-06
220-005-0110	12-30-05	Amend(T)	2-1-06
220-005-0110	5-15-06	Repeal	6-1-06
220-005-0115	12-30-05	Amend(T)	2-1-06
220-005-0115	5-15-06	Repeal	6-1-06
220-005-0120	12-30-05	Amend(T)	2-1-06
220-005-0120	5-15-06	Repeal	6-1-06
220-005-0130	12-30-05	Amend(T)	2-1-06
220-005-0130	5-15-06	Repeal	6-1-06
220-005-0135	12-30-05	Amend(T)	2-1-06
220-005-0135	5-15-06	Repeal	6-1-06
220-005-0140	12-30-05	Amend(T)	2-1-06
220-005-0140	5-15-06	Repeal	6-1-06
220-005-0150	12-30-05	Amend(T)	2-1-06
220-005-0150	5-15-06	Repeal	6-1-06
220-005-0160	12-30-05	Amend(T)	2-1-06
220-005-0160	5-15-06	Repeal	6-1-06
220-005-0170	12-30-05	Amend(T)	2-1-06
220-005-0170	5-15-06	Repeal	6-1-06
220-005-0180	5-15-06	Repeal	6-1-06
220-005-0210	12-30-05	Amend(T)	2-1-06
220-005-0210	5-15-06	Repeal	6-1-06
220-005-0220	12-30-05	Amend(T)	2-1-06
220-005-0220	5-15-06	Repeal	6-1-06
220-005-0225	12-30-05	Adopt(T)	2-1-06
220-005-0225	5-15-06	Repeal	6-1-06
220-005-0230	12-30-05	Suspend	2-1-06
220-005-0230	5-15-06	Repeal	6-1-06
220-005-0240	12-30-05	Suspend	2-1-06
220-005-0240	5-15-06	Repeal	6-1-06
220-005-0245	12-30-05	Adopt(T)	2-1-06
220-005-0245	5-15-06	Repeal	6-1-06
220-005-0250	12-30-05	Amend(T)	2-1-06
220-005-0250	5-15-06	Repeal	6-1-06
220-010-0020	12-30-05	Amend(T)	2-1-06
220-010-0020	5-15-06	Repeal	6-1-06
220-010-0030	12-30-05	Amend(T)	2-1-06
220-010-0030	5-15-06	Repeal	6-1-06
220-010-0050	12-30-05	Amend(T)	2-1-06
220-010-0050	5-15-06	Repeal	6-1-06
220-010-0060	12-30-05	Amend(T)	2-1-06
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220-010-0200	5-15-06	Repeal	6-1-06
220-010-0300	12-30-05	Amend(T)	2-1-06
220-010-0300	5-15-06	Repeal	6-1-06
220-030-0035	12-30-05	Amend(T)	2-1-06
220-030-0035	5-15-06	Repeal	6-1-06
220-040-0015	12-30-05	Amend(T)	2-1-06
220-040-0015	5-15-06	Repeal	6-1-06
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220-040-0025	5-15-06	Repeal	6-1-06
220-040-0035	12-30-05	Amend(T)	2-1-06
220-040-0035	5-15-06	Repeal	6-1-06
220-040-0045	12-30-05	Amend(T)	2-1-06
220-040-0045	5-15-06	Repeal	6-1-06
220-040-0050	12-30-05	Amend(T)	2-1-06
220-040-0050	5-15-06	Repeal	6-1-06
220-050-0105	12-30-05	Suspend	2-1-06
220-050-0105	5-15-06	Repeal	6-1-06
220-050-0110	12-30-05	Amend(T)	2-1-06
220-050-0110	5-15-06	Repeal	6-1-06
220-050-0140	12-30-05	Amend(T)	2-1-06
220-050-0140	5-15-06	Repeal	6-1-06
220-050-0150	12-30-05	Suspend	2-1-06
220-050-0150	5-15-06	Repeal	6-1-06
220-050-0300	12-30-05	Amend(T)	2-1-06
220-050-0300	5-15-06	Repeal	6-1-06
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250-020-0350	3-28-06	Amend	5-1-06
255-015-0003	4-5-06	Amend	5-1-06
255-036-0010	4-5-06	Amend	5-1-06
255-037-0010	4-5-06	Amend	5-1-06
255-060-0011	3-20-06	Amend(T)	5-1-06
255-060-0011	6-14-06	Amend	7-1-06
255-060-0011	6-15-06	Amend(T)	7-1-06
255-070-0001	4-5-06	Amend	5-1-06
255-075-0035	12-29-05	Amend	2-1-06
257-030-0060	7-5-06	Amend(T)	8-1-06
257-030-0070	7-5-06	Amend(T)	8-1-06
257-030-0075	7-5-06	Suspend	8-1-06
257-030-0105	7-5-06	Adopt(T)	8-1-06
257-030-0110	7-5-06	Adopt(T)	8-1-06
257-030-0120	7-5-06	Adopt(T)	8-1-06
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257-030-0140	7-5-06	Adopt(T)	8-1-06
257-030-0150	7-5-06	Adopt(T)	8-1-06
257-030-0160	7-5-06	Adopt(T)	8-1-06
257-030-0170	7-5-06	Adopt(T)	8-1-06
257-050-0020	11-18-05	Adopt	1-1-06
257-050-0040	11-18-05	Amend	1-1-06
257-050-0050	3-31-06	Amend	5-1-06
257-050-0070	11-18-05	Amend	1-1-06

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257-050-0100	3-31-06	Amend	5-1-06
257-050-0110	3-31-06	Amend	5-1-06
257-050-0120	11-18-05	Repeal	1-1-06
257-050-0125	11-18-05	Adopt	1-1-06
257-050-0125	3-31-06	Amend	5-1-06
257-050-0140	11-18-05	Amend	1-1-06
257-050-0140	3-31-06	Amend	5-1-06
257-050-0145	11-18-05	Adopt	1-1-06
257-050-0145	3-31-06	Amend	5-1-06
257-050-0150	11-18-05	Amend	1-1-06
257-050-0150	3-31-06	Amend	5-1-06
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257-050-0157	11-18-05	Adopt	1-1-06
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259-008-0076	12-7-05	Adopt	1-1-06
259-009-0005	1-24-06	Amend	3-1-06
259-009-0005	7-7-06	Amend	8-1-06
259-009-0059	1-23-06	Adopt(T)	3-1-06
259-009-0059	5-3-06	Adopt	6-1-06
259-009-0059(T)	5-3-06	Repeal	6-1-06
259-009-0062	1-24-06	Amend	3-1-06
259-009-0062	7-7-06	Amend	8-1-06
259-009-0065	1-24-06	Amend	3-1-06
259-012-0005	6-9-06	Amend	7-1-06
259-012-0010	6-9-06	Amend	7-1-06
259-012-0015	6-9-06	Amend	7-1-06
259-012-0035	6-9-06	Amend	7-1-06
259-060-0005	5-15-06	Amend	6-1-06
259-060-0010	5-15-06	Amend	6-1-06
259-060-0015	5-15-06	Amend	6-1-06
259-060-0020	5-15-06	Amend	6-1-06
259-060-0060	5-15-06	Amend	6-1-06
259-060-0065	5-15-06	Amend	6-1-06
259-060-0070	5-15-06	Amend	6-1-06
259-060-0075	5-15-06	Amend	6-1-06
259-060-0080	5-15-06	Amend	6-1-06
259-060-0085	5-15-06	Amend	6-1-06
259-060-0090	5-15-06	Amend	6-1-06
259-060-0095	5-15-06	Amend	6-1-06
259-060-0115	5-15-06	Amend	6-1-06
259-060-0120	5-15-06	Amend	6-1-06
259-060-0130	5-15-06	Amend	6-1-06
259-060-0135	5-15-06	Amend	6-1-06
259-060-0150	5-15-06	Amend	6-1-06
259-060-0300	5-15-06	Amend	6-1-06
259-060-0305	5-15-06	Amend	6-1-06
259-060-0405	5-15-06	Amend	6-1-06
259-060-0500	5-15-06	Amend	6-1-06
259-060-0600	5-15-06	Amend	6-1-06
259-061-0005	5-15-06	Adopt	6-1-06
259-061-0010	5-15-06	Adopt	6-1-06
259-061-0015	5-15-06	Adopt	6-1-06
259-061-0020	5-15-06	Adopt	6-1-06
259-061-0030	5-15-06	Adopt	6-1-06
259-061-0040	5-15-06	Adopt	6-1-06
259-061-0050	5-15-06	Adopt	6-1-06
259-061-0055	5-15-06	Adopt	6-1-06
259-061-0060	5-15-06	Adopt	6-1-06
259-061-0070	5-15-06	Adopt	6-1-06
259-061-0080	5-15-06	Adopt	6-1-06
259-061-0090	5-15-06	Adopt	6-1-06
259-061-0095	5-15-06	Adopt	6-1-06
259-061-0100	5-15-06	Adopt	6-1-06
259-061-0110	5-15-06	Adopt	6-1-06
259-061-0120	5-15-06	Adopt	6-1-06
259-061-0130	5-15-06	Adopt	6-1-06
259-061-0140	5-15-06	Adopt	6-1-06
259-061-0150	5-15-06	Adopt	6-1-06
259-061-0160	5-15-06	Adopt	6-1-06
259-061-0170	5-15-06	Adopt	6-1-06
259-061-0180	5-15-06	Adopt	6-1-06
259-061-0190	5-15-06	Adopt	6-1-06
259-061-0200	5-15-06	Adopt	6-1-06
259-061-0210	5-15-06	Adopt	6-1-06
259-061-0220	5-15-06	Adopt	6-1-06
259-061-0230	5-15-06	Adopt	6-1-06
259-061-0240	5-15-06	Adopt	6-1-06
259-061-0250	5-15-06	Adopt	6-1-06
259-061-0260	5-15-06	Adopt	6-1-06
274-001-0005	6-27-06	Amend	8-1-06
274-010-0100	1-27-06	Amend	3-1-06
274-010-0115	1-27-06	Amend	3-1-06
274-010-0120	1-27-06	Amend	3-1-06
274-010-0135	1-27-06	Amend	3-1-06
274-010-0140	1-27-06	Repeal	3-1-06
274-010-0145	1-27-06	Amend	3-1-06
274-010-0150	1-27-06	Repeal	3-1-06
274-010-0155	1-27-06	Amend	3-1-06
274-010-0160	1-27-06	Amend	3-1-06
274-010-0170	1-27-06	Amend	3-1-06
274-010-0175	1-27-06	Amend	3-1-06
274-012-0001	2-23-06	Adopt(T)	4-1-06
274-012-0001	4-25-06	Adopt	6-1-06
274-012-0001(T)	4-25-06	Repeal	6-1-06
274-012-0100	2-23-06	Adopt(T)	4-1-06
274-012-0100	4-25-06	Adopt	6-1-06
274-012-0100(T)	4-25-06	Repeal	6-1-06
274-012-0105	2-23-06	Adopt(T)	4-1-06
274-012-0105	4-25-06	Adopt	6-1-06
274-012-0105(T)	4-25-06	Repeal	6-1-06

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274-012-0110	4-25-06	Adopt	6-1-06
274-012-0110(T)	4-25-06	Repeal	6-1-06
274-012-0115	2-23-06	Adopt(T)	4-1-06
274-012-0115	4-25-06	Adopt	6-1-06
274-012-0115(T)	4-25-06	Repeal	6-1-06
274-012-0120	2-23-06	Adopt(T)	4-1-06
274-012-0120	4-25-06	Adopt	6-1-06
274-012-0120(T)	4-25-06	Repeal	6-1-06
274-012-0125	2-23-06	Adopt(T)	4-1-06
274-012-0125	4-25-06	Adopt	6-1-06
274-012-0125(T)	4-25-06	Repeal	6-1-06
274-012-0130	2-23-06	Adopt(T)	4-1-06
274-012-0130	4-25-06	Adopt	6-1-06
274-012-0130(T)	4-25-06	Repeal	6-1-06
274-012-0131	2-23-06	Adopt(T)	4-1-06
274-012-0131	4-25-06	Adopt	6-1-06
274-012-0131(T)	4-25-06	Repeal	6-1-06
274-020-0340	12-27-05	Amend	2-1-06
274-030-0600	12-23-05	Adopt(T)	2-1-06
274-030-0600	6-16-06	Adopt	8-1-06
274-030-0600(T)	6-16-06	Repeal	8-1-06
274-030-0605	12-23-05	Adopt(T)	2-1-06
274-030-0605	6-16-06	Adopt	8-1-06
274-030-0605(T)	6-16-06	Repeal	8-1-06
274-030-0610	12-23-05	Adopt(T)	2-1-06
274-030-0610	6-16-06	Adopt	8-1-06
274-030-0610(T)	6-16-06	Repeal	8-1-06
274-030-0615	12-23-05	Adopt(T)	2-1-06
274-030-0615	6-16-06	Adopt	8-1-06
274-030-0615(T)	6-16-06	Repeal	8-1-06
274-030-0620	12-23-05	Adopt(T)	2-1-06
274-030-0620	6-16-06	Adopt	8-1-06
274-030-0620(T)	6-16-06	Repeal	8-1-06
274-030-0621	12-23-05	Adopt(T)	2-1-06
274-030-0621	6-16-06	Adopt	8-1-06
274-030-0621(T)	6-16-06	Repeal	8-1-06
274-030-0630	12-23-05	Adopt(T)	2-1-06
274-030-0630	6-16-06	Adopt	8-1-06
274-030-0630(T)	6-16-06	Repeal	8-1-06
274-030-0640	12-23-05	Adopt(T)	2-1-06
274-030-0640	6-16-06	Adopt	8-1-06
274-030-0640(T)	6-16-06	Repeal	8-1-06
274-040-0030	3-31-06	Amend(T)	5-1-06
274-040-0030	5-30-06	Amend	7-1-06
274-040-0030(T)	5-30-06	Repeal	7-1-06
274-045-0060	12-27-05	Amend	2-1-06
291-001-0100	6-1-06	Adopt(T)	7-1-06
291-047-0005	1-1-06	Amend	2-1-06
291-047-0010	1-1-06	Amend	2-1-06
291-047-0020	1-1-06	Repeal	2-1-06
291-047-0021	1-1-06	Adopt	2-1-06
291-047-0025	1-1-06	Repeal	2-1-06
291-047-0061	1-1-06	Adopt	2-1-06
291-047-0065	1-1-06	Adopt	2-1-06
291-047-0070	1-1-06	Adopt	2-1-06
291-047-0075	1-1-06	Adopt	2-1-06
291-047-0080	1-1-06	Adopt	2-1-06
291-047-0085	1-1-06	Adopt	2-1-06
291-047-0090	1-1-06	Adopt	2-1-06
291-047-0095	1-1-06	Adopt	2-1-06
291-047-0100	1-1-06	Adopt	2-1-06
291-047-0105	1-1-06	Adopt	2-1-06
291-047-0110	1-1-06	Adopt	2-1-06
291-047-0115	1-1-06	Am. & Ren.	2-1-06
291-047-0120	1-1-06	Am. & Ren.	2-1-06
291-047-0125	1-1-06	Am. & Ren.	2-1-06
291-047-0130	1-1-06	Am. & Ren.	2-1-06
291-047-0135	1-1-06	Am. & Ren.	2-1-06
291-047-0140	1-1-06	Am. & Ren.	2-1-06
291-063-0010	1-1-06	Amend	2-1-06
291-063-0016	1-1-06	Amend	2-1-06
291-063-0030	1-1-06	Amend	2-1-06
291-063-0050	1-1-06	Amend	2-1-06
291-077-0020	2-15-06	Amend	3-1-06
291-077-0030	2-15-06	Amend	3-1-06
291-077-0033	2-15-06	Amend	3-1-06
291-077-0035	2-15-06	Amend	3-1-06
291-104-0005	6-1-06	Amend	7-1-06
291-104-0010	12-7-05	Amend	1-1-06
291-104-0010	6-1-06	Amend	7-1-06
291-104-0015	12-7-05	Amend	1-1-06
291-104-0030	12-7-05	Amend	1-1-06
291-104-0035	12-7-05	Amend	1-1-06
291-104-0111	6-1-06	Adopt	7-1-06
291-104-0116	6-1-06	Adopt	7-1-06
291-104-0125	6-1-06	Adopt	7-1-06
291-104-0130	6-1-06	Adopt	7-1-06
291-104-0135	6-1-06	Adopt	7-1-06
291-130-0006	3-13-06	Amend	4-1-06
291-130-0010	3-13-06	Repeal	4-1-06
291-130-0011	3-13-06	Adopt	4-1-06
291-130-0016	3-13-06	Am. & Ren.	4-1-06
291-130-0020	3-13-06	Amend	4-1-06
291-130-0021	3-13-06	Adopt	4-1-06
291-130-0030	3-13-06	Amend	4-1-06
291-130-0050	3-13-06	Amend	4-1-06
291-130-0060	3-13-06	Amend	4-1-06
291-130-0070	3-13-06	Repeal	4-1-06
291-130-0080	3-13-06	Adopt	4-1-06
309-012-0000	6-1-06	Repeal	6-1-06
309-012-0005	6-1-06	Repeal	6-1-06
309-041-1220	7-1-06	Amend	8-1-06
309-120-0000(T)	1-1-06	Repeal	2-1-06
309-120-0005(T)	1-1-06	Repeal	2-1-06
309-120-0015	1-1-06	Repeal	2-1-06
309-120-0020	1-1-06	Repeal	2-1-06
309-120-0021(T)	1-1-06	Repeal	2-1-06
309-120-0070	1-1-06	Adopt	2-1-06
309-120-0070(T)	1-1-06	Repeal	2-1-06
309-120-0075	1-1-06	Adopt	2-1-06
309-120-0075(T)	1-1-06	Repeal	2-1-06
309-120-0080	1-1-06	Adopt	2-1-06
309-120-0080(T)	1-1-06	Repeal	2-1-06

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309-120-0205	1-1-06	Am. & Ren.	2-1-06
309-120-0210	1-1-06	Adopt	2-1-06
309-120-0215	1-1-06	Adopt	2-1-06
309-120-0220	1-1-06	Adopt	2-1-06
309-120-0225	1-1-06	Adopt	2-1-06
309-120-0230	1-1-06	Adopt	2-1-06
309-120-0235	1-1-06	Adopt	2-1-06
309-120-0240	1-1-06	Adopt	2-1-06
309-120-0245	1-1-06	Adopt	2-1-06
309-120-0250	1-1-06	Adopt	2-1-06
309-120-0255	1-1-06	Adopt	2-1-06
309-120-0260	1-1-06	Adopt	2-1-06
309-120-0265	1-1-06	Adopt	2-1-06
309-120-0270	1-1-06	Am. & Ren.	2-1-06
309-120-0275	1-1-06	Am. & Ren.	2-1-06
309-120-0280	1-1-06	Am. & Ren.	2-1-06
309-120-0285	1-1-06	Am. & Ren.	2-1-06
309-120-0290	1-1-06	Am. & Ren.	2-1-06
309-120-0295	1-1-06	Am. & Ren.	2-1-06
325-005-0015	2-6-06	Adopt	3-1-06
325-010-0001	2-6-06	Adopt	3-1-06
325-010-0005	2-6-06	Adopt	3-1-06
325-010-0010	2-6-06	Adopt	3-1-06
325-010-0015	2-6-06	Adopt	3-1-06
325-010-0020	2-6-06	Adopt	3-1-06
325-010-0025	2-6-06	Adopt	3-1-06
325-010-0030	2-6-06	Adopt	3-1-06
325-010-0035	2-6-06	Adopt	3-1-06
325-010-0040	2-6-06	Adopt	3-1-06
325-010-0045	2-6-06	Adopt	3-1-06
325-010-0050	2-6-06	Adopt	3-1-06
325-010-0055	2-6-06	Adopt	3-1-06
325-010-0060	2-6-06	Adopt	3-1-06
330-070-0010	1-1-06	Amend	2-1-06
330-070-0013	1-1-06	Amend	2-1-06
330-070-0014	1-1-06	Amend	2-1-06
330-070-0020	1-1-06	Amend	2-1-06
330-070-0021	1-1-06	Amend	2-1-06
330-070-0022	1-1-06	Amend	2-1-06
330-070-0025	1-1-06	Amend	2-1-06
330-070-0026	1-1-06	Amend	2-1-06
330-070-0040	1-1-06	Amend	2-1-06
330-070-0045	1-1-06	Amend	2-1-06
330-070-0048	1-1-06	Amend	2-1-06
330-070-0055	1-1-06	Amend	2-1-06
330-070-0059	1-1-06	Amend	2-1-06
330-070-0060	1-1-06	Amend	2-1-06
330-070-0062	1-1-06	Amend	2-1-06
330-070-0063	1-1-06	Amend	2-1-06
330-070-0064	1-1-06	Amend	2-1-06
330-070-0073	1-1-06	Amend	2-1-06
330-070-0089	1-1-06	Amend	2-1-06
330-070-0097	1-1-06	Amend	2-1-06
330-090-0105	1-1-06	Amend	2-1-06
330-090-0110	1-1-06	Amend	2-1-06
330-090-0120	1-1-06	Amend	2-1-06
330-090-0130	1-1-06	Amend	2-1-06
330-110-0010	4-3-06	Amend	5-1-06
330-110-0016	4-3-06	Amend	5-1-06
330-110-0042	4-3-06	Amend	5-1-06
330-110-0050	4-3-06	Amend	5-1-06
330-110-0055	4-3-06	Amend	5-1-06
331-405-0020	1-1-06	Amend	1-1-06
331-405-0030	1-1-06	Amend	1-1-06
331-405-0045	1-1-06	Adopt	1-1-06
331-410-0000	1-1-06	Amend	1-1-06
331-410-0010	1-1-06	Amend	1-1-06
331-410-0020	1-1-06	Amend	1-1-06
331-410-0030	1-1-06	Amend	1-1-06
331-410-0040	1-1-06	Amend	1-1-06
333-001-0000	6-1-06	Repeal	6-1-06
333-001-0005	6-1-06	Repeal	6-1-06
333-008-0000	1-1-06	Amend	2-1-06
333-008-0010	1-1-06	Amend	2-1-06
333-008-0020	12-1-05	Amend	1-1-06
333-008-0020	1-1-06	Amend	2-1-06
333-008-0025	1-1-06	Adopt	2-1-06
333-008-0030	1-1-06	Amend	2-1-06
333-008-0040	1-1-06	Amend	2-1-06
333-008-0050	1-1-06	Amend	2-1-06
333-008-0060	1-1-06	Amend	2-1-06
333-008-0070	1-1-06	Amend	2-1-06
333-008-0080	1-1-06	Amend	2-1-06
333-008-0090	1-1-06	Amend	2-1-06
333-008-0110	1-1-06	Adopt	2-1-06
333-008-0120	1-1-06	Adopt	2-1-06
333-012-0053	7-1-06	Amend	8-1-06
333-012-0061	7-1-06	Amend	8-1-06
333-012-0070	7-1-06	Amend	8-1-06
333-012-0260	4-17-06	Amend	6-1-06
333-012-0265	1-1-06	Amend(T)	2-1-06
333-012-0265	4-17-06	Amend	6-1-06
333-012-0265(T)	4-17-06	Repeal	6-1-06
333-018-0015	4-17-06	Amend	6-1-06
333-018-0015	7-1-06	Amend	8-1-06
333-018-0030	1-1-06	Amend(T)	2-1-06
333-018-0030	4-17-06	Amend	6-1-06
333-018-0030(T)	4-17-06	Repeal	6-1-06
333-019-0031	4-17-06	Amend	6-1-06
333-019-0036	1-1-06	Amend	2-1-06
333-025-0100	1-1-06	Amend	2-1-06
333-025-0105	1-1-06	Amend	2-1-06
333-025-0110	1-1-06	Amend	2-1-06
333-025-0115	1-1-06	Amend	2-1-06
333-025-0120	1-1-06	Amend	2-1-06
333-025-0135	1-1-06	Amend	2-1-06
333-025-0140	1-1-06	Amend	2-1-06
333-025-0160	1-1-06	Amend	2-1-06
333-025-0165	1-1-06	Adopt	2-1-06
333-050-0010	1-27-06	Amend	3-1-06
333-050-0020	1-27-06	Amend	3-1-06
333-050-0040	1-27-06	Amend	3-1-06
333-050-0050	1-27-06	Amend	3-1-06

