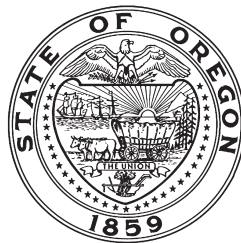


OREGON BULLETIN

Supplements the 2007 *Oregon Administrative Rules Compilation*

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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule’s “History”

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2006–2007 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, 2006	January 1, 2007
January 12, 2007	February 1, 2007
February 15, 2007	March 1, 2007
March 15, 2007	April 1, 2007
April 13, 2007	May 1, 2007
May 15, 2007	June 1, 2007
June 15, 2007	July 1, 2007
July 13, 2007	August 1, 2007
August 15, 2007	September 1, 2007
September 14, 2007	October 1, 2007
October 15, 2007	November 1, 2007
November 15, 2007	December 1, 2007

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 07 - 10

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN BAKER, HARNEY AND UNION COUNTIES DUE TO DROUGHT AND LOW WATER CONDITIONS

Pursuant to ORS 401.055, I find that ongoing drought and low water conditions and weather patterns have the potential to cause local adverse natural and economic disaster conditions in Baker, Harney and Union Counties. Projected weather patterns are not expected to significantly alleviate these conditions, and drought conditions are continuing. These conditions are expected to have significant economic impact on Baker, Harney and Union Counties' agricultural, livestock and natural resources.

Current conditions are being addressed by state agencies including the Department of Agriculture, the Department of Water Resources and Oregon Emergency Management.

A timely response to this situation is vital to the well being and economic security of the citizens and businesses of these Counties, therefore, I am declaring a "state of drought emergency" in Baker, Harney and Union Counties and directing the following activities;

IT IS HEREBY ORDERED AND DIRECTED:

1. The Oregon Department of Agriculture is directed to coordinate and provide assistance in seeking federal resources available to mitigate conditions and affect agricultural recovery in Baker, Harney and Union Counties.

2. The Department of Water Resources is directed to coordinate and provide assistance and regulation for Baker, Harney and Union Counties as it determines is necessary in accordance with ORS 536.700 to 536.780.

3. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in Baker, Harney and Union Counties.

4. All other departments are directed to coordinate with the above agencies and to provide appropriate state resources as determined essential to assist affected political subdivisions in Baker, Harney and Union Counties.

5. This Executive Order expires on December 31, 2007.

Done at Salem, Oregon this 16th day of August, 2007.

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

ATTEST

/s/ Jean Straight
Jean Straight
DEPUTY SECRETARY OF STATE

OTHER NOTICES

CHANCE TO COMMENT ON...

PROPOSED NO FURTHER ACTION DETERMINATION FOR THE AMERICOLD LOGISTICS INC. PROPERTY, MILWAUKIE, OREGON

COMMENTS DUE: October 1, 2007

PROJECT LOCATION: 9501 SE McLoughlin Blvd, Milwaukie, Oregon.

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve a no further action determination (NFA) at the Americold Logistics property at 9501 SE McLoughlin Blvd in Milwaukie, Oregon.

HIGHLIGHTS: DEQ has reviewed spill recovery documents, a site soil removal report and follow-up soil and groundwater samples for the Americold Logistics, Inc. site in Milwaukie, Oregon. An estimated 40 gallons of diesel fuel had spilled into soil and shallow groundwater due to an accident involving a Kook Pak, LLC truck in May 2005. The immediate removal actions and subsequent collection of shallow groundwater in the area of the spill has been removed diesel contamination to levels below those that pose a threat to human health and the environment.

Removal and remedial actions taken at the site are as follows:

- 21.44 tons of diesel-contaminated soil was excavated and disposed of at Hillsboro landfill.
- Approximately, 2,250 gallons of diesel-contaminated water was pumped out of the excavation area during the period of May 5 to 27, 2005.