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333-050-0080	1-27-06	Amend	3-1-06
333-050-0090	1-27-06	Amend	3-1-06
333-050-0100	1-27-06	Amend	3-1-06
333-050-0130	1-27-06	Amend	3-1-06
333-052-0030	6-5-06	Adopt	7-1-06
333-052-0040	6-5-06	Adopt	7-1-06
333-052-0050	6-5-06	Adopt	7-1-06
333-052-0060	6-5-06	Adopt	7-1-06
333-052-0065	6-5-06	Adopt	7-1-06
333-052-0070	6-5-06	Adopt	7-1-06
333-052-0075	6-5-06	Adopt	7-1-06
333-052-0080	6-5-06	Adopt	7-1-06
333-052-0090	6-5-06	Adopt	7-1-06
333-052-0100	6-5-06	Adopt	7-1-06
333-052-0110	6-5-06	Adopt	7-1-06
333-052-0120	6-5-06	Adopt	7-1-06
333-052-0130	6-5-06	Adopt	7-1-06
333-054-0020	7-1-06	Amend	8-1-06
333-054-0030	7-1-06	Amend	8-1-06
333-060-0015	7-1-06	Amend	8-1-06
333-060-0020	7-1-06	Amend	8-1-06
333-060-0035	7-1-06	Amend	8-1-06
333-060-0045	7-1-06	Amend	8-1-06
333-060-0050	7-1-06	Amend	8-1-06
333-060-0060	7-1-06	Amend	8-1-06
333-060-0065	7-1-06	Amend	8-1-06
333-060-0075	7-1-06	Amend	8-1-06
333-060-0110	7-1-06	Amend	8-1-06
333-060-0120	7-1-06	Amend	8-1-06
333-060-0150	7-1-06	Amend	8-1-06
333-060-0160	7-1-06	Amend	8-1-06
333-060-0220	7-1-06	Amend	8-1-06
333-060-0500	7-1-06	Adopt	8-1-06
333-060-0505	7-1-06	Adopt	8-1-06
333-060-0510	7-1-06	Adopt	8-1-06
333-060-0515	7-1-06	Adopt	8-1-06
333-061-0020	1-31-06	Amend	3-1-06
333-061-0030	1-31-06	Amend	3-1-06
333-061-0032	1-31-06	Amend	3-1-06
333-061-0036	1-31-06	Amend	3-1-06
333-061-0040	1-31-06	Amend	3-1-06
333-061-0042	1-31-06	Amend	3-1-06
333-061-0043	1-31-06	Amend	3-1-06
333-061-0057	1-31-06	Amend	3-1-06
333-061-0060	1-31-06	Amend	3-1-06
333-061-0070	1-31-06	Amend	3-1-06
333-061-0071	1-31-06	Amend	3-1-06
333-061-0072	1-31-06	Amend	3-1-06
333-061-0090	1-31-06	Amend	3-1-06
333-061-0097	1-31-06	Amend	3-1-06
333-061-0215	1-31-06	Amend	3-1-06
333-061-0220	1-31-06	Amend	3-1-06
333-061-0230	1-31-06	Amend	3-1-06
333-061-0235	1-31-06	Amend	3-1-06
333-061-0245	1-31-06	Amend	3-1-06
333-061-0250	1-31-06	Amend	3-1-06
333-061-0260	1-31-06	Amend	3-1-06
333-061-0265	1-31-06	Amend	3-1-06
333-061-0270	1-31-06	Amend	3-1-06
333-061-0290	1-31-06	Amend	3-1-06
333-064-0060	2-8-06	Amend(T)	3-1-06
333-064-0060	4-6-06	Amend	5-1-06
333-076-0101	3-2-06	Amend(T)	4-1-06
333-076-0125	3-2-06	Amend(T)	4-1-06
333-076-0130	3-2-06	Amend(T)	4-1-06
333-076-0135	3-2-06	Amend(T)	4-1-06
333-076-0450	6-27-06	Amend	8-1-06
333-076-0470	6-27-06	Amend	8-1-06
333-076-0490	6-27-06	Amend	8-1-06
333-076-0510	6-27-06	Amend	8-1-06
333-076-0530	6-27-06	Amend	8-1-06
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333-076-0650	6-27-06	Amend	8-1-06
333-076-0670	6-27-06	Amend	8-1-06
333-076-0690	6-27-06	Amend	8-1-06
333-076-0710	6-27-06	Amend	8-1-06
333-100-0005	6-16-06	Amend	8-1-06
333-100-0045	6-16-06	Amend	8-1-06
333-100-0055	6-16-06	Amend	8-1-06
333-100-0057	6-16-06	Amend	8-1-06
333-100-0060	6-16-06	Amend	8-1-06
333-100-0065	6-16-06	Amend	8-1-06
333-100-0070	6-16-06	Amend	8-1-06
333-101-0005	6-16-06	Amend	8-1-06
333-101-0007	6-16-06	Amend	8-1-06
333-101-0010	6-16-06	Amend	8-1-06
333-101-0015	6-16-06	Amend	8-1-06
333-101-0020	6-16-06	Amend	8-1-06
333-101-0023	6-16-06	Amend	8-1-06
333-101-0025	6-16-06	Amend	8-1-06
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333-101-0070	6-16-06	Amend	8-1-06
333-101-0090	6-16-06	Amend	8-1-06
333-101-0200	6-16-06	Amend	8-1-06
333-101-0220	6-16-06	Amend	8-1-06
333-101-0230	6-16-06	Amend	8-1-06
333-101-0240	6-16-06	Amend	8-1-06
333-101-0260	6-16-06	Amend	8-1-06
333-101-0270	6-16-06	Amend	8-1-06
333-101-0280	6-16-06	Amend	8-1-06
333-101-0290	6-16-06	Amend	8-1-06
333-102-0001	6-16-06	Amend	8-1-06
333-102-0005	6-16-06	Amend	8-1-06
333-102-0015	6-16-06	Amend	8-1-06
333-102-0020	6-16-06	Amend	8-1-06

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333-102-0130	6-16-06	Amend	8-1-06
333-102-0135	6-16-06	Amend	8-1-06
333-102-0190	6-16-06	Amend	8-1-06
333-102-0200	6-16-06	Amend	8-1-06
333-102-0203	6-16-06	Amend	8-1-06
333-102-0235	6-16-06	Amend	8-1-06
333-102-0245	6-16-06	Amend	8-1-06
333-102-0247	6-16-06	Amend	8-1-06
333-102-0255	6-16-06	Amend	8-1-06
333-102-0260	6-16-06	Amend	8-1-06
333-102-0285	6-16-06	Amend	8-1-06
333-102-0290	6-16-06	Amend	8-1-06
333-102-0293	6-16-06	Amend	8-1-06
333-102-0297	6-16-06	Amend	8-1-06
333-102-0305	6-16-06	Amend	8-1-06
333-102-0310	6-16-06	Amend	8-1-06
333-102-0320	6-16-06	Amend	8-1-06
333-102-0327	6-16-06	Amend	8-1-06
333-102-0330	6-16-06	Amend	8-1-06
333-102-0345	6-16-06	Amend	8-1-06
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333-102-0355	6-16-06	Amend	8-1-06
333-102-0365	6-16-06	Amend	8-1-06
333-102-0900	6-16-06	Amend	8-1-06
333-102-0910	6-16-06	Amend	8-1-06
333-103-0001	6-16-06	Amend	8-1-06
333-103-0005	6-16-06	Amend	8-1-06
333-103-0010	6-16-06	Amend	8-1-06
333-103-0015	6-16-06	Amend	8-1-06
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333-105-0003	6-16-06	Amend	8-1-06
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333-106-0355	6-16-06	Amend	8-1-06
333-106-0365	6-16-06	Amend	8-1-06
333-106-0370	6-16-06	Amend	8-1-06
333-106-0401	6-16-06	Repeal	8-1-06
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333-106-0420	6-16-06	Repeal	8-1-06
333-106-0480	6-16-06	Repeal	8-1-06
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333-106-0505	6-16-06	Repeal	8-1-06
333-106-0510	6-16-06	Repeal	8-1-06
333-106-0512	6-16-06	Repeal	8-1-06
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333-106-0526	6-16-06	Repeal	8-1-06
333-106-0527	6-16-06	Repeal	8-1-06
333-106-0530	6-16-06	Repeal	8-1-06
333-106-0535	6-16-06	Repeal	8-1-06
333-106-0540	6-16-06	Repeal	8-1-06
333-106-0545	6-16-06	Repeal	8-1-06
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333-106-0575	6-16-06	Repeal	8-1-06
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333-106-0601	6-16-06	Amend	8-1-06
333-106-0700	6-16-06	Amend	8-1-06
333-106-0710	6-16-06	Amend	8-1-06
333-106-0720	6-16-06	Amend	8-1-06
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333-106-0750	6-16-06	Amend	8-1-06
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333-109-0002	6-16-06	Adopt	8-1-06
333-109-0003	6-16-06	Amend	8-1-06
333-109-0005	6-16-06	Amend	8-1-06
333-109-0010	6-16-06	Amend	8-1-06
333-109-0015	6-16-06	Amend	8-1-06
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333-109-0040	6-16-06	Amend	8-1-06
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333-113-0001	6-16-06	Amend	8-1-06
333-113-0005	6-16-06	Amend	8-1-06
333-113-0007	6-16-06	Adopt	8-1-06
333-113-0010	6-16-06	Amend	8-1-06
333-113-0101	6-16-06	Amend	8-1-06
333-113-0105	6-16-06	Amend	8-1-06
333-113-0110	6-16-06	Amend	8-1-06
333-113-0115	6-16-06	Amend	8-1-06
333-113-0120	6-16-06	Amend	8-1-06
333-113-0125	6-16-06	Amend	8-1-06
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333-113-0135	6-16-06	Amend	8-1-06
333-113-0140	6-16-06	Amend	8-1-06
333-113-0145	6-16-06	Amend	8-1-06
333-113-0201	6-16-06	Amend	8-1-06
333-113-0205	6-16-06	Amend	8-1-06
333-113-0210	6-16-06	Amend	8-1-06
333-113-0301	6-16-06	Amend	8-1-06
333-113-0305	6-16-06	Amend	8-1-06
333-113-0310	6-16-06	Amend	8-1-06
333-113-0325	6-16-06	Adopt	8-1-06
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333-113-0410	6-16-06	Amend	8-1-06
333-113-0501	6-16-06	Amend	8-1-06
333-116-0010	6-16-06	Amend	8-1-06
333-116-0020	6-16-06	Amend	8-1-06
333-116-0027	6-16-06	Adopt	8-1-06
333-116-0035	6-16-06	Amend	8-1-06
333-116-0040	6-16-06	Amend	8-1-06
333-116-0045	6-16-06	Adopt	8-1-06
333-116-0050	6-16-06	Amend	8-1-06
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333-116-0190	6-16-06	Amend	8-1-06
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333-116-0210	6-16-06	Repeal	8-1-06
333-116-0220	6-16-06	Amend	8-1-06
333-116-0230	6-16-06	Repeal	8-1-06
333-116-0240	6-16-06	Repeal	8-1-06
333-116-0250	6-16-06	Amend	8-1-06
333-116-0255	6-16-06	Adopt	8-1-06
333-116-0260	6-16-06	Amend	8-1-06
333-116-0265	6-16-06	Repeal	8-1-06
333-116-0270	6-16-06	Repeal	8-1-06
333-116-0280	6-16-06	Amend	8-1-06
333-116-0290	6-16-06	Amend	8-1-06
333-116-0300	6-16-06	Amend	8-1-06
333-116-0310	6-16-06	Amend	8-1-06
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333-116-0330	6-16-06	Amend	8-1-06
333-116-0340	6-16-06	Amend	8-1-06
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333-116-0420	6-16-06	Amend	8-1-06
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333-116-0440	6-16-06	Amend	8-1-06
333-116-0445	6-16-06	Adopt	8-1-06
333-116-0447	6-16-06	Adopt	8-1-06
333-116-0450	6-16-06	Amend	8-1-06
333-116-0460	6-16-06	Amend	8-1-06
333-116-0470	6-16-06	Amend	8-1-06
333-116-0475	6-16-06	Adopt	8-1-06
333-116-0480	6-16-06	Amend	8-1-06
333-116-0490	6-16-06	Amend	8-1-06
333-116-0495	6-16-06	Amend	8-1-06
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333-116-0525	6-16-06	Amend	8-1-06
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333-116-0573	6-16-06	Amend	8-1-06
333-116-0577	6-16-06	Amend	8-1-06
333-116-0580	6-16-06	Amend	8-1-06
333-116-0583	6-16-06	Amend	8-1-06
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333-116-0680	6-16-06	Amend	8-1-06
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333-116-0700	6-16-06	Amend	8-1-06
333-116-0710	6-16-06	Amend	8-1-06
333-116-0715	6-16-06	Adopt	8-1-06
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333-116-0730	6-16-06	Amend	8-1-06
333-116-0740	6-16-06	Adopt	8-1-06
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333-116-0800	6-16-06	Amend	8-1-06
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333-116-0820	6-16-06	Amend	8-1-06
333-116-0830	6-16-06	Amend	8-1-06
333-116-0840	6-16-06	Amend	8-1-06
333-116-0850	6-16-06	Amend	8-1-06
333-116-0860	6-16-06	Repeal	8-1-06
333-116-0880	6-16-06	Amend	8-1-06
333-116-0905	6-16-06	Amend	8-1-06
333-116-0910	6-16-06	Amend	8-1-06
333-116-0915	6-16-06	Amend	8-1-06
333-116-1000	6-16-06	Adopt	8-1-06
333-116-1010	6-16-06	Adopt	8-1-06
333-116-1015	6-16-06	Adopt	8-1-06
333-116-1030	6-16-06	Adopt	8-1-06
333-120-0015	6-16-06	Amend	8-1-06
333-120-0017	6-16-06	Amend	8-1-06
333-120-0020	6-16-06	Amend	8-1-06
333-120-0100	6-16-06	Amend	8-1-06
333-120-0110	6-16-06	Amend	8-1-06
333-120-0120	6-16-06	Amend	8-1-06
333-120-0130	6-16-06	Amend	8-1-06
333-120-0170	6-16-06	Amend	8-1-06
333-120-0180	6-16-06	Amend	8-1-06
333-120-0190	6-16-06	Amend	8-1-06
333-120-0200	6-16-06	Amend	8-1-06
333-120-0210	6-16-06	Amend	8-1-06
333-120-0215	6-16-06	Amend	8-1-06
333-120-0220	6-16-06	Amend	8-1-06
333-120-0230	6-16-06	Amend	8-1-06
333-120-0240	6-16-06	Amend	8-1-06
333-120-0250	6-16-06	Amend	8-1-06
333-120-0260	6-16-06	Amend	8-1-06
333-120-0300	6-16-06	Amend	8-1-06
333-120-0310	6-16-06	Amend	8-1-06
333-120-0320	6-16-06	Amend	8-1-06
333-120-0400	6-16-06	Amend	8-1-06
333-120-0410	6-16-06	Amend	8-1-06
333-120-0420	6-16-06	Amend	8-1-06
333-120-0430	6-16-06	Amend	8-1-06
333-120-0450	6-16-06	Amend	8-1-06
333-120-0460	6-16-06	Amend	8-1-06
333-120-0500	6-16-06	Amend	8-1-06
333-120-0510	6-16-06	Amend	8-1-06
333-120-0520	6-16-06	Amend	8-1-06
333-120-0540	6-16-06	Amend	8-1-06
333-120-0550	6-16-06	Amend	8-1-06
333-120-0560	6-16-06	Amend	8-1-06
333-120-0600	6-16-06	Amend	8-1-06
333-120-0610	6-16-06	Amend	8-1-06
333-120-0620	6-16-06	Amend	8-1-06
333-120-0630	6-16-06	Amend	8-1-06
333-120-0640	6-16-06	Amend	8-1-06
333-120-0650	6-16-06	Amend	8-1-06
333-120-0660	6-16-06	Amend	8-1-06
333-120-0670	6-16-06	Amend	8-1-06
333-120-0680	6-16-06	Amend	8-1-06
333-120-0690	6-16-06	Amend	8-1-06

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333-120-0710	6-16-06	Amend	8-1-06
333-120-0720	6-16-06	Amend	8-1-06
333-120-0730	6-16-06	Amend	8-1-06
333-120-0740	6-16-06	Adopt	8-1-06
333-121-0020	6-16-06	Amend	8-1-06
333-121-0030	6-16-06	Amend	8-1-06
333-121-0100	6-16-06	Amend	8-1-06
333-121-0110	6-16-06	Amend	8-1-06
333-121-0160	6-16-06	Amend	8-1-06
333-121-0190	6-16-06	Amend	8-1-06
333-121-0200	6-16-06	Amend	8-1-06
333-121-0300	6-16-06	Amend	8-1-06
333-121-0310	6-16-06	Amend	8-1-06
333-121-0320	6-16-06	Amend	8-1-06
333-121-0340	6-16-06	Amend	8-1-06
333-121-0350	6-16-06	Amend	8-1-06
333-121-0360	6-16-06	Amend	8-1-06
333-121-0370	6-16-06	Amend	8-1-06
333-121-0380	6-16-06	Amend	8-1-06
333-121-0500	6-16-06	Amend	8-1-06
333-121-0510	6-16-06	Amend	8-1-06
333-122-0001	6-16-06	Adopt	8-1-06
333-122-0003	6-16-06	Adopt	8-1-06
333-122-0005	6-16-06	Adopt	8-1-06
333-122-0050	6-16-06	Adopt	8-1-06
333-122-0075	6-16-06	Adopt	8-1-06
333-122-0100	6-16-06	Adopt	8-1-06
333-122-0125	6-16-06	Adopt	8-1-06
333-122-0150	6-16-06	Adopt	8-1-06
333-122-0175	6-16-06	Adopt	8-1-06
333-122-0200	6-16-06	Adopt	8-1-06
333-122-0225	6-16-06	Adopt	8-1-06
333-122-0250	6-16-06	Adopt	8-1-06
333-122-0275	6-16-06	Adopt	8-1-06
333-122-0300	6-16-06	Adopt	8-1-06
333-122-0325	6-16-06	Adopt	8-1-06
333-122-0350	6-16-06	Adopt	8-1-06
333-122-0375	6-16-06	Adopt	8-1-06
333-122-0400	6-16-06	Adopt	8-1-06
333-122-0425	6-16-06	Adopt	8-1-06
333-122-0450	6-16-06	Adopt	8-1-06
333-122-0475	6-16-06	Adopt	8-1-06
333-122-0500	6-16-06	Adopt	8-1-06
333-122-0525	6-16-06	Adopt	8-1-06
333-122-0550	6-16-06	Adopt	8-1-06
333-122-0575	6-16-06	Adopt	8-1-06
333-122-0600	6-16-06	Adopt	8-1-06
333-150-0000	7-1-06	Amend	8-1-06
333-157-0000	7-1-06	Amend	8-1-06
333-157-0010	7-1-06	Amend	8-1-06
333-157-0027	7-1-06	Amend	8-1-06
333-157-0030	7-1-06	Amend	8-1-06
333-157-0045	7-1-06	Amend	8-1-06
333-157-0070	7-1-06	Amend	8-1-06
333-157-0080	7-1-06	Amend	8-1-06
333-158-0000	7-1-06	Amend	8-1-06
333-158-0010	7-1-06	Amend	8-1-06
333-160-0000	7-1-06	Amend	8-1-06
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333-162-0000	7-1-06	Repeal	8-1-06
333-162-0010	7-1-06	Repeal	8-1-06
333-162-0020	7-1-06	Amend	8-1-06
333-162-0030	7-1-06	Amend	8-1-06
333-162-0040	7-1-06	Amend	8-1-06
333-162-0060	7-1-06	Repeal	8-1-06
333-162-0070	7-1-06	Repeal	8-1-06
333-162-0080	7-1-06	Repeal	8-1-06
333-162-0090	7-1-06	Repeal	8-1-06
333-162-0100	7-1-06	Repeal	8-1-06
333-162-0110	7-1-06	Repeal	8-1-06
333-162-0120	7-1-06	Repeal	8-1-06
333-162-0130	7-1-06	Repeal	8-1-06
333-162-0140	7-1-06	Repeal	8-1-06
333-162-0150	7-1-06	Repeal	8-1-06
333-162-0160	7-1-06	Repeal	8-1-06
333-162-0180	7-1-06	Repeal	8-1-06
333-162-0190	7-1-06	Repeal	8-1-06
333-162-0200	7-1-06	Repeal	8-1-06
333-162-0210	7-1-06	Repeal	8-1-06
333-162-0220	7-1-06	Repeal	8-1-06
333-162-0230	7-1-06	Repeal	8-1-06
333-162-0240	7-1-06	Repeal	8-1-06
333-162-0250	7-1-06	Repeal	8-1-06
333-162-0260	7-1-06	Repeal	8-1-06
333-162-0270	7-1-06	Repeal	8-1-06
333-162-0280	7-1-06	Amend	8-1-06
333-162-0290	7-1-06	Repeal	8-1-06
333-162-0300	7-1-06	Repeal	8-1-06
333-162-0310	7-1-06	Repeal	8-1-06
333-162-0320	7-1-06	Repeal	8-1-06
333-162-0330	7-1-06	Repeal	8-1-06
333-162-0340	7-1-06	Repeal	8-1-06
333-162-0350	7-1-06	Repeal	8-1-06
333-162-0360	7-1-06	Repeal	8-1-06
333-162-0370	7-1-06	Repeal	8-1-06
333-162-0380	7-1-06	Repeal	8-1-06
333-162-0390	7-1-06	Repeal	8-1-06
333-162-0400	7-1-06	Repeal	8-1-06
333-162-0410	7-1-06	Repeal	8-1-06
333-162-0420	7-1-06	Repeal	8-1-06
333-162-0430	7-1-06	Repeal	8-1-06
333-162-0440	7-1-06	Repeal	8-1-06
333-162-0450	7-1-06	Repeal	8-1-06
333-162-0460	7-1-06	Repeal	8-1-06
333-162-0480	7-1-06	Repeal	8-1-06
333-162-0490	7-1-06	Repeal	8-1-06
333-162-0500	7-1-06	Repeal	8-1-06
333-162-0510	7-1-06	Repeal	8-1-06
333-162-0520	7-1-06	Repeal	8-1-06
333-162-0530	7-1-06	Repeal	8-1-06
333-162-0540	7-1-06	Repeal	8-1-06
333-162-0552	7-1-06	Repeal	8-1-06
333-162-0560	7-1-06	Repeal	8-1-06

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333-162-0580	7-1-06	Repeal	8-1-06
333-162-0590	7-1-06	Repeal	8-1-06
333-162-0600	7-1-06	Repeal	8-1-06
333-162-0610	7-1-06	Repeal	8-1-06
333-162-0620	7-1-06	Repeal	8-1-06
333-162-0630	7-1-06	Repeal	8-1-06
333-162-0640	7-1-06	Repeal	8-1-06
333-162-0650	7-1-06	Repeal	8-1-06
333-162-0660	7-1-06	Repeal	8-1-06
333-162-0670	7-1-06	Repeal	8-1-06
333-162-0680	7-1-06	Amend	8-1-06
333-162-0690	7-1-06	Repeal	8-1-06
333-162-0700	7-1-06	Repeal	8-1-06
333-162-0710	7-1-06	Repeal	8-1-06
333-162-0720	7-1-06	Repeal	8-1-06
333-162-0730	7-1-06	Repeal	8-1-06
333-162-0740	7-1-06	Repeal	8-1-06
333-162-0750	7-1-06	Repeal	8-1-06
333-162-0760	7-1-06	Repeal	8-1-06
333-162-0770	7-1-06	Repeal	8-1-06
333-162-0780	7-1-06	Repeal	8-1-06
333-162-0790	7-1-06	Repeal	8-1-06
333-162-0800	7-1-06	Repeal	8-1-06
333-162-0810	7-1-06	Repeal	8-1-06
333-162-0820	7-1-06	Repeal	8-1-06
333-162-0830	7-1-06	Repeal	8-1-06
333-162-0840	7-1-06	Repeal	8-1-06
333-162-0850	7-1-06	Repeal	8-1-06
333-162-0860	7-1-06	Repeal	8-1-06
333-162-0870	7-1-06	Repeal	8-1-06
333-162-0880	7-1-06	Amend	8-1-06
333-162-0890	7-1-06	Amend	8-1-06
333-162-0910	7-1-06	Amend	8-1-06
333-162-0920	7-1-06	Amend	8-1-06
333-162-0940	7-1-06	Amend	8-1-06
333-162-0940	7-1-06	Amend	8-1-06
333-162-0960	7-1-06	Repeal	8-1-06
333-162-0970	7-1-06	Repeal	8-1-06
333-162-0980	7-1-06	Repeal	8-1-06
333-162-0990	7-1-06	Repeal	8-1-06
333-162-1000	7-1-06	Repeal	8-1-06
333-162-1005	7-1-06	Amend	8-1-06
333-162-1010	7-1-06	Repeal	8-1-06
333-162-1020	7-1-06	Repeal	8-1-06
333-170-0060	7-1-06	Amend	8-1-06
333-175-0011	7-1-06	Amend	8-1-06
333-175-0021	7-1-06	Amend	8-1-06
333-175-0031	7-1-06	Amend	8-1-06
333-175-0041	7-1-06	Amend	8-1-06
333-175-0051	7-1-06	Amend	8-1-06
333-175-0061	7-1-06	Amend	8-1-06
333-175-0071	7-1-06	Amend	8-1-06
333-175-0081	7-1-06	Amend	8-1-06
333-175-0091	7-1-06	Amend	8-1-06
333-175-0101	7-1-06	Amend	8-1-06
333-510-0045	1-1-06	Amend(T)	2-1-06
333-670-0000	4-17-06	Suspend	6-1-06
333-670-0010	4-17-06	Suspend	6-1-06
333-670-0020	4-17-06	Suspend	6-1-06
333-670-0030	4-17-06	Suspend	6-1-06
333-670-0040	4-17-06	Suspend	6-1-06
333-670-0050	4-17-06	Suspend	6-1-06
333-670-0060	4-17-06	Suspend	6-1-06
333-670-0070	4-17-06	Suspend	6-1-06
333-670-0080	4-17-06	Suspend	6-1-06
333-670-0090	4-17-06	Suspend	6-1-06
333-670-0100	4-17-06	Suspend	6-1-06
333-670-0110	4-17-06	Suspend	6-1-06
333-670-0120	4-17-06	Suspend	6-1-06
333-670-0130	4-17-06	Suspend	6-1-06
333-670-0140	4-17-06	Suspend	6-1-06
333-670-0150	4-17-06	Suspend	6-1-06
333-670-0160	4-17-06	Suspend	6-1-06
333-670-0170	4-17-06	Suspend	6-1-06
333-670-0180	4-17-06	Suspend	6-1-06
333-670-0190	4-17-06	Suspend	6-1-06
333-670-0200	4-17-06	Suspend	6-1-06
333-670-0210	4-17-06	Suspend	6-1-06
333-670-0220	4-17-06	Suspend	6-1-06
333-670-0230	4-17-06	Suspend	6-1-06
333-670-0240	4-17-06	Suspend	6-1-06
333-670-0250	4-17-06	Suspend	6-1-06
333-670-0260	4-17-06	Suspend	6-1-06
333-670-0270	4-17-06	Suspend	6-1-06
333-670-0280	4-17-06	Suspend	6-1-06
334-010-0010	1-5-06	Amend	2-1-06
334-010-0015	1-5-06	Amend	2-1-06
334-010-0015	2-16-06	Amend(T)	4-1-06
334-010-0017	1-5-06	Amend	2-1-06
334-010-0033	1-5-06	Amend	2-1-06
334-010-0050	1-5-06	Amend	2-1-06
335-005-0025	5-8-06	Amend	6-1-06
335-005-0030	5-8-06	Adopt	6-1-06
335-005-0035	5-8-06	Adopt	6-1-06
335-070-0040	5-8-06	Amend	6-1-06
335-070-0060	5-8-06	Amend	6-1-06
335-070-0065	5-8-06	Amend	6-1-06
335-080-0005	5-8-06	Amend	6-1-06
335-095-0010	5-8-06	Amend	6-1-06
335-095-0030	5-8-06	Amend	6-1-06
335-095-0055	5-8-06	Amend	6-1-06
337-010-0030	2-6-06	Amend	3-1-06
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340-012-0027	3-31-06	Amend	5-1-06
340-012-0053	3-31-06	Amend	5-1-06
340-012-0054	3-31-06	Amend	5-1-06
340-012-0054	6-29-06	Amend	8-1-06
340-012-0055	3-31-06	Amend	5-1-06
340-012-0060	3-31-06	Amend	5-1-06
340-012-0065	3-31-06	Amend	5-1-06
340-012-0066	3-31-06	Amend	5-1-06
340-012-0067	3-31-06	Amend	5-1-06
340-012-0068	3-31-06	Amend	5-1-06

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340-012-0073	3-31-06	Amend	5-1-06
340-012-0074	3-31-06	Amend	5-1-06
340-012-0079	3-31-06	Amend	5-1-06
340-012-0081	3-31-06	Amend	5-1-06
340-012-0082	3-31-06	Amend	5-1-06
340-012-0083	3-31-06	Amend	5-1-06
340-012-0097	3-31-06	Amend	5-1-06
340-012-0125	6-29-06	Amend	8-1-06
340-012-0130	3-31-06	Amend	5-1-06
340-012-0135	3-31-06	Amend	5-1-06
340-012-0140	6-29-06	Amend	8-1-06
340-012-0135	6-29-06	Amend	8-1-06
340-012-0140	3-31-06	Amend	5-1-06
340-012-0155	3-31-06	Amend	5-1-06
340-045-0033	12-28-05	Amend	2-1-06
340-110-0001	3-15-06	Amend	4-1-06
340-110-0020	3-15-06	Amend	4-1-06
340-110-0061	3-15-06	Amend	4-1-06
340-122-0040	3-17-06	Amend	5-1-06
340-122-0045	3-17-06	Repeal	5-1-06
340-122-0115	3-17-06	Amend	5-1-06
340-200-0020	3-14-06	Amend	4-1-06
340-200-0040	3-14-06	Amend	4-1-06
340-200-0040	3-31-06	Amend	5-1-06
340-216-0060	3-14-06	Amend	4-1-06
340-220-0030	6-30-06	Amend	8-1-06
340-220-0040	6-30-06	Amend	8-1-06
340-220-0050	6-30-06	Amend	8-1-06
340-238-0040	3-14-06	Amend	4-1-06
340-238-0050	3-14-06	Amend	4-1-06
340-238-0060	3-14-06	Amend	4-1-06
340-244-0030	3-14-06	Amend	4-1-06
340-244-0040	3-14-06	Amend	4-1-06
340-244-0220	3-14-06	Amend	4-1-06
340-256-0220	6-29-06	Adopt	8-1-06
340-256-0300	7-5-06	Amend	8-1-06
340-257-0010	1-1-06	Adopt(T)	2-1-06
340-257-0010	6-29-06	Adopt	8-1-06
340-257-0010(T)	6-29-06	Repeal	8-1-06
340-257-0020	1-1-06	Adopt(T)	2-1-06
340-257-0020(T)	6-29-06	Repeal	8-1-06
340-257-0020	6-29-06	Adopt	8-1-06
340-257-0030	1-1-06	Adopt(T)	2-1-06
340-257-0030	6-29-06	Adopt	8-1-06
340-257-0030(T)	6-29-06	Repeal	8-1-06
340-257-0040	1-1-06	Adopt(T)	2-1-06
340-257-0040	6-29-06	Adopt	8-1-06
340-257-0040(T)	6-29-06	Repeal	8-1-06
340-257-0050	1-1-06	Adopt(T)	2-1-06
340-257-0050	6-29-06	Adopt	8-1-06
340-257-0050(T)	6-29-06	Repeal	8-1-06
340-257-0060	1-1-06	Adopt(T)	2-1-06
340-257-0060	6-29-06	Adopt	8-1-06
340-257-0060(T)	6-29-06	Repeal	8-1-06
340-257-0070	1-1-06	Adopt(T)	2-1-06
340-257-0070	6-29-06	Adopt	8-1-06
340-257-0070(T)	6-29-06	Repeal	8-1-06
340-257-0080	1-1-06	Adopt(T)	2-1-06
340-257-0080	6-29-06	Adopt	8-1-06
340-257-0080(T)	6-29-06	Repeal	8-1-06
340-257-0090	1-1-06	Adopt(T)	2-1-06
340-257-0090	6-29-06	Adopt	8-1-06
340-257-0090(T)	6-29-06	Repeal	8-1-06
340-257-0100	1-1-06	Adopt(T)	2-1-06
340-257-0100	6-29-06	Adopt	8-1-06
340-257-0100(T)	6-29-06	Repeal	8-1-06
340-257-0110	1-1-06	Adopt(T)	2-1-06
340-257-0110	6-29-06	Adopt	8-1-06
340-257-0110(T)	6-29-06	Repeal	8-1-06
340-257-0120	1-1-06	Adopt(T)	2-1-06
340-257-0120	6-29-06	Adopt	8-1-06
340-257-0120(T)	6-29-06	Repeal	8-1-06
340-257-0130	1-1-06	Adopt(T)	2-1-06
340-257-0130	6-29-06	Adopt	8-1-06
340-257-0130(T)	6-29-06	Repeal	8-1-06
340-257-0140	6-29-06	Adopt	8-1-06
340-257-0150	1-1-06	Adopt(T)	2-1-06
340-257-0150	6-29-06	Adopt	8-1-06
340-257-0150(T)	6-29-06	Repeal	8-1-06
340-257-0160	1-1-06	Adopt(T)	2-1-06
340-257-0160	6-29-06	Adopt	8-1-06
340-257-0160(T)	6-29-06	Repeal	8-1-06
350-011-0004	5-1-06	Amend	5-1-06
350-012-0006	5-1-06	Amend	5-1-06
350-012-0007	5-1-06	Amend	5-1-06
350-012-0008	5-1-06	Amend	5-1-06
350-012-0009	5-1-06	Adopt	5-1-06
350-013-0001	5-1-06	Amend	5-1-06
350-016-0004	5-1-06	Amend	5-1-06
350-050-0030	5-1-06	Amend	5-1-06
350-050-0035	5-1-06	Adopt	5-1-06
350-050-0040	5-1-06	Amend	5-1-06
350-050-0045	5-1-06	Adopt	5-1-06
350-050-0050	5-1-06	Amend	5-1-06
350-050-0060	5-1-06	Amend	5-1-06
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350-050-0100	5-1-06	Amend	5-1-06
350-050-0110	5-1-06	Repeal	5-1-06
350-081-0108	8-1-06	Amend	8-1-06
350-081-0114	8-1-06	Adopt	8-1-06
350-081-0190	8-1-06	Amend	8-1-06
350-081-0270	8-1-06	Amend	8-1-06
350-081-0370	8-1-06	Amend	8-1-06
350-081-0450	8-1-06	Amend	8-1-06
350-081-0490	8-1-06	Amend	8-1-06
407-001-0000	6-1-06	Adopt	6-1-06
407-001-0005	6-1-06	Adopt	6-1-06
407-001-0010	6-1-06	Adopt	6-1-06

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407-005-0010	3-1-06	Adopt	4-1-06
407-005-0015	3-1-06	Adopt	4-1-06
407-005-0020	3-1-06	Adopt	4-1-06
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407-045-0020	6-1-06	Adopt	7-1-06
407-045-0030	6-1-06	Adopt	7-1-06
407-045-0040	6-1-06	Adopt	7-1-06
407-045-0050	6-1-06	Adopt	7-1-06
407-045-0060	6-1-06	Adopt	7-1-06
407-045-0070	6-1-06	Adopt	7-1-06
407-045-0080	6-1-06	Adopt	7-1-06
407-045-0090	6-1-06	Adopt	7-1-06
407-045-0100	6-1-06	Adopt	7-1-06
407-045-0110	6-1-06	Adopt	7-1-06
407-050-0000	11-28-05	Adopt(T)	1-1-06
407-050-0000	5-26-06	Adopt	7-1-06
407-050-0005	11-28-05	Adopt(T)	1-1-06
407-050-0005	5-26-06	Adopt	7-1-06
407-050-0010	11-28-05	Adopt(T)	1-1-06
407-050-0010	5-26-06	Adopt	7-1-06
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410-001-0005	6-1-06	Amend	6-1-06
410-001-0010	6-1-06	Repeal	6-1-06
410-001-0020	6-1-06	Amend	6-1-06
410-001-0030	6-1-06	Repeal	6-1-06
410-002-0000	6-1-06	Repeal	6-1-06
410-011-0000	1-1-06	Am. & Ren.	1-1-06
410-011-0010	1-1-06	Am. & Ren.	1-1-06
410-011-0020	1-1-06	Am. & Ren.	1-1-06
410-011-0030	1-1-06	Am. & Ren.	1-1-06
410-011-0040	1-1-06	Am. & Ren.	1-1-06
410-011-0050	1-1-06	Am. & Ren.	1-1-06
410-011-0060	1-1-06	Am. & Ren.	1-1-06
410-011-0070	1-1-06	Am. & Ren.	1-1-06
410-011-0080	1-1-06	Am. & Ren.	1-1-06
410-011-0090	1-1-06	Am. & Ren.	1-1-06
410-011-0100	1-1-06	Am. & Ren.	1-1-06
410-011-0110	1-1-06	Am. & Ren.	1-1-06
410-011-0120	1-1-06	Am. & Ren.	1-1-06
410-015-0000	7-14-06	Renumber	8-1-06
410-015-0010	7-14-06	Renumber	8-1-06
410-015-0020	7-14-06	Renumber	8-1-06
410-015-0030	7-14-06	Renumber	8-1-06
410-015-0040	7-14-06	Renumber	8-1-06
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410-120-1210	7-1-06	Amend	7-1-06
410-120-1230	7-1-06	Amend	7-1-06
410-120-1260	7-1-06	Amend	7-1-06
410-120-1280	1-1-06	Amend	2-1-06
410-120-1280	7-1-06	Amend	7-1-06
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410-120-1295	1-1-06	Amend(T)	2-1-06
410-120-1295	6-23-06	Amend	8-1-06
410-120-1295(T)	1-1-06	Repeal	1-1-06
410-120-1295(T)	6-23-06	Repeal	8-1-06
410-120-1340	7-1-06	Amend	7-1-06
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410-120-1460	7-1-06	Amend	7-1-06
410-120-1560	7-1-06	Amend	7-1-06
410-120-1855	7-1-06	Amend	7-1-06
410-120-1960	7-1-06	Amend	7-1-06
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410-121-0040	3-15-06	Amend(T)	4-1-06
410-121-0060	7-1-06	Amend	7-1-06
410-121-0100	7-1-06	Amend	7-1-06
410-121-0140	7-1-06	Amend	7-1-06
410-121-0147	1-1-06	Amend	1-1-06
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410-121-0149	1-18-06	Adopt(T)	3-1-06
410-121-0149	6-29-06	Adopt	8-1-06
410-121-0150	7-1-06	Amend	7-1-06
410-121-0155	7-1-06	Amend	7-1-06
410-121-0157	4-1-06	Amend	5-1-06
410-121-0157	4-1-06	Amend(T)	5-1-06
410-121-0157	6-1-06	Amend	7-1-06
410-121-0160	7-1-06	Amend	7-1-06
410-121-0190	12-1-05	Amend	1-1-06
410-121-0300	1-1-06	Amend	2-1-06
410-121-0300	4-1-06	Amend(T)	5-1-06
410-121-0300	6-1-06	Amend	7-1-06
410-121-0320	1-1-06	Amend	2-1-06
410-122-0010	7-1-06	Amend	7-1-06
410-122-0040	7-1-06	Amend	7-1-06
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410-122-0525	7-1-06	Amend	7-1-06
410-122-0700	7-1-06	Amend	7-1-06
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410-125-0155	7-1-06	Amend	7-1-06
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410-136-0340	7-1-06	Amend	7-1-06
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410-138-0600	2-7-06	Adopt(T)	3-1-06
410-138-0600	7-1-06	Adopt	7-1-06
410-138-0610	2-7-06	Adopt(T)	3-1-06
410-138-0610	7-1-06	Adopt	7-1-06
410-138-0620	2-7-06	Adopt(T)	3-1-06
410-138-0620	7-1-06	Adopt	7-1-06
410-138-0640	2-7-06	Adopt(T)	3-1-06
410-138-0640	7-1-06	Adopt	7-1-06
410-138-0660	2-7-06	Adopt(T)	3-1-06
410-138-0660	7-1-06	Adopt	7-1-06
410-138-0680	2-7-06	Adopt(T)	3-1-06
410-138-0680	7-1-06	Adopt	7-1-06
410-138-0700	2-7-06	Adopt(T)	3-1-06
410-138-0700	7-1-06	Adopt	7-1-06
410-138-0710	2-7-06	Adopt(T)	3-1-06
410-138-0710	7-1-06	Adopt	7-1-06
410-138-0720	2-7-06	Adopt(T)	3-1-06
410-138-0720	7-1-06	Adopt	7-1-06
410-138-0740	2-7-06	Adopt(T)	3-1-06
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410-138-0760	2-7-06	Adopt(T)	3-1-06
410-138-0760	7-1-06	Adopt	7-1-06
410-138-0780	2-7-06	Adopt(T)	3-1-06
410-138-0780	7-1-06	Adopt	7-1-06
410-140-0080	7-1-06	Amend	7-1-06
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410-141-0010	3-1-06	Adopt	3-1-06
410-141-0010(T)	3-1-06	Repeal	3-1-06
410-141-0050	6-1-06	Adopt(T)	8-1-06
410-141-0060	1-1-06	Amend	1-1-06
410-141-0060	5-4-06	Amend(T)	6-1-06
410-141-0060	7-1-06	Amend	7-1-06
410-141-0070	1-1-06	Amend	1-1-06
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410-141-0405	7-1-06	Amend	7-1-06
410-141-0410	7-1-06	Amend	7-1-06
410-141-0420	7-1-06	Amend	7-1-06
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410-141-0860	7-1-06	Amend	7-1-06
410-146-0100	12-1-05	Amend	1-1-06
410-147-0020	7-1-06	Amend	7-1-06
410-147-0040	7-1-06	Amend	7-1-06
410-147-0060	7-1-06	Amend	7-1-06
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410-147-0180	7-1-06	Amend	7-1-06
410-147-0200	7-1-06	Amend	7-1-06
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411-001-0000	6-1-06	Repeal	6-1-06
411-001-0010	6-1-06	Amend	6-1-06
411-001-0100	6-1-06	Amend	6-1-06
411-001-0110	6-1-06	Amend	6-1-06
411-001-0120	6-1-06	Amend	6-1-06
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411-005-0025	7-1-06	Repeal	8-1-06
411-005-0030	7-1-06	Repeal	8-1-06
411-005-0035	7-1-06	Amend	8-1-06
411-005-0040	7-1-06	Repeal	8-1-06
411-005-0045	7-1-06	Amend	8-1-06
411-005-0050	7-1-06	Repeal	8-1-06
411-005-0055	7-1-06	Repeal	8-1-06
411-005-0060	7-1-06	Repeal	8-1-06
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411-015-0007	5-1-06	Adopt	6-1-06
411-015-0008	6-1-06	Adopt	7-1-06
411-015-0010	6-1-06	Amend	7-1-06
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411-015-0100	6-1-06	Amend	7-1-06
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411-020-0020	4-1-06	Amend	5-1-06
411-020-0030	4-1-06	Amend	5-1-06
411-021-0000	4-1-06	Amend	5-1-06
411-021-0005	4-1-06	Amend	5-1-06
411-021-0010	4-1-06	Amend	5-1-06
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411-021-0020	4-1-06	Amend	5-1-06
411-021-0025	4-1-06	Amend	5-1-06
411-030-0020	12-21-05	Amend(T)	2-1-06
411-030-0020	6-1-06	Amend	7-1-06
411-030-0033	12-21-05	Amend(T)	2-1-06
411-030-0033	6-1-06	Amend	7-1-06
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411-030-0040	1-13-06	Amend(T)	2-1-06
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411-030-0055	6-1-06	Adopt	7-1-06
411-030-0055(T)	6-1-06	Repeal	7-1-06
411-030-0070	12-21-05	Amend(T)	2-1-06
411-030-0070	6-1-06	Amend	7-1-06
411-030-0080	6-1-06	Amend	7-1-06
411-030-0090	6-1-06	Amend	7-1-06
411-031-0020	11-16-05	Amend(T)	1-1-06
411-031-0020	5-1-06	Amend	6-1-06
411-031-0020(T)	5-1-06	Repeal	6-1-06
411-031-0040	5-1-06	Amend	6-1-06
411-031-0050	11-16-05	Amend(T)	1-1-06
411-031-0050	5-1-06	Amend	6-1-06
411-031-0050(T)	5-1-06	Repeal	6-1-06
411-055-0003	2-1-06	Amend	3-1-06
411-055-0003(T)	2-1-06	Repeal	3-1-06
411-055-0190	1-18-06	Amend(T)	3-1-06
411-055-0190	7-1-06	Amend	8-1-06
411-055-0190(T)	7-1-06	Repeal	8-1-06
411-056-0007	2-1-06	Amend	3-1-06
411-056-0007(T)	2-1-06	Repeal	3-1-06
411-056-0020	1-18-06	Amend(T)	3-1-06
411-056-0020	7-1-06	Amend	8-1-06
411-056-0020(T)	7-1-06	Repeal	8-1-06
411-070-0005	2-1-06	Amend	3-1-06
411-070-0010	2-1-06	Amend	3-1-06
411-070-0015	2-1-06	Amend	3-1-06
411-070-0020	2-1-06	Amend	3-1-06
411-070-0025	2-1-06	Amend	3-1-06
411-070-0027	2-1-06	Amend	3-1-06
411-070-0029	2-1-06	Amend	3-1-06
411-070-0035	2-1-06	Amend	3-1-06
411-070-0040	2-1-06	Amend	3-1-06
411-070-0043	2-1-06	Amend	3-1-06
411-070-0045	2-1-06	Amend	3-1-06
411-070-0050	2-1-06	Amend	3-1-06
411-070-0080	2-1-06	Amend	3-1-06
411-070-0085	2-1-06	Amend	3-1-06
411-070-0091	2-1-06	Amend	3-1-06
411-070-0095	2-1-06	Amend	3-1-06
411-070-0100	2-1-06	Amend	3-1-06
411-070-0105	2-1-06	Amend	3-1-06
411-070-0110	2-1-06	Amend	3-1-06
411-070-0115	2-1-06	Amend	3-1-06
411-070-0120	2-1-06	Amend	3-1-06
411-070-0125	2-1-06	Amend	3-1-06
411-070-0130	2-1-06	Amend	3-1-06
411-070-0140	2-1-06	Amend	3-1-06