• A site investigation in December of 2006 established the extent of the residual subsurface soil and groundwater contamination. An evaluation of residual contamination levels against risk-based concentrations showed no residual risk to human health or the environment.

Based on the work performed by Kool Pak, LLC and their consultant, plus the confirmation sampling performed in December of 2006, DEQ is prepared to issue a NFA for the site.

HOW TO COMMENT: DEQ's project file information is available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call: 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Please send written comments to Chuck Harman, Project Manager, at the address listed above or via email at harman.charles@deq.state.or.us by 5 p.m., October 1, 2007. DEQ will hold a public meeting to receive verbal comments if requested by ten or more people or by a group with 10 or more members.

Summaries of site information can be found on the internet in DEQ's on-line Environmental Cleanup Site Information (ECSI) database (<http://www.deq.state.or.us/wmc/ecsi/ecsiquery.htm>). The Americold Logistics site is listed as ECSI # 4567.

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

THE NEXT STEP: DEQ will consider all public comments received by the October 1, 2007 deadline and the Regional Cleanup Manager will make a final decision after consideration of these public comments.

CHANCE TO COMMENT ON...

PROPOSED NO FURTHER ACTION DETERMINATION FOR THE FULL CIRCLE COUNTRYSIDE SCHOOL PROPERTY, DAMASCUS, OREGON

COMMENTS DUE: October 1, 2007

PROJECT LOCATION: 16077 SE Highway 224, Damascus, Oregon.

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve a no further action determination (NFA) at the Full Circle Countryside School property at 16077 SE Highway 224, Damascus, Oregon.

HIGHLIGHTS: DEQ has reviewed laboratory reports, letters and other supporting information from the Carver School Community Center that describes lead-contaminated soil removal activities at the Full Circle Countryside School in Damascus, Oregon. Site observations in the summer of 2006 indicted that lead paint chipping and peeling might have gotten into soils around the main building. Removal of soils occurred in June and July of 2007 to concentrations below those that pose an unacceptable risk to human health through incidental ingestion, inhalation or dermal contact.

Remedial actions taken at the site are as follows:

- Site soil sampling was performed in September and October of 2006 to establish the extent of the soil contamination.
- Approximately 26 tons of lead-contaminated soil was excavated from around the main building and disposed of at Hillsboro landfill in June and July of 2007.
- Post-removal sampling in June and July of 2007 verified that all remaining soils were below the established cleanup criterion of 400 ppm for human health.
- There is no ecological habitat within 100 feet of the main building.

Based on the work performed by the Carver School Community Center and their consultant, plus the confirmation sampling performed in June and July of 2007, DEQ is prepared to issue a NFA for the site.

HOW TO COMMENT: DEQ's project file information is available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call: 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Please send written comments to Chuck Harman, Project Manager, at the address listed above or via email at harman.charles@deq.state.or.us by 5 p.m., October 1, 2007. DEQ will hold a public meeting to receive verbal comments if requested by ten or more people or by a group with 10 or more members.

Summaries of site information can be found on the internet in DEQ's on-line Environmental Cleanup Site Information (ECSI) database (<http://www.deq.state.or.us/wmc/ecsi/ecsiquery.htm>). The Full Circle Countryside School site is listed as ECSI # 4680.

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

THE NEXT STEP: DEQ will consider all public comments received by the October 1, 2007 deadline and the Regional Cleanup Manager will make a final decision after consideration of these public comments.

NOTICE FOR COMMENT ON PROPOSED CLEANUP APPROACH OWENS BROCKWAY GLASS CONTAINER INC./JOHNSON LAKE SITE

COMMENTS DUE: October 1, 2007

PROJECT LOCATION: 5850 NE 92nd Drive, Portland, OR

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposed cleanup approach for contaminated soil on the Owens Brockway Glass Container Inc. ("Owens") site and contaminated sediment in nearby Johnson Lake. The proposed approach includes excavation of contaminated soil and sediment, confinement in an upland portion of the Owens property, and long-term management.