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411-070-0305	2-1-06	Amend	3-1-06
411-070-0310	2-1-06	Amend	3-1-06
411-070-0315	2-1-06	Amend	3-1-06
411-070-0330	2-1-06	Amend	3-1-06
411-070-0335	2-1-06	Amend	3-1-06
411-070-0340	2-1-06	Amend	3-1-06
411-070-0345	2-1-06	Amend	3-1-06
411-070-0350	2-1-06	Amend	3-1-06
411-070-0359	2-1-06	Amend	3-1-06
411-070-0365	2-1-06	Amend	3-1-06
411-070-0370	2-1-06	Amend	3-1-06
411-070-0375	2-1-06	Amend	3-1-06
411-070-0385	2-1-06	Amend	3-1-06
411-070-0400	2-1-06	Amend	3-1-06
411-070-0415	2-1-06	Amend	3-1-06
411-070-0420	2-1-06	Amend	3-1-06
411-070-0425	2-1-06	Amend	3-1-06
411-070-0428	2-1-06	Amend	3-1-06
411-070-0430	2-1-06	Amend	3-1-06
411-070-0435	2-1-06	Amend	3-1-06
411-070-0452	2-1-06	Amend	3-1-06
411-070-0458	2-1-06	Repeal	3-1-06
411-070-0462	2-1-06	Amend	3-1-06
411-070-0464	2-1-06	Amend	3-1-06
411-070-0465	2-1-06	Amend	3-1-06
411-070-0470	2-1-06	Amend	3-1-06
411-088-0020	1-18-06	Amend(T)	3-1-06
411-088-0020	7-1-06	Amend	8-1-06
411-088-0020(T)	7-1-06	Repeal	8-1-06
411-200-0010	4-1-06	Amend	5-1-06
411-200-0020	4-1-06	Amend	5-1-06
411-200-0030	4-1-06	Amend	5-1-06
411-200-0040	4-1-06	Amend	5-1-06
411-310-0010	4-5-06	Amend	5-1-06
411-310-0020	4-5-06	Amend	5-1-06
411-310-0030	4-5-06	Amend	5-1-06
411-310-0040	4-5-06	Amend	5-1-06
411-310-0050	4-5-06	Amend	5-1-06
411-310-0060	4-5-06	Amend	5-1-06
411-310-0070	4-5-06	Amend	5-1-06
411-315-0010	4-5-06	Amend	5-1-06
411-315-0020	4-5-06	Amend	5-1-06
411-315-0030	4-5-06	Amend	5-1-06
411-315-0050	4-5-06	Amend	5-1-06
411-315-0060	4-5-06	Amend	5-1-06
411-315-0070	4-5-06	Amend	5-1-06
411-315-0080	4-5-06	Amend	5-1-06
411-315-0090	4-5-06	Amend	5-1-06
411-320-0020	11-23-05	Amend(T)	1-1-06
411-320-0020	2-1-06	Amend	3-1-06
411-320-0020(T)	2-1-06	Repeal	3-1-06
411-320-0030	11-23-05	Amend(T)	1-1-06
411-320-0030	2-1-06	Amend	3-1-06
411-320-0030(T)	2-1-06	Repeal	3-1-06
411-320-0040	11-23-05	Amend(T)	1-1-06
411-320-0040	2-1-06	Amend	3-1-06
411-320-0040(T)	2-1-06	Repeal	3-1-06
411-320-0050	11-23-05	Amend(T)	1-1-06
411-320-0050	2-1-06	Amend	3-1-06
411-320-0050(T)	2-1-06	Repeal	3-1-06
411-320-0060	2-1-06	Amend	3-1-06
411-320-0070	11-23-05	Amend(T)	1-1-06
411-320-0070	2-1-06	Amend	3-1-06
411-320-0070(T)	2-1-06	Repeal	3-1-06
411-320-0080	11-23-05	Amend(T)	1-1-06
411-320-0080	2-1-06	Amend	3-1-06
411-320-0080(T)	2-1-06	Repeal	3-1-06
411-320-0090	11-23-05	Amend(T)	1-1-06
411-320-0090	2-1-06	Amend	3-1-06
411-320-0090(T)	2-1-06	Repeal	3-1-06
411-320-0100	11-23-05	Amend(T)	1-1-06
411-320-0100	2-1-06	Amend	3-1-06
411-320-0100(T)	2-1-06	Repeal	3-1-06
411-320-0110	11-23-05	Amend(T)	1-1-06
411-320-0110	2-1-06	Amend	3-1-06
411-320-0110(T)	2-1-06	Repeal	3-1-06
411-320-0120	11-23-05	Amend(T)	1-1-06
411-320-0120	2-1-06	Amend	3-1-06
411-320-0120(T)	2-1-06	Repeal	3-1-06
411-320-0130	11-23-05	Amend(T)	1-1-06
411-320-0130	2-1-06	Amend	3-1-06
411-320-0130(T)	2-1-06	Repeal	3-1-06
411-320-0140	11-23-05	Amend(T)	1-1-06
411-320-0140	2-1-06	Amend	3-1-06
411-320-0140(T)	2-1-06	Repeal	3-1-06
411-320-0160	11-23-05	Amend(T)	1-1-06
411-320-0160	2-1-06	Amend	3-1-06
411-320-0160(T)	2-1-06	Repeal	3-1-06
411-320-0170	11-23-05	Amend(T)	1-1-06
411-320-0170	2-1-06	Amend	3-1-06
411-320-0170(T)	2-1-06	Repeal	3-1-06
411-340-0020	5-1-06	Amend	6-1-06
411-340-0030	5-1-06	Amend	6-1-06
411-340-0040	5-1-06	Amend	6-1-06
411-340-0050	5-1-06	Amend	6-1-06
411-340-0060	5-1-06	Amend	6-1-06
411-340-0110	5-1-06	Amend	6-1-06
411-340-0120	5-1-06	Amend	6-1-06
411-340-0130	5-1-06	Amend	6-1-06
411-340-0140	5-1-06	Amend	6-1-06
411-340-0150	5-1-06	Amend	6-1-06
411-340-0160	5-1-06	Amend	6-1-06
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413-001-0005	6-1-06	Repeal	7-1-06
413-010-0081	2-6-06	Adopt(T)	3-1-06
413-010-0082	2-6-06	Adopt(T)	3-1-06
413-010-0083	2-6-06	Adopt(T)	3-1-06
413-010-0084	2-6-06	Adopt(T)	3-1-06
413-010-0085	2-6-06	Adopt(T)	3-1-06
413-010-0086	2-6-06	Adopt(T)	3-1-06

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413-015-0300	1-1-06	Amend(T)	2-1-06
413-015-0300	7-1-06	Amend	8-1-06
413-015-0302	1-1-06	Adopt(T)	2-1-06
413-015-0302	7-1-06	Adopt	8-1-06
413-015-0305	1-1-06	Amend(T)	2-1-06
413-015-0305	7-1-06	Amend	8-1-06
413-015-0310	1-1-06	Amend(T)	2-1-06
413-015-0310	7-1-06	Amend	8-1-06
413-015-0405	1-1-06	Amend(T)	2-1-06
413-015-0405	2-1-06	Amend	3-1-06
413-015-0405	2-1-06	Amend(T)	3-1-06
413-015-0405	7-1-06	Amend	8-1-06
413-015-0405(T)	2-1-06	Suspend	3-1-06
413-015-0505	3-1-06	Amend	4-1-06
413-015-0505(T)	3-1-06	Repeal	4-1-06
413-015-0510	3-1-06	Amend	4-1-06
413-015-0510(T)	3-1-06	Repeal	4-1-06
413-015-0511	3-1-06	Amend	4-1-06
413-015-0511(T)	3-1-06	Repeal	4-1-06
413-015-0512	3-1-06	Amend	4-1-06
413-015-0512(T)	3-1-06	Repeal	4-1-06
413-015-0513	3-1-06	Amend	4-1-06
413-015-0513(T)	3-1-06	Repeal	4-1-06
413-015-0514	3-1-06	Amend	4-1-06
413-015-0514(T)	3-1-06	Repeal	4-1-06
413-015-0710	2-1-06	Amend	3-1-06
413-015-0720	1-1-06	Amend(T)	2-1-06
413-015-0720	7-1-06	Amend	8-1-06
413-015-0900	1-1-06	Amend(T)	2-1-06
413-015-0900	7-1-06	Amend	8-1-06
413-015-1000	1-1-06	Amend(T)	2-1-06
413-015-1000	7-1-06	Amend	8-1-06
413-020-0140	2-1-06	Amend	3-1-06
413-040-0110	2-1-06	Amend	3-1-06
413-040-0135	2-1-06	Amend	3-1-06
413-040-0140	2-1-06	Amend	3-1-06
413-050-0100	1-1-06	Repeal	2-1-06
413-050-0110	1-1-06	Repeal	2-1-06
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413-080-0120	1-1-06	Repeal	2-1-06
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413-080-0150	1-1-06	Repeal	2-1-06
413-090-0300	2-1-06	Amend	3-1-06
413-090-0310	2-1-06	Amend	3-1-06
413-090-0380	2-1-06	Amend	3-1-06
413-110-0100	5-1-06	Amend	6-1-06
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413-110-0130	5-1-06	Amend	6-1-06
413-130-0010	1-1-06	Amend(T)	2-1-06
413-130-0010	7-1-06	Amend	8-1-06
413-130-0080	1-1-06	Amend(T)	2-1-06
413-130-0080	7-1-06	Amend	8-1-06
413-130-0110	7-1-06	Amend	8-1-06
413-140-0000	7-1-06	Amend	8-1-06
413-140-0010	1-1-06	Amend(T)	2-1-06
413-140-0010	7-1-06	Amend	8-1-06
413-140-0026	7-1-06	Adopt	8-1-06
413-140-0030	1-1-06	Amend(T)	2-1-06
413-140-0030	7-1-06	Amend	8-1-06
413-140-0035	7-1-06	Am. & Ren.	8-1-06
413-140-0040	7-1-06	Amend	8-1-06
413-140-0045	7-1-06	Am. & Ren.	8-1-06
413-140-0055	7-1-06	Adopt	8-1-06
413-140-0065	7-1-06	Am. & Ren.	8-1-06
413-140-0070	7-1-06	Repeal	8-1-06
413-140-0080	7-1-06	Amend	8-1-06
413-140-0110	7-1-06	Amend	8-1-06
413-140-0120	7-1-06	Amend	8-1-06
413-200-0210	5-15-06	Amend(T)	6-1-06
413-200-0220	5-15-06	Amend(T)	6-1-06
413-200-0307	3-1-06	Amend(T)	4-1-06
414-061-0070	3-16-06	Amend(T)	5-1-06
414-061-0070	7-14-06	Amend	8-1-06
414-061-0080	1-1-06	Amend	2-1-06
414-350-0000	1-1-06	Amend(T)	2-1-06
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414-350-0050	1-1-06	Amend(T)	2-1-06
414-350-0050	6-13-06	Amend	7-1-06
414-350-0100	1-1-06	Amend(T)	2-1-06
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414-350-0140	1-1-06	Amend(T)	2-1-06
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414-350-0160	1-1-06	Amend(T)	2-1-06
414-350-0160	6-13-06	Amend	7-1-06
414-350-0170	1-1-06	Amend(T)	2-1-06
414-350-0170	6-13-06	Amend	7-1-06
414-350-0220	1-1-06	Amend(T)	2-1-06
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414-350-0235	1-1-06	Amend(T)	2-1-06
414-350-0235	6-13-06	Amend	7-1-06
414-350-0250	1-1-06	Amend(T)	2-1-06
414-350-0250	6-13-06	Amend	7-1-06
414-700-0060	12-15-05	Amend(T)	1-1-06
414-700-0060	4-23-06	Amend	6-1-06
415-001-0005	6-1-06	Repeal	6-1-06
415-001-0010	6-1-06	Repeal	6-1-06
416-310-0000	2-7-06	Repeal	3-1-06
416-310-0010	2-7-06	Repeal	3-1-06
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416-480-0020	2-17-06	Amend	4-1-06
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416-480-0060	2-17-06	Amend	4-1-06
416-480-0070	2-17-06	Amend	4-1-06
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436-009-0005	4-1-06	Amend	4-1-06
436-009-0006	4-1-06	Amend	4-1-06
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436-009-0015	4-1-06	Amend	4-1-06
436-009-0020	4-1-06	Amend	4-1-06
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436-009-0070	4-1-06	Amend	4-1-06
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436-009-0090	4-1-06	Amend	4-1-06
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436-010-0220	1-1-06	Amend	1-1-06
436-010-0220	7-1-06	Amend	7-1-06
436-010-0230	1-1-06	Amend	1-1-06
436-010-0230	7-1-06	Amend	7-1-06
436-010-0240	1-1-06	Amend	1-1-06
436-010-0240	7-1-06	Amend	7-1-06
436-010-0250	1-1-06	Amend	1-1-06
436-010-0265	1-1-06	Amend	1-1-06
436-010-0265	7-1-06	Amend	7-1-06
436-010-0270	1-1-06	Amend	1-1-06
436-010-0275	7-1-06	Amend	7-1-06
436-010-0280	1-1-06	Amend	1-1-06
436-010-0280	7-1-06	Amend	7-1-06
436-010-0290	1-1-06	Amend	1-1-06
436-010-0300	1-1-06	Amend	1-1-06
436-010-0340	1-1-06	Amend	1-1-06
436-015-0005	6-1-06	Amend(T)	6-1-06
436-015-0008	1-1-06	Amend	1-1-06
436-015-0030	1-1-06	Amend	1-1-06
436-015-0030	6-1-06	Amend(T)	6-1-06
436-015-0040	1-1-06	Amend	1-1-06
436-015-0040	6-1-06	Amend(T)	6-1-06
436-015-0070	1-1-06	Amend	1-1-06
436-015-0080	1-1-06	Amend	1-1-06
436-015-0110	1-1-06	Amend	1-1-06
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436-030-0009	1-1-06	Amend	1-1-06
436-030-0015	1-1-06	Amend	1-1-06
436-030-0020	1-1-06	Amend	1-1-06
436-030-0023	1-1-06	Amend	1-1-06
436-030-0034	1-1-06	Amend	1-1-06
436-030-0055	1-1-06	Amend	1-1-06
436-030-0065	1-1-06	Amend	1-1-06
436-030-0115	1-1-06	Amend	1-1-06
436-030-0155	1-1-06	Amend	1-1-06
436-030-0165	1-1-06	Amend	1-1-06
436-030-0175	1-1-06	Amend	1-1-06
436-030-0185	1-1-06	Amend	1-1-06
436-030-0575	1-1-06	Amend	1-1-06
436-030-0580	1-1-06	Amend	1-1-06
436-035-0005	1-1-06	Amend	1-1-06

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436-035-0009	1-1-06	Amend	1-1-06
436-035-0011	1-1-06	Amend	1-1-06
436-035-0012	1-1-06	Amend	1-1-06
436-035-0016	1-1-06	Amend	1-1-06
436-035-0017	1-1-06	Amend	1-1-06
436-035-0019	1-1-06	Amend	1-1-06
436-035-0110	1-1-06	Amend	1-1-06
436-035-0190	1-1-06	Amend	1-1-06
436-035-0230	1-1-06	Amend	1-1-06
436-035-0330	1-1-06	Amend	1-1-06
436-035-0340	1-1-06	Amend	1-1-06
436-035-0350	1-1-06	Amend	1-1-06
436-035-0360	1-1-06	Amend	1-1-06
436-035-0380	1-1-06	Amend	1-1-06
436-035-0390	1-1-06	Amend	1-1-06
436-035-0395	1-1-06	Amend	1-1-06
436-035-0400	1-1-06	Amend	1-1-06
436-035-0410	1-1-06	Amend	1-1-06
436-035-0420	1-1-06	Amend	1-1-06
436-035-0430	1-1-06	Amend	1-1-06
436-035-0500	1-1-06	Amend	1-1-06
436-050-0003	1-1-06	Amend	1-1-06
436-050-0008	1-1-06	Amend	1-1-06
436-050-0100	1-1-06	Amend	1-1-06
436-050-0110	1-1-06	Amend	1-1-06
436-050-0170	1-1-06	Amend	1-1-06
436-050-0220	1-1-06	Amend	1-1-06
436-050-0230	1-1-06	Amend	1-1-06
436-055-0008	7-1-06	Amend	7-1-06
436-055-0070	1-1-06	Amend	1-1-06
436-055-0070	7-1-06	Amend	7-1-06
436-055-0085	1-1-06	Adopt	1-1-06
436-055-0085	7-1-06	Amend	7-1-06
436-055-0100	1-1-06	Amend	1-1-06
436-055-0110	7-1-06	Amend	7-1-06
436-055-0120	7-1-06	Repeal	7-1-06
436-060-0002	1-1-06	Amend	1-1-06
436-060-0008	1-1-06	Amend	1-1-06
436-060-0009	1-1-06	Amend	1-1-06
436-060-0010	1-1-06	Amend	1-1-06
436-060-0015	1-1-06	Amend	1-1-06
436-060-0017	1-1-06	Amend	1-1-06
436-060-0020	1-1-06	Amend	1-1-06
436-060-0025	1-1-06	Amend	1-1-06
436-060-0030	1-1-06	Amend	1-1-06
436-060-0035	1-1-06	Amend	1-1-06
436-060-0035	7-1-06	Amend	7-1-06
436-060-0040	1-1-06	Amend	1-1-06
436-060-0055	1-1-06	Amend	1-1-06
436-060-0060	1-1-06	Amend	1-1-06
436-060-0095	1-1-06	Amend	1-1-06
436-060-0095	7-1-06	Amend	7-1-06
436-060-0105	1-1-06	Amend	1-1-06
436-060-0135	1-1-06	Amend	1-1-06
436-060-0137	1-1-06	Adopt	1-1-06
436-060-0140	1-1-06	Amend	1-1-06
436-060-0147	1-1-06	Amend	1-1-06
436-060-0150	1-1-06	Amend	1-1-06
436-060-0155	1-1-06	Amend	1-1-06
436-060-0180	1-1-06	Amend	1-1-06
436-060-0190	1-1-06	Amend	1-1-06
436-060-0200	1-1-06	Amend	1-1-06
436-060-0500	1-1-06	Amend	1-1-06
436-060-0510	1-1-06	Adopt	1-1-06
436-070-0020	1-27-06	Amend(T)	3-1-06
436-070-0020	7-1-06	Amend	7-1-06
436-070-0020(T)	7-1-06	Repeal	7-1-06
436-105-0500	1-1-06	Amend	1-1-06
436-110-0002	1-1-06	Amend	1-1-06
436-110-0005	1-1-06	Amend	1-1-06
436-110-0310	1-1-06	Amend	1-1-06
436-110-0326	1-1-06	Amend	1-1-06
436-110-0327	1-1-06	Amend	1-1-06
436-110-0335	1-1-06	Amend	1-1-06
436-110-0337	1-1-06	Amend	1-1-06
436-110-0345	1-1-06	Amend	1-1-06
436-120-0003	1-1-06	Amend	1-1-06
436-120-0008	1-1-06	Amend	1-1-06
436-120-0320	1-1-06	Amend	1-1-06
436-120-0755	1-1-06	Adopt	1-1-06
436-120-0900	1-1-06	Amend	1-1-06
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437-002-0280	12-14-05	Amend	1-1-06
437-002-0300	12-14-05	Amend	1-1-06
437-003-0001	4-28-06	Amend	6-1-06
437-004-1040	3-1-07	Repeal	7-1-06
437-004-1041	3-1-07	Adopt	7-1-06
440-001-0000	5-9-06	Amend	6-1-06
440-001-0005	2-14-06	Amend	3-1-06
441-001-0005	5-17-06	Amend	7-1-06
441-049-1001	5-4-06	Amend	6-1-06
441-750-0000	1-9-06	Repeal	2-1-06
441-750-0010	1-9-06	Repeal	2-1-06
441-750-0020	1-9-06	Repeal	2-1-06
441-750-0030	1-9-06	Repeal	2-1-06
441-750-0040	1-9-06	Repeal	2-1-06
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441-780-0020	1-9-06	Repeal	2-1-06
441-780-0030	1-9-06	Repeal	2-1-06
441-780-0040	1-9-06	Repeal	2-1-06
441-780-0050	1-9-06	Repeal	2-1-06
441-780-0060	1-9-06	Repeal	2-1-06
441-780-0070	1-9-06	Repeal	2-1-06
441-780-0080	1-9-06	Repeal	2-1-06
441-780-0090	1-9-06	Repeal	2-1-06
441-910-0000	1-1-06	Amend	1-1-06
441-910-0010	1-1-06	Amend	1-1-06
441-910-0020	1-1-06	Amend	1-1-06
441-910-0030	1-1-06	Amend	1-1-06

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441-910-0050	1-1-06	Amend	1-1-06
441-910-0055	1-1-06	Am. & Ren.	1-1-06
441-910-0060	1-1-06	Repeal	1-1-06
441-910-0070	1-1-06	Repeal	1-1-06
441-910-0080	1-1-06	Amend	1-1-06
441-910-0090	1-1-06	Amend	1-1-06
441-910-0092	1-1-06	Adopt	1-1-06
441-910-0093	1-1-06	Adopt	1-1-06
441-910-0095	1-1-06	Amend	1-1-06
441-910-0110	1-1-06	Amend	1-1-06
441-910-0120	1-1-06	Amend	1-1-06
441-910-0130	1-1-06	Repeal	1-1-06
441-930-0010	2-22-06	Amend	4-1-06
441-930-0020	2-22-06	Repeal	4-1-06
441-930-0030	2-22-06	Amend	4-1-06
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441-930-0050	2-22-06	Repeal	4-1-06
441-930-0060	2-22-06	Repeal	4-1-06
441-930-0070	2-22-06	Amend	4-1-06
441-930-0080	2-22-06	Adopt	4-1-06
441-930-0200	2-22-06	Repeal	4-1-06
441-930-0210	2-22-06	Amend	4-1-06
441-930-0220	2-22-06	Amend	4-1-06
441-930-0230	2-22-06	Amend	4-1-06
441-930-0240	2-22-06	Amend	4-1-06
441-930-0250	2-22-06	Amend	4-1-06
441-930-0260	2-22-06	Amend	4-1-06
441-930-0270	2-22-06	Amend	4-1-06
441-930-0280	2-22-06	Amend	4-1-06
441-930-0290	2-22-06	Amend	4-1-06
441-930-0300	2-22-06	Amend	4-1-06
441-930-0310	2-22-06	Amend	4-1-06
441-930-0320	2-22-06	Amend	4-1-06
441-930-0330	2-22-06	Amend	4-1-06
441-930-0340	2-22-06	Amend	4-1-06
441-930-0350	2-22-06	Amend	4-1-06
441-930-0360	2-22-06	Amend	4-1-06
441-950-0010	1-9-06	Repeal	2-1-06
441-950-0020	1-9-06	Repeal	2-1-06
441-950-0030	1-9-06	Repeal	2-1-06
441-950-0040	1-9-06	Repeal	2-1-06
441-950-0050	1-9-06	Repeal	2-1-06
442-004-0000	6-1-06	Repeal	7-1-06
442-004-0010	1-17-06	Amend(T)	3-1-06
442-004-0010	6-1-06	Repeal	7-1-06
442-004-0020	6-1-06	Repeal	7-1-06
442-004-0030	6-1-06	Repeal	7-1-06
442-004-0040	6-1-06	Repeal	7-1-06
442-004-0050	6-1-06	Repeal	7-1-06
442-004-0060	6-1-06	Repeal	7-1-06
442-004-0070	6-1-06	Repeal	7-1-06
442-004-0080	1-17-06	Amend(T)	3-1-06
442-004-0080	6-1-06	Repeal	7-1-06
442-004-0085	1-17-06	Amend(T)	3-1-06
442-004-0085	6-1-06	Repeal	7-1-06
442-004-0090	6-1-06	Repeal	7-1-06
442-004-0100	6-1-06	Repeal	7-1-06
442-004-0110	6-1-06	Repeal	7-1-06
442-004-0115	6-1-06	Repeal	7-1-06
442-004-0117	6-1-06	Repeal	7-1-06
442-004-0120	6-1-06	Repeal	7-1-06
442-004-0130	1-17-06	Amend(T)	3-1-06
442-004-0130	6-1-06	Repeal	7-1-06
442-004-0140	6-1-06	Repeal	7-1-06
442-004-0150	1-17-06	Amend(T)	3-1-06
442-004-0150	6-1-06	Repeal	7-1-06
442-004-0160	1-17-06	Amend(T)	3-1-06
442-004-0160	6-1-06	Repeal	7-1-06
442-004-0170	1-17-06	Amend(T)	3-1-06
442-004-0170	6-1-06	Repeal	7-1-06
442-005-0000	6-1-06	Adopt	7-1-06
442-005-0010	6-1-06	Adopt	7-1-06
442-005-0020	6-1-06	Adopt	7-1-06
442-005-0030	6-1-06	Adopt	7-1-06
442-005-0040	6-1-06	Adopt	7-1-06
442-005-0050	6-1-06	Adopt	7-1-06
442-005-0060	6-1-06	Adopt	7-1-06
442-005-0070	6-1-06	Adopt	7-1-06
442-005-0080	6-1-06	Adopt	7-1-06
442-005-0090	6-1-06	Adopt	7-1-06
442-005-0100	6-1-06	Adopt	7-1-06
442-005-0110	6-1-06	Adopt	7-1-06
442-005-0120	6-1-06	Adopt	7-1-06
442-005-0130	6-1-06	Adopt	7-1-06
442-005-0140	6-1-06	Adopt	7-1-06
442-005-0150	6-1-06	Adopt	7-1-06
442-005-0160	6-1-06	Adopt	7-1-06
442-005-0170	6-1-06	Adopt	7-1-06
442-005-0180	6-1-06	Adopt	7-1-06
442-005-0190	6-1-06	Adopt	7-1-06
442-005-0200	6-1-06	Adopt	7-1-06
442-005-0210	6-1-06	Adopt	7-1-06
442-005-0220	6-1-06	Adopt	7-1-06
442-005-0230	6-1-06	Adopt	7-1-06
442-005-0240	6-1-06	Adopt	7-1-06
442-005-0250	6-1-06	Adopt	7-1-06
442-005-0260	6-1-06	Adopt	7-1-06
442-005-0270	6-1-06	Adopt	7-1-06
442-005-0275	6-1-06	Adopt	7-1-06
442-005-0280	6-1-06	Adopt	7-1-06
442-005-0290	6-1-06	Adopt	7-1-06
442-005-0300	6-1-06	Adopt	7-1-06
442-005-0310	6-1-06	Adopt	7-1-06
442-005-0320	6-1-06	Adopt	7-1-06
442-005-0330	6-1-06	Adopt	7-1-06
442-005-0340	6-1-06	Adopt	7-1-06
442-005-0350	6-1-06	Adopt	7-1-06
443-002-0010	1-1-06	Amend	2-1-06
443-002-0030	1-1-06	Amend	2-1-06
443-002-0060	1-1-06	Amend	2-1-06
443-002-0070	1-1-06	Amend	2-1-06
443-002-0080	1-1-06	Amend	2-1-06
443-002-0090	1-1-06	Amend	2-1-06

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443-002-0120	1-1-06	Amend	2-1-06
445-050-0115	12-29-05	Amend(T)	2-1-06
445-050-0115	6-15-06	Amend	7-1-06
445-050-0125	12-29-05	Amend(T)	2-1-06
445-050-0125	6-15-06	Amend	7-1-06
445-050-0135	12-29-05	Amend(T)	2-1-06
445-050-0135	6-15-06	Amend	7-1-06
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459-001-0035	6-26-06	Amend	8-1-06
459-001-0040	6-26-06	Amend	8-1-06
459-005-0001	4-5-06	Amend	5-1-06
459-005-0610	2-1-06	Amend	3-1-06
459-007-0001	2-1-06	Amend	3-1-06
459-007-0001(T)	2-1-06	Repeal	3-1-06
459-007-0003	2-1-06	Amend	3-1-06
459-007-0003(T)	2-1-06	Repeal	3-1-06
459-007-0005	2-1-06	Amend	3-1-06
459-007-0005(T)	2-1-06	Repeal	3-1-06
459-007-0015	12-7-05	Amend	1-1-06
459-007-0090	2-1-06	Amend	3-1-06
459-007-0090(T)	2-1-06	Repeal	3-1-06
459-007-0095	2-1-06	Repeal	3-1-06
459-009-0200	6-26-06	Amend	8-1-06
459-010-0003	1-1-06	Amend	2-1-06
459-010-0014	1-1-06	Amend	2-1-06
459-010-0040	4-5-06	Repeal	5-1-06
459-011-0115	4-5-06	Adopt	5-1-06
459-013-0300	2-1-06	Repeal	3-1-06
459-014-0030	4-5-06	Amend	5-1-06
459-017-0060	3-1-06	Amend	4-1-06
459-050-0060	4-5-06	Amend	5-1-06
459-070-0001	1-1-06	Amend	2-1-06
459-070-0001	4-5-06	Amend	5-1-06
459-075-0010	4-5-06	Amend	5-1-06
459-075-0030	4-5-06	Amend	5-1-06
459-080-0150	4-5-06	Amend	5-1-06
459-080-0200	6-26-06	Amend	8-1-06
461-001-0010	6-1-06	Amend	7-1-06
461-007-0124	7-1-06	Suspend	8-1-06
461-025-0310	7-1-06	Amend	8-1-06
461-025-0315	7-1-06	Amend	8-1-06
461-101-0010	1-1-06	Amend	2-1-06
461-101-0010	6-1-06	Amend	7-1-06
461-105-0004(T)	2-1-06	Suspend	3-1-06
461-105-0010	4-1-06	Amend	5-1-06
461-105-0050	4-1-06	Repeal	5-1-06
461-105-0060	4-1-06	Amend	5-1-06
461-105-0070	4-1-06	Amend	5-1-06
461-105-0080	4-1-06	Repeal	5-1-06
461-105-0090	4-1-06	Repeal	5-1-06
461-105-0095	4-1-06	Repeal	5-1-06
461-105-0100	4-1-06	Amend	5-1-06
461-105-0110	4-1-06	Amend	5-1-06
461-105-0120	4-1-06	Amend	5-1-06
461-105-0130	4-1-06	Amend	5-1-06
461-105-0140	4-1-06	Repeal	5-1-06
461-105-0190	7-1-06	Amend	8-1-06
461-110-0110	4-1-06	Amend	5-1-06
461-110-0110	7-1-06	Amend	8-1-06
461-110-0370	4-1-06	Amend	5-1-06
461-110-0370	7-1-06	Amend	8-1-06
461-110-0410	7-1-06	Amend	8-1-06
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461-110-0750	6-1-06	Amend	7-1-06
461-115-0071	4-1-06	Amend	5-1-06
461-115-0210	7-1-06	Amend	8-1-06
461-115-0530	4-1-06	Amend	5-1-06
461-115-0530	6-1-06	Amend(T)	7-1-06
461-115-0651	1-1-06	Amend	2-1-06
461-120-0110	4-1-06	Amend	5-1-06
461-120-0125	4-1-06	Amend	5-1-06
461-120-0125	7-1-06	Amend	8-1-06
461-120-0510	1-1-06	Amend	2-1-06
461-135-0010	4-1-06	Amend	5-1-06
461-135-0095	4-1-06	Amend	5-1-06
461-135-0095	4-1-06	Amend(T)	5-1-06
461-135-0095	7-1-06	Amend	8-1-06
461-135-0095(T)	7-1-06	Repeal	8-1-06
461-135-0096	4-1-06	Amend(T)	5-1-06
461-135-0096	7-1-06	Amend	8-1-06
461-135-0096(T)	7-1-06	Repeal	8-1-06
461-135-0380	1-1-06	Repeal	2-1-06
461-135-0400	4-1-06	Amend	5-1-06
461-135-0505	7-1-06	Amend	8-1-06
461-135-0506	4-1-06	Amend	5-1-06
461-135-0570	4-1-06	Amend	5-1-06
461-135-0701	1-1-06	Amend	2-1-06
461-135-0701(T)	1-1-06	Repeal	2-1-06
461-135-0730	2-6-06	Amend(T)	3-1-06
461-135-0730	7-1-06	Amend	8-1-06
461-135-0750	1-1-06	Amend	2-1-06
461-135-0780	1-1-06	Amend	2-1-06
461-135-0830	1-1-06	Amend	2-1-06
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461-135-1100	6-1-06	Amend	7-1-06
461-135-1110	7-1-06	Amend	8-1-06
461-135-1120	6-1-06	Amend	7-1-06
461-135-1130	6-1-06	Repeal	7-1-06
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461-140-0210	7-1-06	Amend	8-1-06
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461-140-0295(T)	7-1-06	Repeal	8-1-06
461-140-0296	1-1-06	Amend	2-1-06
461-140-0296	7-1-06	Amend	8-1-06
461-140-0300	7-1-06	Amend	8-1-06
461-145-0020	1-1-06	Amend	2-1-06
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461-155-0150	7-1-06	Amend	8-1-06
461-155-0150(T)	7-1-06	Repeal	8-1-06
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461-155-0175	7-1-06	Adopt	8-1-06
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461-155-0180	7-1-06	Adopt	8-1-06
461-155-0210	1-1-06	Amend	2-1-06
461-155-0210(T)	1-1-06	Repeal	2-1-06
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461-155-0225	7-1-06	Amend	8-1-06
461-155-0235	1-24-06	Amend	3-1-06
461-155-0235	6-1-06	Amend	7-1-06
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461-180-0130	1-1-06	Amend	2-1-06
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471-030-0065	12-25-05	Amend	2-1-06
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580-023-0060	6-12-06	Adopt(T)	7-1-06
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580-043-0070	2-9-06	Adopt(T)	3-1-06
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580-043-0080	2-9-06	Adopt(T)	3-1-06
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584-017-0100	6-15-06	Amend	7-1-06
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584-017-0261	7-1-06	Amend(T)	7-1-06
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584-052-0032	6-1-06	Amend	6-1-06
584-052-0033	6-1-06	Amend	6-1-06
584-060-0052	6-15-06	Amend	7-1-06
584-060-0120	5-12-06	Repeal	3-1-06
584-070-0013	4-1-06	Adopt(T)	3-1-06
584-070-0013	4-1-06	Amend(T)	4-1-06
584-080-0001	7-1-06	Amend(T)	7-1-06
584-080-0002	7-1-06	Adopt(T)	7-1-06
584-080-0011	7-1-06	Suspend	7-1-06
584-080-0012	7-1-06	Adopt(T)	7-1-06
584-080-0021	7-1-06	Suspend	7-1-06
584-080-0022	7-1-06	Adopt(T)	7-1-06
584-080-0031	7-1-06	Amend(T)	7-1-06
584-100-0002	2-3-06	Amend(T)	3-1-06
584-100-0002	6-1-06	Amend	6-1-06
584-100-0006	2-3-06	Amend(T)	3-1-06
584-100-0006	6-1-06	Amend	6-1-06
584-100-0011	2-3-06	Amend(T)	3-1-06
584-100-0011	6-1-06	Amend	6-1-06
584-100-0016	2-3-06	Amend(T)	3-1-06
584-100-0016	6-1-06	Amend	6-1-06
584-100-0021	2-3-06	Amend(T)	3-1-06
584-100-0021	6-1-06	Amend	6-1-06
584-100-0026	2-3-06	Amend(T)	3-1-06
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584-100-0036	6-1-06	Amend	6-1-06
584-100-0037	2-10-06	Repeal	3-1-06
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584-100-0051	2-3-06	Amend(T)	3-1-06
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584-100-0101	2-3-06	Amend(T)	3-1-06
584-100-0101	6-1-06	Amend	6-1-06
584-100-0106	2-3-06	Amend(T)	3-1-06
584-100-0106	6-1-06	Amend	6-1-06
589-002-0100	6-15-06	Amend(T)	7-1-06
589-007-0400	4-18-06	Amend	6-1-06
589-020-0210	6-15-06	Amend(T)	7-1-06
589-020-0225	6-15-06	Amend(T)	7-1-06
589-020-0260	6-15-06	Suspend	7-1-06
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603-009-0120	7-10-06	Adopt	8-1-06
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603-025-0150	6-21-06	Amend	8-1-06
603-025-0190	3-10-06	Amend	4-1-06
603-025-0210	3-10-06	Repeal	4-1-06
603-028-0010	3-10-06	Repeal	4-1-06
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603-057-0405	4-12-06	Amend	5-1-06
603-057-0410	4-12-06	Amend	5-1-06
603-057-0411	4-12-06	Amend	5-1-06
603-057-0412	4-12-06	Amend	5-1-06
603-057-0413	4-12-06	Amend	5-1-06
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619-001-0060	12-15-05	Adopt	1-1-06
628-001-0005	5-25-06	Amend	7-1-06
629-001-0005	3-15-06	Amend	4-1-06
629-001-0010	1-1-06	Amend	1-1-06
629-001-0010(T)	1-1-06	Repeal	1-1-06
629-001-0025	1-1-06	Amend	1-1-06
629-001-0025(T)	1-1-06	Repeal	1-1-06
629-001-0057	1-13-06	Adopt	2-1-06
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629-023-0410	1-3-06	Amend(T)	2-1-06
629-023-0410	6-1-06	Amend	6-1-06
629-023-0410(T)	6-1-06	Repeal	6-1-06
629-023-0420	1-3-06	Amend(T)	2-1-06
629-023-0420	6-1-06	Amend	6-1-06
629-023-0420(T)	6-1-06	Repeal	6-1-06
629-023-0430	1-3-06	Amend(T)	2-1-06
629-023-0430	6-1-06	Amend	6-1-06
629-023-0430(T)	6-1-06	Repeal	6-1-06
629-023-0440	1-3-06	Amend(T)	2-1-06
629-023-0440	6-1-06	Amend	6-1-06
629-023-0440(T)	6-1-06	Repeal	6-1-06
629-023-0450	1-3-06	Amend(T)	2-1-06
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629-023-0460	6-1-06	Amend	6-1-06
629-023-0460(T)	6-1-06	Repeal	6-1-06
629-023-0490	1-3-06	Amend(T)	2-1-06
629-023-0490	6-1-06	Amend	6-1-06
629-023-0490(T)	6-1-06	Repeal	6-1-06
629-041-0520	7-1-06	Repeal	1-1-06
629-041-0535	7-1-06	Repeal	1-1-06
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629-600-0100(T)	1-1-06	Repeal	1-1-06
629-605-0100	1-1-06	Amend	1-1-06
629-605-0100(T)	1-1-06	Repeal	1-1-06
629-605-0150	1-1-06	Amend	1-1-06
629-605-0150(T)	1-1-06	Repeal	1-1-06
629-605-0170	1-1-06	Amend	1-1-06
629-605-0170(T)	1-1-06	Repeal	1-1-06
629-605-0173	1-1-06	Adopt	1-1-06
629-605-0173(T)	1-1-06	Repeal	1-1-06
629-605-0175	1-1-06	Amend	1-1-06
629-605-0175(T)	1-1-06	Repeal	1-1-06
629-605-0180	1-1-06	Amend	1-1-06
629-605-0180(T)	1-1-06	Repeal	1-1-06
629-605-0190	1-1-06	Amend	1-1-06
629-605-0190(T)	1-1-06	Repeal	1-1-06
629-605-0500	1-1-06	Amend	1-1-06
629-605-0500(T)	1-1-06	Repeal	1-1-06
629-610-0020	1-1-06	Amend	1-1-06
629-610-0020(T)	1-1-06	Repeal	1-1-06
629-610-0030	1-1-06	Amend	1-1-06
629-610-0030(T)	1-1-06	Repeal	1-1-06
629-610-0040	1-1-06	Amend	1-1-06
629-610-0040(T)	1-1-06	Repeal	1-1-06
629-610-0050	1-1-06	Amend	1-1-06
629-610-0050(T)	1-1-06	Repeal	1-1-06
629-610-0060	1-1-06	Amend	1-1-06
629-610-0060(T)	1-1-06	Repeal	1-1-06
629-610-0070	1-1-06	Amend	1-1-06
629-610-0070(T)	1-1-06	Repeal	1-1-06
629-610-0090	1-1-06	Amend	1-1-06
629-610-0090(T)	1-1-06	Repeal	1-1-06
629-615-0300	1-1-06	Amend	1-1-06
629-615-0300(T)	1-1-06	Repeal	1-1-06
629-623-0450	1-1-06	Amend	1-1-06
629-623-0450(T)	1-1-06	Repeal	1-1-06
629-623-0550	1-1-06	Amend	1-1-06
629-623-0550(T)	1-1-06	Repeal	1-1-06
629-623-0700	1-1-06	Amend	1-1-06
629-623-0700(T)	1-1-06	Repeal	1-1-06
629-625-0100	1-1-06	Amend	1-1-06
629-625-0100(T)	1-1-06	Repeal	1-1-06
629-625-0320	1-1-06	Amend	1-1-06
629-625-0320(T)	1-1-06	Repeal	1-1-06
629-625-0430	1-1-06	Amend	1-1-06
629-625-0430(T)	1-1-06	Repeal	1-1-06
629-630-0200	1-1-06	Amend	1-1-06
629-630-0200(T)	1-1-06	Repeal	1-1-06
629-630-0600	1-1-06	Amend	1-1-06
629-630-0600(T)	1-1-06	Repeal	1-1-06
629-630-0700	1-1-06	Amend	1-1-06
629-630-0700(T)	1-1-06	Repeal	1-1-06
629-630-0800	1-1-06	Amend	1-1-06
629-630-0800(T)	1-1-06	Repeal	1-1-06
629-635-0130	1-1-06	Amend	1-1-06
629-635-0130(T)	1-1-06	Repeal	1-1-06
629-640-0100	1-1-06	Amend	1-1-06
629-640-0100	6-27-06	Amend	8-1-06
629-640-0100(T)	1-1-06	Repeal	1-1-06
629-640-0110	1-1-06	Amend	1-1-06
629-640-0110(T)	1-1-06	Repeal	1-1-06
629-640-0200	1-1-06	Amend	1-1-06
629-640-0200(T)	1-1-06	Repeal	1-1-06
629-640-0400	1-1-06	Amend	1-1-06
629-640-0400(T)	1-1-06	Repeal	1-1-06
629-645-0000	1-1-06	Amend	1-1-06
629-645-0000(T)	1-1-06	Repeal	1-1-06
629-645-0020	1-1-06	Amend	1-1-06
629-645-0020(T)	1-1-06	Repeal	1-1-06
629-645-0030	1-1-06	Amend	1-1-06
629-645-0030(T)	1-1-06	Repeal	1-1-06
629-645-0050	1-1-06	Amend	1-1-06
629-645-0050(T)	1-1-06	Repeal	1-1-06
629-650-0040	1-1-06	Amend	1-1-06
629-650-0040(T)	1-1-06	Repeal	1-1-06
629-660-0040	1-1-06	Amend	1-1-06
629-660-0040(T)	1-1-06	Repeal	1-1-06
629-660-0050	1-1-06	Amend	1-1-06
629-660-0050(T)	1-1-06	Repeal	1-1-06
629-665-0020	1-1-06	Amend	1-1-06
629-665-0020(T)	1-1-06	Repeal	1-1-06
629-665-0110	1-1-06	Amend	1-1-06
629-665-0110(T)	1-1-06	Repeal	1-1-06
629-665-0120	1-1-06	Amend	1-1-06
629-665-0120(T)	1-1-06	Repeal	1-1-06
629-665-0210	1-1-06	Amend	1-1-06
629-665-0210(T)	1-1-06	Repeal	1-1-06
629-665-0220	1-1-06	Amend	1-1-06
629-665-0220(T)	1-1-06	Repeal	1-1-06
629-665-0230	1-1-06	Amend	1-1-06
629-665-0230(T)	1-1-06	Repeal	1-1-06
629-665-0240	1-1-06	Amend	1-1-06
629-665-0240(T)	1-1-06	Repeal	1-1-06
629-670-0010	1-1-06	Amend	1-1-06
629-670-0010(T)	1-1-06	Repeal	1-1-06
629-670-0015	1-1-06	Amend	1-1-06
629-670-0015(T)	1-1-06	Repeal	1-1-06
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629-670-0125(T)	1-1-06	Repeal	1-1-06
629-670-0210	1-1-06	Amend	1-1-06
629-670-0210(T)	1-1-06	Repeal	1-1-06
629-672-0100	1-1-06	Amend	1-1-06
629-672-0100(T)	1-1-06	Repeal	1-1-06
629-672-0200	1-1-06	Amend	1-1-06
629-672-0200(T)	1-1-06	Repeal	1-1-06
629-672-0210	1-1-06	Amend	1-1-06
629-672-0210(T)	1-1-06	Repeal	1-1-06
629-672-0220	1-1-06	Repeal	1-1-06
629-672-0310	1-1-06	Amend	1-1-06
629-672-0310(T)	1-1-06	Repeal	1-1-06
629-674-0100	1-1-06	Amend	1-1-06
629-674-0100(T)	1-1-06	Repeal	1-1-06
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635-001-0005	2-15-06	Amend	3-1-06
635-001-0210	6-9-09	Amend	7-1-06
635-001-0215	6-9-09	Amend	7-1-06
635-002-0008	6-14-06	Amend	7-1-06
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635-003-0004	3-15-06	Amend(T)	4-1-06
635-003-0004	5-1-06	Amend(T)	6-1-06
635-003-0077	6-16-06	Amend(T)	8-1-06
635-003-0085	5-1-06	Amend(T)	6-1-06
635-004-0011	1-1-06	Adopt	1-1-06
635-004-0013	1-1-06	Adopt	1-1-06
635-004-0014	1-1-06	Adopt	1-1-06
635-004-0016	1-1-06	Adopt	1-1-06
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635-004-0019	5-1-06	Amend(T)	6-1-06
635-004-0019	7-1-06	Amend(T)	8-1-06
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635-004-0019(T)	5-1-06	Suspend	6-1-06
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635-004-0033	1-1-06	Amend	1-1-06
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635-004-0090	2-15-06	Amend	3-1-06
635-004-0170	1-1-06	Amend	1-1-06
635-005-0020	1-1-06	Amend	1-1-06
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635-005-0055	12-1-06	Amend	8-1-06
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635-006-1025	1-1-06	Amend	1-1-06
635-006-1025	1-1-06	Amend	1-1-06
635-006-1035	1-1-06	Amend	1-1-06
635-006-1035	1-1-06	Amend	1-1-06
635-006-1065	1-1-06	Amend	1-1-06
635-006-1065	1-1-06	Amend	1-1-06
635-006-1065	12-1-06	Amend	8-1-06
635-006-1075	1-1-06	Amend	1-1-06
635-006-1075	1-1-06	Amend	1-1-06
635-006-1075	4-21-06	Amend	6-1-06
635-006-1085	1-1-06	Amend	1-1-06
635-006-1085	1-1-06	Amend	1-1-06
635-006-1095	1-1-06	Amend	1-1-06
635-006-1095	1-1-06	Amend	1-1-06
635-006-1110	1-1-06	Amend	1-1-06
635-006-1110	1-1-06	Amend	1-1-06
635-011-0072	1-1-06	Amend	1-1-06
635-011-0100	1-1-06	Amend	1-1-06
635-013-0003	1-1-06	Amend	1-1-06
635-013-0003	5-1-06	Amend(T)	6-1-06
635-013-0004	1-1-06	Amend	1-1-06
635-014-0080	1-1-06	Amend	1-1-06
635-014-0090	11-23-05	Amend(T)	1-1-06
635-014-0090	1-1-06	Amend	1-1-06
635-014-0090	7-1-06	Amend(T)	8-1-06
635-016-0080	1-1-06	Amend	1-1-06
635-016-0090	1-1-06	Amend	1-1-06
635-016-0090	5-13-06	Amend(T)	6-1-06
635-016-0090	6-5-06	Amend(T)	7-1-06
635-017-0080	1-1-06	Amend	1-1-06
635-017-0090	1-1-06	Amend	1-1-06
635-017-0090	6-1-06	Amend(T)	7-1-06
635-017-0095	1-1-06	Amend	1-1-06
635-017-0095	1-1-06	Amend(T)	2-1-06
635-017-0095	2-15-06	Amend	3-1-06
635-018-0080	1-1-06	Amend	1-1-06
635-018-0090	1-1-06	Amend	1-1-06
635-018-0090	8-1-06	Amend(T)	8-1-06
635-019-0080	1-1-06	Amend	1-1-06
635-019-0090	1-1-06	Amend	1-1-06
635-019-0090	5-15-06	Amend(T)	6-1-06
635-019-0090	5-25-06	Amend(T)	7-1-06
635-019-0090(T)	5-25-06	Suspend	7-1-06
635-021-0080	1-1-06	Amend	1-1-06
635-021-0090	1-1-06	Amend	1-1-06
635-023-0080	1-1-06	Amend	1-1-06
635-023-0085	2-15-06	Adopt	3-1-06
635-023-0090	1-1-06	Amend	1-1-06

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635-023-0095	2-15-06	Amend	3-1-06
635-023-0095	4-8-06	Amend(T)	5-1-06
635-023-0095	7-24-06	Amend(T)	8-1-06
635-023-0095	7-1-06	Amend(T)	8-1-06
635-023-0125	1-1-06	Amend	1-1-06
635-023-0125	2-15-06	Amend	3-1-06
635-023-0125	4-14-06	Amend(T)	5-1-06
635-023-0125	5-13-06	Amend(T)	6-1-06
635-023-0125	5-16-06	Amend(T)	7-1-06
635-023-0125(T)	5-16-06	Suspend	7-1-06
635-023-0128	5-1-06	Amend(T)	6-1-06
635-023-0130	1-1-06	Amend	1-1-06
635-023-0130	5-1-06	Amend(T)	6-1-06
635-023-0134	5-20-06	Amend(T)	7-1-06
635-039-0080	1-1-06	Amend	1-1-06
635-039-0080	1-1-06	Amend	1-1-06
635-039-0085	5-27-06	Amend(T)	7-1-06
635-039-0090	11-29-05	Amend(T)	1-1-06
635-039-0090	12-30-05	Amend(T)	1-1-06
635-039-0090	1-1-06	Amend	1-1-06
635-039-0090	1-1-06	Amend	1-1-06
635-039-0090	10-1-06	Amend	8-1-06
635-039-0090(T)	11-29-05	Suspend	1-1-06
635-039-0090(T)	12-30-05	Suspend	1-1-06
635-041-0065	1-27-06	Amend(T)	3-1-06
635-041-0076	2-15-06	Adopt	3-1-06
635-041-0076	6-8-06	Amend(T)	7-1-06
635-041-0076	6-20-06	Amend(T)	8-1-06
635-041-0076	6-27-06	Amend	8-1-06
635-041-0076	7-3-06	Amend	8-1-06
635-041-0076	7-10-06	Amend	8-1-06
635-042-0020	2-15-06	Repeal	3-1-06
635-042-0022	2-15-06	Amend	3-1-06
635-042-0022	2-23-06	Amend(T)	4-1-06
635-042-0022	3-2-06	Amend(T)	4-1-06
635-042-0022	3-7-06	Amend(T)	4-1-06
635-042-0022	3-9-06	Amend(T)	4-1-06
635-042-0022	3-14-06	Amend(T)	4-1-06
635-042-0022	5-16-06	Amend(T)	7-1-06
635-042-0022	5-18-06	Amend(T)	7-1-06
635-042-0022	5-23-06	Amend(T)	7-1-06
635-042-0022	5-30-06	Amend(T)	7-1-06
635-042-0022(T)	5-16-06	Suspend	7-1-06
635-042-0022(T)	5-18-06	Suspend	7-1-06
635-042-0022(T)	5-23-06	Suspend	7-1-06
635-042-0022(T)	5-30-06	Suspend	7-1-06
635-042-0027	2-15-06	Adopt	3-1-06
635-042-0027	6-26-06	Amend(T)	8-1-06
635-042-0027	6-29-06	Amend(T)	8-1-06
635-042-0027	7-6-06	Amend(T)	8-1-06
635-042-0027	7-16-06	Amend(T)	8-1-06
635-042-0110	2-15-06	Amend	3-1-06
635-042-0110	5-23-06	Amend(T)	7-1-06
635-042-0110	5-30-06	Amend(T)	7-1-06
635-042-0130	1-1-06	Amend(T)	2-1-06
635-042-0130	3-9-06	Amend(T)	4-1-06
635-042-0133	1-1-06	Amend(T)	2-1-06
635-042-0133	2-15-06	Amend	3-1-06
635-042-0135	1-1-06	Amend(T)	2-1-06
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635-042-0145	5-16-06	Amend(T)	7-1-06
635-042-0145	5-23-06	Amend(T)	7-1-06
635-042-0145	5-30-06	Amend(T)	7-1-06
635-042-0145(T)	5-16-06	Suspend	7-1-06
635-042-0145(T)	5-23-06	Suspend	7-1-06
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635-042-0145	6-28-06	Amend(T)	8-1-06
635-042-0160	2-15-06	Amend	3-1-06
635-042-0160	3-16-06	Amend(T)	4-1-06
635-042-0160	3-26-06	Amend(T)	5-1-06
635-042-0160	4-2-06	Amend(T)	5-1-06
635-042-0160	4-9-06	Amend(T)	5-1-06
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635-042-0160(T)	5-23-06	Suspend	7-1-06
635-042-0160(T)	5-30-06	Suspend	7-1-06
635-042-0180	2-15-06	Amend	3-1-06
635-042-0180	5-23-06	Amend(T)	7-1-06
635-042-0180	5-30-06	Amend(T)	7-1-06
635-042-0180(T)	5-30-06	Suspend	7-1-06
635-043-0085	12-16-05	Amend	2-1-06
635-043-0090	7-12-06	Amend	8-1-06
635-045-0000	1-1-06	Amend	1-1-06
635-045-0002	12-16-05	Amend	2-1-06
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635-060-0000	1-1-06	Amend	1-1-06
635-060-0055	4-1-06	Amend	1-1-06
635-065-0001	1-1-06	Amend	1-1-06
635-065-0015	1-1-06	Amend	1-1-06
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635-065-0090	6-14-06	Amend	7-1-06
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635-065-0740	1-1-06	Amend	1-1-06
635-065-0760	6-1-06	Amend	1-1-06
635-065-0765	1-1-06	Amend	1-1-06
635-066-0000	1-1-06	Amend	1-1-06
635-067-0000	1-1-06	Amend	1-1-06
635-067-0000	6-14-06	Amend	7-1-06
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635-073-0000	6-14-06	Amend	7-1-06
635-073-0050	4-7-06	Amend(T)	5-1-06
635-073-0050	6-14-06	Amend	7-1-06
635-073-0065	6-14-06	Amend	7-1-06
635-073-0070	6-14-06	Amend	7-1-06
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635-075-0035	1-25-06	Adopt	3-1-06
635-080-0015	1-1-06	Amend	1-1-06
635-080-0016	1-1-06	Amend	1-1-06
635-080-0066	1-1-06	Amend	1-1-06
635-080-0068	1-1-06	Amend	1-1-06
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635-180-0015	6-6-06	Amend	7-1-06
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635-412-0025	1-9-06	Amend	2-1-06
635-412-0035	1-9-06	Adopt	2-1-06
635-412-0040	1-9-06	Adopt	2-1-06
635-430-0025	6-14-06	Amend	7-1-06
644-010-0010	1-1-06	Amend	1-1-06
647-010-0010	6-1-06	Amend	6-1-06
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660-004-0000	7-14-06	Amend	8-1-06
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660-004-0022	2-15-06	Amend	3-1-06
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660-009-0030	1-1-07	Adopt	1-1-06
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660-012-0005	7-14-06	Amend	8-1-06
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660-025-0250	5-15-06	Adopt	6-1-06
660-033-0120	2-15-06	Amend	3-1-06
660-033-0130	2-15-06	Amend	3-1-06
660-034-0000	4-14-06	Amend	5-1-06
660-034-0010	4-14-06	Amend	5-1-06
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660-034-0040	4-14-06	Amend	5-1-06
678-010-0010	1-27-06	Amend	3-1-06
678-010-0020	1-27-06	Amend	3-1-06
678-010-0030	1-27-06	Amend	3-1-06
678-010-0040	1-27-06	Amend	3-1-06
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731-001-0025	1-24-06	Amend	3-1-06
731-005-0470	2-16-06	Amend	4-1-06
731-007-0335	11-17-05	Adopt(T)	1-1-06
731-007-0335	2-16-06	Adopt	4-1-06
731-007-0335(T)	2-16-06	Repeal	4-1-06
731-035-0010	11-21-05	Adopt(T)	1-1-06
731-035-0010	1-24-06	Adopt	3-1-06
731-035-0010(T)	1-24-06	Repeal	3-1-06
731-035-0020	11-21-05	Adopt(T)	1-1-06
731-035-0020	1-24-06	Adopt	3-1-06
731-035-0020(T)	1-24-06	Repeal	3-1-06
731-035-0030	11-21-05	Adopt(T)	1-1-06
731-035-0030	1-24-06	Adopt	3-1-06
731-035-0030(T)	1-24-06	Repeal	3-1-06
731-035-0040	11-21-05	Adopt(T)	1-1-06
731-035-0040	1-24-06	Adopt	3-1-06
731-035-0040(T)	1-24-06	Repeal	3-1-06
731-035-0050	11-21-05	Adopt(T)	1-1-06
731-035-0050	1-24-06	Adopt	3-1-06
731-035-0050(T)	1-24-06	Repeal	3-1-06
731-035-0060	11-21-05	Adopt(T)	1-1-06
731-035-0060	1-24-06	Adopt	3-1-06
731-035-0060(T)	1-24-06	Repeal	3-1-06
731-035-0070	11-21-05	Adopt(T)	1-1-06
731-035-0070	1-24-06	Adopt	3-1-06
731-035-0070(T)	1-24-06	Repeal	3-1-06
731-035-0080	11-21-05	Adopt(T)	1-1-06
731-035-0080	1-24-06	Adopt	3-1-06
731-035-0080(T)	1-24-06	Repeal	3-1-06
731-146-0010	5-25-06	Amend	7-1-06
731-147-0010	5-25-06	Amend	7-1-06
731-148-0010	5-25-06	Amend	7-1-06
731-149-0010	5-25-06	Amend	7-1-06
733-030-0021	6-21-06	Amend	8-1-06
733-030-0036	6-21-06	Amend	8-1-06
733-030-0041	6-21-06	Repeal	8-1-06
733-030-0045	6-21-06	Amend	8-1-06
733-030-0065	3-2-06	Amend	4-1-06
733-030-0080	6-21-06	Amend	8-1-06
734-020-0005	12-14-05	Amend(T)	1-1-06

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734-030-0010	1-24-06	Amend	3-1-06
734-030-0025	1-24-06	Amend	3-1-06
734-073-0051	12-14-05	Amend	1-1-06
734-073-0130	12-14-05	Amend	1-1-06
734-074-0010	4-28-06	Amend	6-1-06
734-079-0005	12-14-05	Amend	1-1-06
734-079-0015	12-14-05	Amend	1-1-06
734-082-0021	5-24-06	Amend	7-1-06
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735-001-0040	5-25-06	Amend	7-1-06
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735-001-0100	5-25-06	Adopt	7-1-06
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735-010-0210	1-1-06	Amend	1-1-06
735-010-0215	1-1-06	Adopt	1-1-06
735-010-0240	1-1-06	Adopt	1-1-06
735-020-0010	1-1-06	Amend(T)	1-1-06
735-020-0010	5-25-06	Amend	7-1-06
735-020-0010(T)	5-25-06	Repeal	7-1-06
735-020-0070	1-1-06	Amend(T)	1-1-06
735-020-0070	5-25-06	Amend	7-1-06
735-020-0070(T)	5-25-06	Repeal	7-1-06
735-022-0000	1-1-06	Amend(T)	1-1-06
735-022-0000	5-25-06	Amend	7-1-06
735-022-0000(T)	5-25-06	Repeal	7-1-06
735-024-0015	1-1-06	Amend(T)	1-1-06
735-024-0015	5-25-06	Amend	7-1-06
735-024-0015(T)	5-25-06	Repeal	7-1-06
735-024-0030	1-1-06	Amend(T)	1-1-06
735-024-0030	5-25-06	Amend	7-1-06
735-024-0030(T)	5-25-06	Repeal	7-1-06
735-024-0070	1-1-06	Amend(T)	1-1-06
735-024-0070	5-25-06	Amend	7-1-06
735-024-0070(T)	5-25-06	Repeal	7-1-06
735-024-0075	1-1-06	Amend(T)	1-1-06
735-024-0075	5-25-06	Amend	7-1-06
735-024-0075(T)	5-25-06	Repeal	7-1-06
735-024-0077	1-1-06	Adopt(T)	1-1-06
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735-024-0077(T)	5-25-06	Repeal	7-1-06
735-024-0080	1-1-06	Amend(T)	1-1-06
735-024-0080	5-25-06	Amend	7-1-06
735-024-0080(T)	5-25-06	Repeal	7-1-06
735-024-0120	1-1-06	Amend(T)	1-1-06
735-024-0120	5-25-06	Amend	7-1-06
735-024-0120(T)	5-25-06	Repeal	7-1-06
735-024-0130	1-1-06	Amend(T)	1-1-06
735-024-0130	5-25-06	Amend	7-1-06
735-024-0130(T)	5-25-06	Repeal	7-1-06
735-024-0170	1-1-06	Amend(T)	1-1-06
735-024-0170	5-25-06	Amend	7-1-06
735-024-0170(T)	5-25-06	Repeal	7-1-06
735-028-0010	1-1-06	Amend(T)	1-1-06
735-028-0010	5-25-06	Amend	7-1-06
735-028-0010(T)	5-25-06	Repeal	7-1-06
735-028-0090	1-1-06	Amend(T)	1-1-06
735-028-0090	5-25-06	Amend	7-1-06
735-028-0090(T)	5-25-06	Repeal	7-1-06
735-028-0110	1-1-06	Amend(T)	1-1-06
735-028-0110	5-25-06	Amend	7-1-06
735-028-0110(T)	5-25-06	Repeal	7-1-06
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735-032-0020	5-25-06	Amend	7-1-06
735-032-0020(T)	5-25-06	Repeal	7-1-06
735-042-0010	5-25-06	Amend	7-1-06
735-042-0020	5-25-06	Amend	7-1-06
735-046-0080	1-1-06	Suspend	1-1-06
735-046-0080	5-25-06	Repeal	7-1-06
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735-062-0030(T)	11-18-05	Repeal	1-1-06
735-062-0075	4-15-06	Amend	5-1-06
735-062-0080	12-14-05	Amend	1-1-06
735-062-0105	11-18-05	Amend	1-1-06
735-062-0105(T)	11-18-05	Repeal	1-1-06
735-062-0110	11-18-05	Amend	1-1-06
735-062-0110(T)	11-18-05	Repeal	1-1-06
735-062-0115	11-18-05	Amend	1-1-06
735-062-0115(T)	11-18-05	Repeal	1-1-06
735-062-0120	11-18-05	Amend	1-1-06
735-062-0120(T)	11-18-05	Repeal	1-1-06
735-062-0130	1-1-06	Amend(T)	1-1-06
735-062-0130	2-15-06	Amend	3-1-06
735-062-0130(T)	2-15-06	Repeal	3-1-06
735-062-0135	11-18-05	Amend	1-1-06
735-062-0135(T)	11-18-05	Repeal	1-1-06
735-062-0190	12-14-05	Amend	1-1-06
735-062-0190(T)	12-14-05	Repeal	1-1-06
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735-064-0005	2-15-06	Amend	3-1-06
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735-064-0090	2-15-06	Amend	3-1-06
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735-064-0220(T)	12-14-05	Repeal	1-1-06
735-064-0235	12-14-05	Amend	1-1-06
735-070-0010	11-18-05	Amend	1-1-06
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735-070-0037	12-14-05	Amend	1-1-06
735-070-0054	12-14-05	Amend	1-1-06
735-070-0180	12-14-05	Repeal	1-1-06
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735-076-0005	5-25-06	Amend	7-1-06
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735-076-0007	5-25-06	Am. & Ren.	7-1-06
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735-076-0015	5-25-06	Adopt	7-1-06
735-076-0018	5-25-06	Am. & Ren.	7-1-06
735-076-0018	5-25-06	Am. & Ren.	7-1-06
735-076-0020	5-25-06	Amend	7-1-06
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735-076-0040	5-25-06	Repeal	7-1-06
735-076-0050	5-25-06	Amend	7-1-06
735-076-0052	5-25-06	Adopt	7-1-06
735-150-0005	1-1-06	Amend(T)	1-1-06
735-150-0005	5-25-06	Amend	7-1-06
735-150-0005(T)	5-25-06	Repeal	7-1-06
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735-150-0010	1-1-06	Amend(T)	1-1-06
735-150-0010	5-25-06	Amend	7-1-06
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735-150-0040	1-1-06	Amend	1-1-06
735-150-0050	1-1-06	Amend	1-1-06
735-150-0055	1-1-06	Amend	1-1-06
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735-150-0140	1-1-06	Amend	1-1-06
735-152-0000	1-1-06	Amend(T)	1-1-06
735-152-0000	5-25-06	Amend	7-1-06
735-152-0000(T)	5-25-06	Repeal	7-1-06
735-152-0005	1-1-06	Amend(T)	1-1-06
735-152-0005	5-25-06	Amend	7-1-06
735-152-0005(T)	5-25-06	Repeal	7-1-06
735-152-0010	1-1-06	Amend(T)	1-1-06
735-152-0010	5-25-06	Amend	7-1-06
735-152-0010(T)	5-25-06	Repeal	7-1-06
735-152-0020	1-1-06	Amend(T)	1-1-06
735-152-0020	5-25-06	Amend	7-1-06
735-152-0020(T)	5-25-06	Repeal	7-1-06
735-152-0025	1-1-06	Adopt(T)	1-1-06
735-152-0025	5-25-06	Adopt	7-1-06
735-152-0025(T)	5-25-06	Repeal	7-1-06
735-152-0030	1-1-06	Suspend	1-1-06
735-152-0030	5-25-06	Repeal	7-1-06
735-152-0031	1-1-06	Adopt(T)	1-1-06
735-152-0031	5-25-06	Adopt	7-1-06
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735-152-0034	1-1-06	Adopt(T)	1-1-06
735-152-0034	5-25-06	Adopt	7-1-06
735-152-0034(T)	5-25-06	Repeal	7-1-06
735-152-0037	1-1-06	Adopt(T)	1-1-06
735-152-0037	5-25-06	Adopt	7-1-06
735-152-0037(T)	5-25-06	Repeal	7-1-06
735-152-0040	1-1-06	Amend(T)	1-1-06
735-152-0040	5-25-06	Amend	7-1-06
735-152-0040(T)	5-25-06	Repeal	7-1-06
735-152-0045	1-1-06	Adopt(T)	1-1-06
735-152-0045	5-25-06	Adopt	7-1-06
735-152-0045(T)	5-25-06	Repeal	7-1-06
735-152-0050	1-1-06	Amend(T)	1-1-06
735-152-0050	5-25-06	Amend	7-1-06
735-152-0050(T)	5-25-06	Repeal	7-1-06
735-152-0060	1-1-06	Adopt(T)	1-1-06
735-152-0060	5-25-06	Adopt	7-1-06
735-152-0060(T)	5-25-06	Repeal	7-1-06
735-152-0070	1-1-06	Adopt(T)	1-1-06
735-152-0070	5-25-06	Adopt	7-1-06
735-152-0070(T)	5-25-06	Repeal	7-1-06
735-152-0080	1-1-06	Adopt(T)	1-1-06
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735-152-0090(T)	5-25-06	Repeal	7-1-06
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735-154-0020	5-25-06	Repeal	7-1-06
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736-015-0035(T)	2-14-06	Repeal	3-1-06
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736-050-0110	5-8-06	Amend	6-1-06
736-050-0115	5-8-06	Amend	6-1-06
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736-053-0130	2-27-06	Amend	4-1-06
736-053-0135	2-27-06	Adopt	4-1-06
736-053-0140	2-27-06	Adopt	4-1-06
738-014-0010	7-1-06	Adopt	8-1-06
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740-100-0070	4-1-06	Amend	5-1-06
740-100-0080	4-1-06	Amend	5-1-06
740-100-0090	4-1-06	Amend	5-1-06
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801-001-0055	1-1-06	Adopt	1-1-06
801-005-0010	1-1-06	Amend	1-1-06
801-010-0050	1-1-06	Amend	1-1-06
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806-010-0037	12-13-05	Amend	1-1-06
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806-020-0020	12-13-05	Amend	1-1-06
808-001-0008	4-1-06	Amend	5-1-06
808-002-0150	1-1-06	Adopt	2-1-06
808-002-0200	1-1-06	Amend	2-1-06
808-002-0250	1-1-06	Amend	2-1-06
808-002-0298	1-1-06	Repeal	2-1-06
808-002-0328	1-1-06	Adopt	2-1-06
808-002-0330	1-1-06	Adopt	2-1-06
808-002-0338	1-1-06	Adopt	2-1-06
808-002-0340	1-1-06	Amend	2-1-06
808-002-0360	1-1-06	Amend	2-1-06
808-002-0455	1-1-06	Adopt	2-1-06
808-002-0460	1-1-06	Repeal	2-1-06
808-002-0490	1-1-06	Adopt	2-1-06
808-002-0495	1-1-06	Adopt	2-1-06
808-002-0500	1-1-06	Amend	2-1-06
808-002-0600	1-1-06	Repeal	2-1-06
808-002-0650	1-1-06	Adopt	2-1-06
808-002-0720	1-1-06	Repeal	2-1-06
808-002-0730	1-1-06	Amend	2-1-06
808-002-0734	1-1-06	Adopt	2-1-06
808-002-0735	1-1-06	Repeal	2-1-06
808-002-0745	1-1-06	Repeal	2-1-06
808-002-0810	1-1-06	Adopt	2-1-06
808-002-0875	1-1-06	Adopt	2-1-06
808-002-0885	1-1-06	Adopt	2-1-06
808-003-0010	1-1-06	Amend	2-1-06
808-003-0015	1-1-06	Amend	2-1-06
808-003-0035	1-1-06	Amend	2-1-06
808-003-0040	1-1-06	Amend	2-1-06
808-003-0045	1-1-06	Amend	2-1-06
808-003-0060	1-1-06	Amend	2-1-06
808-003-0105	1-1-06	Amend	2-1-06
808-003-0110	1-1-06	Amend	2-1-06
808-003-0130	1-1-06	Amend	2-1-06
808-003-0225	1-1-06	Adopt	2-1-06
808-003-0230	1-1-06	Adopt	2-1-06
808-003-0235	1-1-06	Adopt	2-1-06
808-003-0240	1-1-06	Adopt	2-1-06
808-003-0245	1-1-06	Adopt	2-1-06
808-003-0250	1-1-06	Adopt	2-1-06
808-003-0255	1-1-06	Adopt	2-1-06
808-003-0260	1-1-06	Adopt	2-1-06
808-004-0320	1-1-06	Amend	2-1-06

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808-005-0020	1-1-06	Amend	2-1-06
809-010-0001	12-7-05	Amend	1-1-06
809-015-0000	12-14-05	Amend	1-1-06
809-015-0005	12-14-05	Amend	1-1-06
809-030-0025	3-17-06	Amend	5-1-06
809-050-0000	6-26-06	Amend	8-1-06
811-010-0084	2-9-06	Adopt(T)	3-1-06
811-010-0085	2-9-06	Amend	3-1-06
811-010-0093	3-27-06	Amend	5-1-06
811-010-0130	2-9-06	Adopt	3-1-06
811-015-0005	2-9-06	Amend	3-1-06
811-021-0005	2-9-06	Amend	3-1-06
812-001-0051	1-1-06	Am. & Ren.	1-1-06
812-001-0100	1-1-06	Am. & Ren.	1-1-06
812-001-0110	1-1-06	Am. & Ren.	1-1-06
812-001-0120	1-1-06	Am. & Ren.	1-1-06
812-001-0120	3-30-06	Amend	5-1-06
812-001-0130	1-1-06	Am. & Ren.	1-1-06
812-001-0140	1-1-06	Am. & Ren.	1-1-06
812-001-0160	1-1-06	Am. & Ren.	1-1-06
812-001-0160	6-1-06	Amend	7-1-06
812-001-0180	6-1-06	Adopt	7-1-06
812-001-0200	1-1-06	Am. & Ren.	1-1-06
812-001-0200	1-11-06	Amend(T)	2-1-06
812-001-0200	3-30-06	Amend	5-1-06
812-001-0200(T)	3-30-06	Repeal	5-1-06
812-001-0300	1-1-06	Am. & Ren.	1-1-06
812-001-0305	1-1-06	Am. & Ren.	1-1-06
812-001-0310	1-1-06	Am. & Ren.	1-1-06
812-001-0500	1-1-06	Am. & Ren.	1-1-06
812-001-0510	1-1-06	Am. & Ren.	1-1-06
812-002-0040	1-1-06	Amend	1-1-06
812-002-0060	1-1-06	Amend	1-1-06
812-002-0100	1-1-06	Amend	1-1-06
812-002-0160	1-1-06	Amend	1-1-06
812-002-0190	1-1-06	Amend	1-1-06
812-002-0260	1-1-06	Amend	1-1-06
812-002-0260	6-1-06	Amend	7-1-06
812-002-0325	1-1-06	Amend	1-1-06
812-002-0340	1-1-06	Repeal	1-1-06
812-002-0350	1-1-06	Adopt	1-1-06
812-002-0360	1-1-06	Amend	1-1-06
812-002-0420	1-1-06	Amend	1-1-06
812-002-0430	1-1-06	Amend	1-1-06
812-002-0443	1-1-06	Amend	1-1-06
812-002-0520	1-1-06	Amend	1-1-06
812-002-0533	1-1-06	Adopt	1-1-06
812-002-0533	6-1-06	Amend	7-1-06
812-002-0537	1-1-06	Adopt	1-1-06
812-002-0537	6-23-06	Amend	8-1-06
812-002-0540	1-1-06	Amend	1-1-06
812-002-0555	1-1-06	Repeal	1-1-06
812-002-0640	1-1-06	Amend	1-1-06
812-002-0670	1-1-06	Amend	1-1-06
812-002-0675	1-1-06	Amend	1-1-06
812-002-0700	1-1-06	Amend	1-1-06
812-002-0720	1-1-06	Amend	1-1-06
812-002-0740	1-1-06	Amend	1-1-06
812-002-0780	1-1-06	Amend	1-1-06
812-002-0800	1-1-06	Amend	1-1-06
812-003-0130	6-1-06	Amend	7-1-06
812-003-0170	1-1-06	Amend	1-1-06
812-003-0175	3-9-06	Adopt(T)	4-1-06
812-003-0180	6-1-06	Amend	7-1-06
812-003-0200	6-1-06	Amend	7-1-06
812-003-0240	1-1-06	Amend	1-1-06
812-003-0240	1-11-06	Amend(T)	2-1-06
812-003-0240	3-30-06	Amend	5-1-06
812-003-0240(T)	3-30-06	Repeal	5-1-06
812-003-0250	6-1-06	Amend	7-1-06
812-003-0260	6-1-06	Amend	7-1-06
812-003-0280	6-1-06	Amend	7-1-06
812-003-0420	1-1-06	Amend	1-1-06
812-004-0180	1-1-06	Amend	1-1-06
812-004-0195	1-1-06	Amend	1-1-06
812-004-0240	1-1-06	Amend	1-1-06
812-004-0250	1-1-06	Amend	1-1-06
812-004-0260	1-1-06	Amend	1-1-06
812-004-0300	1-1-06	Amend	1-1-06
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812-004-0360	1-1-06	Amend	1-1-06
812-004-0420	1-1-06	Amend	1-1-06
812-004-0440	1-1-06	Amend	1-1-06
812-004-0450	1-1-06	Amend	1-1-06
812-004-0460	1-1-06	Amend	1-1-06
812-004-0470	1-1-06	Amend	1-1-06
812-004-0480	1-1-06	Amend	1-1-06
812-004-0500	1-1-06	Amend	1-1-06
812-004-0530	1-1-06	Amend	1-1-06
812-004-0590	1-1-06	Amend	1-1-06
812-005-0100	1-1-06	Am. & Ren.	1-1-06
812-005-0110	1-1-06	Am. & Ren.	1-1-06
812-005-0120	1-1-06	Am. & Ren.	1-1-06
812-005-0130	1-1-06	Am. & Ren.	1-1-06
812-005-0140	1-1-06	Am. & Ren.	1-1-06
812-005-0150	1-1-06	Am. & Ren.	1-1-06
812-005-0160	1-1-06	Am. & Ren.	1-1-06
812-005-0170	1-1-06	Am. & Ren.	1-1-06
812-005-0180	1-1-06	Am. & Ren.	1-1-06
812-005-0200	1-1-06	Am. & Ren.	1-1-06
812-005-0210	1-1-06	Am. & Ren.	1-1-06
812-005-0500	1-1-06	Am. & Ren.	1-1-06
812-005-0800	1-1-06	Am. & Ren.	1-1-06
812-005-0800	1-26-06	Amend	3-1-06
812-005-210	6-23-06	Amend	8-1-06
812-005-800	6-23-06	Amend	8-1-06
812-006-0010	6-1-06	Amend	7-1-06
812-006-0011	6-1-06	Amend	7-1-06
812-006-0012	1-1-06	Amend	1-1-06
812-006-0012	6-23-06	Amend	8-1-06
812-006-0015	1-1-06	Adopt	1-1-06

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812-009-0400	1-1-06	Amend	1-1-06
812-009-0420	1-1-06	Amend	1-1-06
812-009-0430	1-1-06	Amend	1-1-06
813-001-0000	1-31-06	Repeal	3-1-06
813-001-0002	1-31-06	Adopt	3-1-06
813-001-0002(T)	1-31-06	Repeal	3-1-06
813-001-0003	1-31-06	Am. & Ren.	3-1-06
813-001-0003(T)	1-31-06	Repeal	3-1-06
813-001-0005	1-31-06	Repeal	3-1-06
813-001-0007	1-31-06	Adopt	3-1-06
813-001-0007(T)	1-31-06	Repeal	3-1-06
813-001-0008	1-31-06	Repeal	3-1-06
813-001-0011	1-31-06	Adopt	3-1-06
813-001-0011(T)	1-31-06	Repeal	3-1-06
813-001-0066	1-31-06	Repeal	3-1-06
813-001-0068	1-31-06	Repeal	3-1-06
813-001-0069	1-31-06	Repeal	3-1-06
813-001-0080	1-31-06	Repeal	3-1-06
813-001-0090	1-31-06	Repeal	3-1-06
813-005-0001	1-31-06	Adopt	3-1-06
813-005-0001(T)	1-31-06	Repeal	3-1-06
813-005-0005	1-31-06	Amend	3-1-06
813-005-0005(T)	1-31-06	Repeal	3-1-06
813-005-0010	1-31-06	Repeal	3-1-06
813-005-0015	1-31-06	Repeal	3-1-06
813-005-0016	1-31-06	Adopt	3-1-06
813-005-0016(T)	1-31-06	Repeal	3-1-06
813-005-0020	1-31-06	Repeal	3-1-06
813-005-0025	1-31-06	Repeal	3-1-06
813-005-0030	1-31-06	Repeal	3-1-06
813-009-0001	2-10-06	Amend(T)	3-1-06
813-009-0005	2-10-06	Amend(T)	3-1-06
813-009-0010	2-10-06	Amend(T)	3-1-06
813-009-0015	2-10-06	Amend(T)	3-1-06
813-009-0020	2-10-06	Amend(T)	3-1-06
813-009-0030	2-10-06	Adopt(T)	3-1-06
813-013-0001	1-5-06	Adopt(T)	2-1-06
813-013-0001	6-28-06	Adopt	8-1-06
813-013-0001(T)	6-28-06	Repeal	8-1-06
813-013-0005	1-5-06	Adopt(T)	2-1-06
813-013-0005	6-28-06	Adopt	8-1-06
813-013-0005(T)	6-28-06	Repeal	8-1-06
813-013-0010	1-5-06	Adopt(T)	2-1-06
813-013-0010	6-28-06	Adopt	8-1-06
813-013-0010(T)	6-28-06	Repeal	8-1-06
813-013-0015	1-5-06	Adopt(T)	2-1-06
813-013-0015	6-28-06	Adopt	8-1-06
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813-013-0020	6-28-06	Adopt	8-1-06
813-013-0020(T)	6-28-06	Repeal	8-1-06
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813-013-0025	6-28-06	Adopt	8-1-06
813-013-0025(T)	6-28-06	Repeal	8-1-06
813-013-0030	1-5-06	Adopt(T)	2-1-06
813-013-0030	6-28-06	Adopt	8-1-06
813-013-0030(T)	6-28-06	Repeal	8-1-06
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813-013-0035	6-28-06	Adopt	8-1-06
813-013-0035(T)	6-28-06	Repeal	8-1-06
813-013-0040	1-5-06	Adopt(T)	2-1-06
813-013-0040	6-28-06	Adopt	8-1-06
813-013-0040(T)	6-28-06	Repeal	8-1-06
813-013-0045	1-5-06	Adopt(T)	2-1-06
813-013-0045	6-28-06	Adopt	8-1-06
813-013-0045(T)	6-28-06	Repeal	8-1-06
813-013-0050	1-5-06	Adopt(T)	2-1-06
813-013-0050	6-28-06	Adopt	8-1-06
813-013-0050(T)	6-28-06	Repeal	8-1-06
813-013-0054	6-28-06	Adopt	8-1-06
813-013-0055	1-5-06	Adopt(T)	2-1-06
813-013-0060	1-5-06	Adopt(T)	2-1-06
813-013-0061	6-28-06	Adopt	8-1-06
813-013-0065	6-28-06	Adopt	8-1-06
813-040-0005	4-13-06	Amend(T)	5-1-06
813-040-0010	4-13-06	Amend(T)	5-1-06
813-040-0015	4-13-06	Amend(T)	5-1-06
813-040-0020	4-13-06	Amend(T)	5-1-06
813-040-0025	4-13-06	Amend(T)	5-1-06
813-040-0030	4-13-06	Amend(T)	5-1-06
813-040-0035	4-13-06	Amend(T)	5-1-06
813-040-0040	4-13-06	Amend(T)	5-1-06
813-040-0045	4-13-06	Amend(T)	5-1-06
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813-110-0035	5-17-06	Amend	7-1-06
813-110-0040	5-17-06	Amend	7-1-06
813-110-0050	5-17-06	Adopt	7-1-06
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813-140-0040	3-29-06	Amend(T)	5-1-06
813-140-0050	3-29-06	Amend(T)	5-1-06
813-140-0060	3-29-06	Amend(T)	5-1-06
813-140-0070	3-29-06	Renumber(T)	5-1-06
813-140-0080	3-29-06	Amend(T)	5-1-06
813-140-0090	3-29-06	Amend(T)	5-1-06
813-140-0110	3-29-06	Amend(T)	5-1-06
813-140-0120	3-29-06	Adopt(T)	5-1-06
817-005-0005	3-15-06	Amend	4-1-06
817-010-0065	3-15-06	Amend	4-1-06
817-010-0068	3-15-06	Amend	4-1-06
817-010-0101	3-15-06	Amend	4-1-06
817-010-0106	3-15-06	Amend	4-1-06
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817-090-0055	3-15-06	Amend	4-1-06
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817-090-0075	3-15-06	Amend	4-1-06
817-090-0080	3-15-06	Amend	4-1-06
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817-120-0005	3-15-06	Amend	4-1-06
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818-015-0007	4-1-06	Amend	5-1-06
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818-021-0012	4-1-06	Amend	5-1-06
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818-021-0026	4-1-06	Adopt	5-1-06
818-026-0080	4-1-06	Amend	5-1-06
818-042-0115	4-1-06	Amend	5-1-06
818-042-0116	4-1-06	Amend	5-1-06
818-042-0117	4-1-06	Amend	5-1-06
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820-010-0619	12-13-05	Adopt	1-1-06
820-010-0625	12-13-05	Amend	1-1-06
820-010-0635	12-13-05	Amend	1-1-06
836-005-0107	4-27-06	Amend	6-1-06
836-009-0011	4-14-06	Amend	5-1-06
836-011-0000	1-23-06	Amend	3-1-06
836-027-0200	2-13-06	Amend	3-1-06
836-031-0855	6-26-06	Amend	8-1-06
836-042-0015	6-9-06	Amend	7-1-06
836-042-0045	6-9-06	Amend	7-1-06
836-051-0400	6-26-06	Repeal	8-1-06
836-052-0220	1-1-07	Repeal	8-1-06
836-052-0225	1-1-07	Repeal	8-1-06
836-052-0230	1-1-07	Repeal	8-1-06
836-052-0235	1-1-07	Repeal	8-1-06
836-052-0240	1-1-07	Repeal	8-1-06
836-052-0245	1-1-07	Repeal	8-1-06
836-052-0676	3-20-06	Amend	4-1-06
836-052-0696	3-20-06	Amend	4-1-06
836-053-0003	5-1-06	Adopt	6-1-06
836-053-0460	5-1-06	Amend	6-1-06
836-053-1325	1-1-07	Amend	8-1-06
836-053-1330	7-1-07	Amend	8-1-06
836-053-1400	4-14-06	Adopt	5-1-06
836-053-1404	1-1-07	Adopt	8-1-06
836-053-1405	1-1-07	Adopt	8-1-06
836-071-0180	1-31-06	Amend	3-1-06
836-071-0263	1-15-06	Adopt	2-1-06
836-071-0277	1-15-06	Amend	2-1-06
836-080-0430	3-10-06	Amend	4-1-06
836-080-0438	3-10-06	Amend	4-1-06
836-080-0501	6-26-06	Amend	8-1-06
837-001-0005	6-21-06	Amend	8-1-06
837-012-0510	3-10-06	Amend	4-1-06
837-012-0555	3-10-06	Amend	4-1-06
837-012-0620	3-10-06	Amend	4-1-06
837-012-0625	2-13-06	Amend(T)	2-1-06
837-012-0625	3-10-06	Amend	4-1-06
837-012-0750	2-13-06	Amend(T)	2-1-06
837-012-0750	3-10-06	Amend	4-1-06
837-012-0855	3-10-06	Amend	4-1-06
837-012-0900	3-10-06	Amend	4-1-06

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837-012-1210	6-15-06	Amend(T)	7-1-06
837-012-1220	6-15-06	Amend(T)	7-1-06
837-012-1230	6-15-06	Amend(T)	7-1-06
837-012-1240	6-15-06	Amend(T)	7-1-06
837-012-1250	6-15-06	Amend(T)	7-1-06
837-012-1260	6-15-06	Amend(T)	7-1-06
837-012-1270	6-15-06	Amend(T)	7-1-06
837-012-1280	6-15-06	Amend(T)	7-1-06
837-012-1290	6-15-06	Amend(T)	7-1-06
837-012-1300	6-15-06	Amend(T)	7-1-06
837-012-1310	6-15-06	Amend(T)	7-1-06
837-012-1320	5-5-06	Amend	6-1-06
837-012-1320	6-15-06	Amend(T)	7-1-06
837-012-1330	6-15-06	Amend(T)	7-1-06
837-012-1340	6-15-06	Amend(T)	7-1-06
837-012-1350	6-15-06	Amend(T)	7-1-06
837-012-1360	6-15-06	Amend(T)	7-1-06
837-012-1370	6-15-06	Amend(T)	7-1-06
837-012-1380	6-15-06	Amend(T)	7-1-06
837-012-1390	6-15-06	Amend(T)	7-1-06
837-012-1400	6-15-06	Amend(T)	7-1-06
837-012-1410	6-15-06	Amend(T)	7-1-06
837-012-1420	6-15-06	Amend(T)	7-1-06
837-039-0010	5-22-06	Amend	7-1-06
837-039-0010	6-29-06	Amend	8-1-06
837-039-0015	5-22-06	Amend	7-1-06
837-039-0110	5-22-06	Amend	7-1-06
837-040-0001	2-1-06	Amend(T)	2-1-06
837-040-0001	6-12-06	Amend	7-1-06
837-040-0001(T)	6-12-06	Repeal	7-1-06
837-040-0010	2-1-06	Amend(T)	2-1-06
837-040-0010	6-12-06	Amend	7-1-06
837-040-0010(T)	6-12-06	Repeal	7-1-06
837-040-0020	2-1-06	Adopt(T)	2-1-06
837-040-0020	6-12-06	Adopt	7-1-06
837-040-0020(T)	6-12-06	Repeal	7-1-06
837-040-0140	2-1-06	Amend(T)	2-1-06
837-040-0140	6-12-06	Amend	7-1-06
837-040-0140(T)	6-12-06	Repeal	7-1-06
839-001-0420	1-1-06	Amend	2-1-06
839-001-0470	1-1-06	Amend	2-1-06
839-002-0002	3-20-06	Amend	5-1-06
839-002-0005	3-20-06	Amend	5-1-06
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839-006-0136	3-20-06	Amend	5-1-06
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839-006-0205	3-20-06	Amend	5-1-06
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839-006-0405	3-20-06	Amend	5-1-06
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839-009-0320	3-24-06	Amend	5-1-06
839-011-0084	4-18-06	Amend	6-1-06
839-014-0025	3-7-06	Repeal	4-1-06
839-014-0060	1-1-06	Amend	2-1-06
839-014-0100	1-1-06	Amend	2-1-06
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839-014-0630	1-1-06	Amend	2-1-06
839-015-0002	3-7-06	Repeal	4-1-06
839-015-0130	3-1-06	Amend	4-1-06
839-015-0145	3-1-06	Amend	4-1-06
839-015-0155	1-1-06	Amend	2-1-06
839-015-0157	1-1-06	Amend	2-1-06
839-015-0160	1-1-06	Amend	2-1-06
839-015-0165	1-1-06	Amend	2-1-06
839-015-0200	1-1-06	Amend	2-1-06
839-015-0230	1-1-06	Amend	2-1-06
839-015-0260	1-1-06	Amend	2-1-06
839-015-0300	1-1-06	Amend	2-1-06
839-015-0300	3-1-06	Amend	4-1-06
839-015-0350	1-1-06	Amend	2-1-06
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839-015-0508	1-1-06	Amend	2-1-06
839-015-0600	1-1-06	Amend	2-1-06
839-015-0610	1-1-06	Amend	2-1-06
839-017-0001	3-7-06	Repeal	4-1-06
839-019-0002	3-7-06	Repeal	4-1-06
839-021-0102	5-15-06	Amend	6-1-06
839-021-0104	5-15-06	Amend	6-1-06
839-021-0220	5-15-06	Amend	6-1-06
839-025-0002	3-7-06	Repeal	4-1-06
839-025-0003	1-1-06	Amend	2-1-06
839-025-0004	1-1-06	Amend	2-1-06
839-025-0004	5-15-06	Amend(T)	6-1-06
839-025-0010	1-1-06	Amend	2-1-06
839-025-0015	1-1-06	Adopt	2-1-06
839-025-0020	1-1-06	Amend	2-1-06
839-025-0020	5-15-06	Amend(T)	6-1-06
839-025-0035	1-1-06	Amend	2-1-06
839-025-0037	5-15-06	Adopt(T)	6-1-06
839-025-0100	1-1-06	Amend	2-1-06
839-025-0100	5-15-06	Amend	6-1-06
839-025-0220	1-1-06	Amend	2-1-06
839-025-0230	1-1-06	Amend	2-1-06
839-025-0240	1-1-06	Repeal	2-1-06
839-025-0530	1-1-06	Amend	2-1-06
839-025-0700	1-1-06	Amend	2-1-06
839-025-0700	1-25-06	Amend	3-1-06
839-025-0700	2-9-06	Amend	3-1-06
839-025-0700	2-24-06	Amend	4-1-06
839-025-0700	4-1-06	Amend	5-1-06
839-025-0700	6-16-06	Amend	8-1-06
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839-025-0700	7-1-06	Amend	8-1-06
839-025-0700	7-11-06	Amend	8-1-06
839-025-0700	7-13-06	Amend	8-1-06
839-025-0750	12-23-05	Amend	2-1-06
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839-050-0010	3-20-06	Amend	5-1-06
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839-050-0300	3-24-06	Amend	5-1-06
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845-004-0105	3-1-06	Adopt	4-1-06
845-005-0306	12-1-05	Amend	1-1-06
845-005-0355	6-15-06	Amend(T)	7-1-06
845-005-0450	7-1-06	Amend	8-1-06
845-006-0301	2-1-06	Amend	3-1-06
845-006-0335	1-1-06	Amend	1-1-06
845-006-0427	5-1-06	Repeal	6-1-06
845-006-0430	2-1-06	Amend	3-1-06
845-010-0151	1-1-06	Amend	2-1-06
845-010-0170	1-1-06	Amend	2-1-06
845-015-0165	3-1-06	Amend	4-1-06
847-008-0015	5-8-06	Amend	6-1-06
847-008-0023	2-8-06	Adopt(T)	3-1-06
847-008-0023	5-8-06	Adopt	6-1-06
847-010-0052	2-8-06	Amend	3-1-06
847-010-0073	5-8-06	Amend	6-1-06
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847-020-0130	5-8-06	Amend	6-1-06
847-020-0140	2-8-06	Amend	3-1-06
847-020-0150	2-8-06	Amend	3-1-06
847-020-0170	2-8-06	Amend	3-1-06
847-020-0170	2-8-06	Amend(T)	3-1-06
847-020-0170	5-8-06	Amend	6-1-06
847-020-0180	2-8-06	Amend	3-1-06
847-020-0185	5-8-06	Adopt	6-1-06
847-031-0020	2-8-06	Amend	3-1-06
847-050-0010	5-8-06	Amend	6-1-06
847-050-0025	5-8-06	Amend	6-1-06
847-050-0026	2-8-06	Amend	3-1-06
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847-050-0065	2-8-06	Amend	3-1-06
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848-005-0030	1-1-06	Amend	2-1-06
848-010-0015	1-1-06	Amend	2-1-06
848-010-0020	1-1-06	Amend	2-1-06
848-010-0026	1-1-06	Amend	2-1-06
848-010-0033	1-1-06	Amend	2-1-06
848-010-0035	1-1-06	Amend	2-1-06
848-010-0044	1-1-06	Amend	2-1-06
848-015-0010	1-1-06	Amend	2-1-06
848-015-0030	1-1-06	Amend	2-1-06
848-020-0030	1-1-06	Amend	2-1-06
848-020-0060	1-1-06	Amend	2-1-06
848-030-0000	1-1-06	Repeal	2-1-06
848-030-0010	1-1-06	Repeal	2-1-06
848-035-0010	4-14-06	Adopt	5-1-06
848-035-0015	4-14-06	Adopt	5-1-06
848-035-0020	4-14-06	Adopt	5-1-06
848-035-0030	4-14-06	Adopt	5-1-06
848-035-0040	4-14-06	Adopt	5-1-06
848-040-0105	1-1-06	Amend	2-1-06
848-040-0110	1-1-06	Amend	2-1-06
848-040-0115	1-1-06	Repeal	2-1-06
848-040-0117	1-1-06	Adopt	2-1-06
848-040-0120	1-1-06	Amend	2-1-06
848-040-0147	1-1-06	Adopt	2-1-06
848-045-0010	1-1-06	Amend	2-1-06
848-045-0020	1-1-06	Amend	2-1-06
850-060-0225	12-12-05	Amend	1-1-06
850-060-0226	12-12-05	Amend	1-1-06
851-001-0000	5-8-06	Amend	6-1-06
851-001-0005	5-8-06	Amend	6-1-06
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851-031-0088	2-22-06	Adopt	4-1-06
851-045-0025	12-21-05	Amend	2-1-06
851-050-0131	12-21-05	Amend	2-1-06
851-050-0131	2-22-06	Amend	4-1-06
851-050-0131	5-8-06	Amend	6-1-06
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852-050-0012	4-1-06	Amend	5-1-06
852-050-0014	4-1-06	Amend	5-1-06
852-060-0025	12-8-05	Am. & Ren.	1-1-06
852-060-0027	12-8-05	Am. & Ren.	1-1-06
852-060-0028	12-8-05	Am. & Ren.	1-1-06
852-060-0075	3-8-06	Amend	4-1-06
852-080-0030	4-1-06	Amend	5-1-06
852-080-0040	4-1-06	Amend	5-1-06
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855-025-0030	6-9-06	Adopt	7-1-06
855-025-0035	6-9-06	Adopt	7-1-06
855-025-0040	6-9-06	Adopt	7-1-06

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855-041-0063	12-15-05	Amend	1-1-06
855-041-0080	6-9-06	Amend	7-1-06
855-041-0200	6-9-06	Repeal	7-1-06
855-041-0203	6-9-06	Repeal	7-1-06
855-041-0205	6-9-06	Repeal	7-1-06
855-041-0500	6-9-06	Amend	7-1-06
855-041-0510	6-9-06	Amend	7-1-06
855-041-0520	6-9-06	Amend	7-1-06
855-050-0037	7-1-06	Repeal	7-1-06
855-050-0038	7-1-06	Repeal	7-1-06
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855-080-0031	7-1-06	Amend	7-1-06
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855-080-0070	7-1-06	Amend	7-1-06
855-080-0075	7-1-06	Amend	7-1-06
855-080-0095	7-1-06	Amend	7-1-06
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856-010-0012	11-29-05	Amend	1-1-06
856-010-0026	1-30-06	Adopt	3-1-06
860-011-0001	4-14-06	Amend	5-1-06
860-011-0036	11-28-05	Adopt	1-1-06
860-011-0080	11-30-05	Amend	1-1-06
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860-021-0057	7-6-06	Adopt	8-1-06
860-021-0120	2-27-06	Amend	4-1-06
860-021-0205	11-30-05	Amend	1-1-06
860-021-0326	11-30-05	Amend	1-1-06
860-021-0328	2-17-06	Adopt(T)	4-1-06
860-021-0328	7-6-06	Adopt	8-1-06
860-021-0328(T)	7-6-06	Repeal	8-1-06
860-021-0335	11-30-05	Amend	1-1-06
860-021-0405	11-30-05	Amend	1-1-06
860-021-0405	2-27-06	Amend	4-1-06
860-021-0410	11-30-05	Amend	1-1-06
860-021-0414	11-30-05	Amend	1-1-06
860-021-0415	11-30-05	Amend	1-1-06
860-021-0420	11-30-05	Amend	1-1-06
860-021-0510	2-27-06	Amend	4-1-06
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860-021-0550(T)	2-27-06	Repeal	4-1-06
860-021-0575	2-27-06	Adopt	4-1-06
860-022-0001	11-30-05	Amend	1-1-06
860-022-0017	11-30-05	Amend	1-1-06
860-022-0040	11-30-05	Amend	1-1-06
860-022-0046	11-30-05	Amend	1-1-06
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860-023-0001	11-30-05	Amend	1-1-06
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860-023-0054	12-23-05	Adopt	2-1-06
860-023-0055	12-27-05	Amend	2-1-06
860-023-0080	11-30-05	Amend	1-1-06
860-023-0090	11-30-05	Amend	1-1-06
860-023-0100	11-30-05	Amend	1-1-06
860-023-0110	11-30-05	Amend	1-1-06
860-023-0120	11-30-05	Amend	1-1-06
860-023-0130	11-30-05	Amend	1-1-06
860-023-0140	11-30-05	Amend	1-1-06
860-023-0150	11-30-05	Amend	1-1-06
860-023-0160	11-30-05	Amend	1-1-06
860-025-0001	11-30-05	Amend	1-1-06
860-026-0005	11-30-05	Amend	1-1-06
860-027-0001	11-30-05	Amend	1-1-06
860-027-0045	11-30-05	Amend	1-1-06
860-027-0120	11-30-05	Amend	1-1-06
860-027-0300	11-30-05	Amend	1-1-06
860-030-0005	11-30-05	Amend	1-1-06
860-030-0010	11-30-05	Amend	1-1-06
860-030-0015	11-30-05	Amend	1-1-06
860-030-0018	11-30-05	Amend	1-1-06
860-032-0012	12-27-05	Amend	2-1-06
860-034-0270	2-27-06	Amend	4-1-06
860-034-0275	2-27-06	Adopt	4-1-06
860-034-0275(T)	2-27-06	Repeal	4-1-06
860-034-0276	2-27-06	Adopt	4-1-06
860-034-0390	12-27-05	Amend	2-1-06
860-038-0005	11-30-05	Amend	1-1-06
860-038-0005	5-11-06	Amend	6-1-06
860-038-0300	11-30-05	Amend	1-1-06
860-038-0400	11-30-05	Amend	1-1-06
860-038-0410	11-30-05	Amend	1-1-06
860-038-0500	5-11-06	Amend	6-1-06
860-038-0520	5-11-06	Amend	6-1-06
860-038-0560	5-11-06	Amend	6-1-06
860-038-0580	5-11-06	Amend	6-1-06
860-038-0600	5-11-06	Amend	6-1-06
860-038-0620	5-11-06	Amend	6-1-06
860-038-0640	5-11-06	Amend	6-1-06
863-015-0186	1-1-06	Adopt(T)	2-1-06
863-015-0186	6-30-06	Adopt	8-1-06
863-015-0225	1-1-06	Adopt(T)	2-1-06
863-015-0225	6-30-06	Adopt	8-1-06
863-015-0230	1-1-06	Adopt(T)	2-1-06
863-015-0230	6-30-06	Adopt	8-1-06
875-001-0000	2-8-06	Amend	3-1-06

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875-001-0005	5-11-06	Amend	6-1-06
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875-001-0030	2-8-06	Repeal	3-1-06
875-005-0000	2-8-06	Adopt	3-1-06
875-005-0005	2-8-06	Adopt	3-1-06
875-005-0005	5-11-06	Amend	6-1-06
875-005-0010	2-8-06	Adopt	3-1-06
875-005-0010	5-11-06	Amend	6-1-06
875-010-0000	2-8-06	Adopt	3-1-06
875-010-0000	5-11-06	Amend	6-1-06
875-010-0006	2-8-06	Adopt	3-1-06
875-010-0006	5-11-06	Amend	6-1-06
875-010-0010	2-8-06	Repeal	3-1-06
875-010-0016	2-8-06	Adopt	3-1-06
875-010-0021	2-8-06	Adopt	3-1-06
875-010-0026	2-8-06	Adopt	3-1-06
875-010-0030	2-8-06	Repeal	3-1-06
875-010-0045	2-8-06	Amend	3-1-06
875-010-0050	2-8-06	Amend	3-1-06
875-010-0055	2-8-06	Repeal	3-1-06
875-010-0060	2-8-06	Repeal	3-1-06
875-010-0065	2-8-06	Amend	3-1-06
875-010-0065	5-11-06	Amend	6-1-06
875-010-0070	2-8-06	Repeal	3-1-06
875-010-0075	2-8-06	Repeal	3-1-06
875-010-0080	2-8-06	Repeal	3-1-06
875-010-0085	2-8-06	Repeal	3-1-06
875-010-0090	2-8-06	Adopt	3-1-06
875-010-0090	5-11-06	Amend	6-1-06
875-010-0095	2-8-06	Adopt	3-1-06
875-011-0005	2-8-06	Adopt	3-1-06
875-011-0010	2-8-06	Adopt	3-1-06
875-015-0000	2-8-06	Repeal	3-1-06
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875-015-0030	2-8-06	Amend	3-1-06
875-015-0030	5-11-06	Amend	6-1-06
875-015-0050	2-8-06	Amend	3-1-06
875-020-0000	2-8-06	Repeal	3-1-06
875-020-0010	5-11-06	Amend	6-1-06
875-020-0030	2-8-06	Amend	3-1-06
875-020-0040	2-8-06	Amend	3-1-06
875-020-0055	2-8-06	Amend	3-1-06
875-030-0010	2-8-06	Amend	3-1-06
875-030-0010	5-11-06	Amend	6-1-06
875-030-0020	2-8-06	Amend	3-1-06
875-030-0025	2-8-06	Amend	3-1-06
875-030-0025	5-11-06	Amend	6-1-06
875-030-0040	2-8-06	Amend	3-1-06
875-030-0040	5-11-06	Amend	6-1-06
877-001-0000	12-22-05	Amend	2-1-06
877-010-0025	12-22-05	Amend	2-1-06
877-020-0000	12-22-05	Amend	2-1-06
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877-020-0010	12-22-05	Amend	2-1-06
877-020-0012	12-22-05	Amend	2-1-06
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877-020-0015	12-22-05	Amend	2-1-06
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877-020-0030	12-22-05	Amend	2-1-06
877-020-0031	12-22-05	Amend	2-1-06
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877-020-0050	12-22-05	Repeal	2-1-06
877-020-0055	12-22-05	Adopt	2-1-06
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877-025-0005	12-22-05	Amend	2-1-06
877-030-0040	12-22-05	Amend	2-1-06
877-030-0050	12-22-05	Amend	2-1-06
877-030-0070	12-22-05	Amend	2-1-06
877-030-0090	12-22-05	Amend	2-1-06
877-030-0100	12-22-05	Adopt	2-1-06
877-035-0012	12-22-05	Amend	2-1-06
877-035-0013	12-22-05	Adopt	2-1-06
877-035-0015	12-22-05	Amend	2-1-06
877-040-0015	12-22-05	Amend	2-1-06
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877-040-0027	12-22-05	Repeal	2-1-06
877-040-0050	12-22-05	Amend	2-1-06
877-040-0055	12-22-05	Amend	2-1-06
877-040-0060	12-22-05	Repeal	2-1-06
877-040-0065	12-22-05	Repeal	2-1-06
877-040-0070	12-22-05	Repeal	2-1-06
918-001-0010	2-13-06	Amend	3-1-06
918-008-0000	3-1-06	Amend(T)	4-1-06
918-008-0000	7-1-06	Amend	8-1-06
918-008-0000(T)	7-1-06	Repeal	8-1-06
918-008-0010	3-1-06	Amend(T)	4-1-06
918-008-0010	7-1-06	Amend	8-1-06
918-008-0010(T)	7-1-06	Repeal	8-1-06
918-008-0020	3-1-06	Amend(T)	4-1-06
918-008-0020	7-1-06	Amend	8-1-06
918-008-0020(T)	7-1-06	Repeal	8-1-06
918-008-0028	7-1-06	Adopt	8-1-06
918-008-0030	3-1-06	Amend(T)	4-1-06
918-008-0030	7-1-06	Amend	8-1-06
918-008-0030(T)	7-1-06	Repeal	8-1-06
918-008-0060	3-1-06	Amend(T)	4-1-06
918-008-0060	7-1-06	Amend	8-1-06
918-008-0060(T)	7-1-06	Repeal	8-1-06
918-008-0075	1-1-06	Adopt	2-1-06
918-008-0080	1-1-06	Adopt	2-1-06
918-008-0085	1-1-06	Adopt	2-1-06
918-008-0090	1-1-06	Adopt	2-1-06
918-008-0095	1-1-06	Adopt	2-1-06
918-008-0110	1-1-06	Adopt	2-1-06
918-008-0115	1-1-06	Adopt	2-1-06
918-008-0120	1-1-06	Adopt	2-1-06
918-020-0090	1-1-06	Amend	2-1-06
918-030-0000	7-1-06	Adopt	8-1-06
918-030-0010	7-1-06	Adopt	8-1-06
918-030-0020	7-1-06	Adopt	8-1-06

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918-030-0050	7-1-06	Adopt	8-1-06
918-030-0060	7-1-06	Adopt	8-1-06
918-030-0100	7-1-06	Amend	8-1-06
918-030-0120	7-1-06	Adopt	8-1-06
918-030-0125	7-1-06	Adopt	8-1-06
918-030-0130	7-1-06	Adopt	8-1-06
918-030-0135	7-1-06	Adopt	8-1-06
918-030-0150	7-1-06	Adopt	8-1-06
918-030-0200	7-1-06	Adopt	8-1-06
918-030-0200	7-1-06	Amend	8-1-06
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918-030-0240	7-1-06	Adopt	8-1-06
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918-030-0410	7-1-06	Adopt	8-1-06
918-030-0910	7-1-06	Adopt	8-1-06
918-030-0920	7-1-06	Adopt	8-1-06
918-035-0000	7-1-06	Adopt	8-1-06
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918-035-0010	7-1-06	Adopt	8-1-06
918-035-0020	7-1-06	Adopt	8-1-06
918-035-0040	7-1-06	Adopt	8-1-06
918-035-0050	7-1-06	Adopt	8-1-06
918-035-0060	7-1-06	Adopt	8-1-06
918-035-0070	7-1-06	Adopt	8-1-06
918-035-0080	7-1-06	Adopt	8-1-06
918-035-0090	7-1-06	Adopt	8-1-06
918-050-0000	1-1-06	Amend	2-1-06
918-050-0010	1-1-06	Amend	2-1-06
918-050-0020	1-1-06	Amend	2-1-06
918-050-0030	1-1-06	Amend	2-1-06
918-050-0100	1-1-06	Amend	2-1-06
918-050-0110	1-1-06	Amend	2-1-06
918-050-0120	1-1-06	Amend	2-1-06
918-050-0130	1-1-06	Amend	2-1-06
918-050-0140	1-1-06	Amend	2-1-06
918-050-0150	1-1-06	Amend	2-1-06
918-050-0160	1-1-06	Amend	2-1-06
918-050-0170	1-1-06	Amend	2-1-06
918-050-0200	1-1-06	Repeal	2-1-06
918-050-0800	1-1-06	Amend	2-1-06
918-090-0000	1-1-06	Amend	1-1-06
918-090-0010	1-1-06	Amend	1-1-06
918-090-0200	1-1-06	Amend	1-1-06
918-090-0210	1-1-06	Amend	1-1-06
918-098-1000	4-1-06	Amend	5-1-06
918-098-1005	4-1-06	Amend	5-1-06
918-098-1010	4-1-06	Amend	5-1-06
918-098-1012	4-1-06	Amend	5-1-06
918-098-1015	4-1-06	Amend	5-1-06
918-098-1025	4-1-06	Amend	5-1-06
918-098-1210	4-1-06	Amend	5-1-06
918-098-1215	4-1-06	Amend	5-1-06
918-098-1300	4-1-06	Amend	5-1-06
918-098-1410	4-1-06	Amend	5-1-06
918-098-1450	4-1-06	Amend	5-1-06
918-098-1470	4-1-06	Amend	5-1-06
918-098-1600	4-1-06	Amend	5-1-06
918-098-1620	4-1-06	Amend	5-1-06
918-098-1630	4-1-06	Amend	5-1-06
918-100-0000	1-1-06	Amend	2-1-06
918-100-0030	1-1-06	Amend	2-1-06
918-225-0440	1-1-06	Repeal	2-1-06
918-225-0610	1-1-06	Amend	2-1-06
918-225-0640	7-1-06	Amend	8-1-06
918-225-0680	7-1-06	Suspend	8-1-06
918-225-0685	7-1-06	Suspend	8-1-06
918-225-0691	7-1-06	Amend	8-1-06
918-225-0900	7-1-06	Suspend	8-1-06
918-225-0910	7-1-06	Suspend	8-1-06
918-225-0920	7-1-06	Suspend	8-1-06
918-225-0930	7-1-06	Suspend	8-1-06
918-225-0940	7-1-06	Suspend	8-1-06
918-225-0950	7-1-06	Suspend	8-1-06
918-225-0960	7-1-06	Suspend	8-1-06
918-225-0970	7-1-06	Suspend	8-1-06
918-251-0030	1-1-06	Repeal	2-1-06
918-251-0040	1-1-06	Repeal	2-1-06
918-261-0025	1-1-06	Adopt	2-1-06
918-281-0000	4-1-06	Amend	5-1-06
918-281-0010	4-1-06	Amend	5-1-06
918-281-0020	4-1-06	Amend	5-1-06
918-282-0100	7-1-06	Amend	8-1-06
918-282-0110	7-1-06	Amend	8-1-06
918-282-0335	7-1-06	Suspend	8-1-06
918-282-0355	7-1-06	Amend	8-1-06
918-282-0365	7-1-06	Amend	8-1-06
918-283-0000	7-1-06	Suspend	8-1-06
918-283-0010	4-3-06	Amend(T)	5-1-06
918-283-0010	7-1-06	Suspend	8-1-06
918-283-0020	7-1-06	Suspend	8-1-06
918-283-0030	7-1-06	Suspend	8-1-06
918-283-0040	7-1-06	Suspend	8-1-06
918-283-0050	7-1-06	Suspend	8-1-06
918-283-0060	7-1-06	Suspend	8-1-06
918-283-0070	7-1-06	Suspend	8-1-06
918-305-0030	1-1-06	Amend	2-1-06
918-305-0110	1-1-06	Amend	2-1-06
918-305-0120	1-1-06	Amend	2-1-06
918-305-0130	1-1-06	Amend	2-1-06
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
918-311-0030	10-1-06	Amend	7-1-06
918-311-0040	10-1-06	Amend	7-1-06
918-395-0010	7-1-06	Suspend	8-1-06
918-400-0230	1-1-06	Repeal	2-1-06
918-400-0250	7-1-06	Repeal	8-1-06
918-400-0380	7-1-06	Amend	8-1-06
918-400-0465	7-1-06	Amend	8-1-06
918-400-0650	7-1-06	Amend	8-1-06
918-400-0660	7-1-06	Amend	8-1-06

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918-460-0015	2-1-06	Amend	3-1-06
918-460-0015	7-1-06	Amend	8-1-06
918-480-0010	7-1-06	Amend	8-1-06
918-500-0021	7-1-06	Amend	8-1-06
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
918-685-0060	7-1-06	Suspend	8-1-06
918-690-0340	1-1-06	Repeal	2-1-06
918-690-0350	1-1-06	Repeal	2-1-06
918-695-0040	7-1-06	Amend	8-1-06
918-695-0010	7-1-06	Suspend	8-1-06
918-695-0200	7-1-06	Suspend	8-1-06
918-695-0300	7-1-06	Suspend	8-1-06
918-695-0310	7-1-06	Suspend	8-1-06
918-695-0320	7-1-06	Suspend	8-1-06
918-695-0330	7-1-06	Suspend	8-1-06
918-695-0340	7-1-06	Suspend	8-1-06
918-695-0350	7-1-06	Suspend	8-1-06
918-695-0360	7-1-06	Suspend	8-1-06
918-695-0370	7-1-06	Suspend	8-1-06
918-695-0380	7-1-06	Suspend	8-1-06
918-695-0390	7-1-06	Suspend	8-1-06
918-695-0400	4-1-06	Amend	5-1-06
918-780-0035	4-4-06	Amend	5-1-06
918-780-0040	10-1-06	Amend	7-1-06