OTHER NOTICES

HIGHLIGHTS: Johnson Lake extends over 18 acres and is directly connected to Whitaker Slough, which in turn flows into the Columbia Slough. Owens operates a glass manufacturing plant on the south shore of Johnson Lake. Historical activities including transformer storage and settling pond overflows from the Owens facility have resulted in contamination of sediments in Johnson Lake sediment and soil downslope of a former electrical substation. Other sources of contamination to the lake include the discharge of contaminated stormwater from outfalls located on the east and west ends of the lake.

Investigations completed at the site, beginning in 1994 with data collected as part of the general Columbia Slough project, have detected polychlorinated biphenyls (PCBs), metals, polycyclic aromatic hydrocarbons, pesticides, and petroleum hydrocarbons at elevated levels in Johnson Lake sediment. Elevated levels of PCBs were also detected in soil adjacent to the lake in the vicinity of the former transformer storage area. Fish tissue samples contained PCBs at concentrations that exceeded protective levels for ingestion by people. Sediment testing suggested that portions of the lake may contain contaminants at levels toxic to sediment dwelling organisms.

The proposed remedial action consists of the following:

- Excavation of lake sediment containing the highest concentrations of PCBs, metals, and petroleum hydrocarbons.
- Excavation of upland soil containing elevated concentrations of PCBs.
- Capping of excavated sediments and soils in an upland portion of the site away from the lake.
- Institutional controls to maintain the integrity of the cap and prevent exposures to people via fish ingestion.

The proposed remedy is considered to be consistent with Oregon rule and statute and, if properly implemented, protective to human and ecological receptors.

HOW TO COMMENT: A DEQ staff report outlining the proposed cleanup approach will be available for public review at the downtown Portland Public Library and Park Rose High School library, and DEQ's Northwest Region Office in Portland beginning September 1, 2007. The staff report will also be placed on DEQ's web page for the project: www.deq.state.or.us/lq/cu/nwr/johnsonlake/index.htm. To schedule an appointment to review files in DEQ's Northwest Region office, call (503) 229-6729. The DEQ Project Manager is Jennifer Sutter, (503) 229-6148. Written comments should be sent to the Jennifer Sutter, DEQ Northwest Region, 2020 SW 4th Ave., Portland, OR 97201 or sutter.jennifer@deq.state.or.us by October 1, 2007.

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

OPPORTUNITY TO COMMENT NO FURTHER ACTION, PHASE 2 COLD SPRINGS SUBDIVISION, SISTERS, OREGON

COMMENT DUE: October 1, 2007

PROJECT LOCATION: NE Corner of McKinney Butte Road and McKinney Ranch Road, Sisters, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is providing notice for a public opportunity to review and comment on a draft No Further Action (NFA) finding for Phase 2 of the Cold Springs Subdivision, which is located in Sisters, Oregon. The draft DEQ staff report details the analysis of residual risk related to investigation and cleanup of contaminated environmental media that was conducted within Phase 2 of the Cold Springs Subdivision. More information concerning site-specific investigations and/or the proposed NFA is available by contacting Mr. Cliff Walkey, DEQ's project manager for this site.

The Administrative File for this facility is archived at the DEQ's Bend, Oregon office, and can be reviewed in person by contacting Mr. Cliff Walkey at (541) 388-6146 extension 224 to arrange for an appointment. The DEQ draft staff report recommending the NFA for

the Phase 2 Subdivision at the Village at Cold Springs can be viewed on the internet at the following internet address: www.deq.state.or.us/lq/cu/er/VillageColdSprings

HOW TO COMMENT: The public comment period will extend from September 1, 2007 through September 30, 2007. Please address all comments and/or inquiries to Mr. Cliff Walkey at the following address:

Cliff Walkey
Department of Environmental Quality
300 SE Reed Market Road
Bend, Oregon 97702-2237
(541) 388-6146, ext. 224
walkey.cliff@deq.state.or.us

Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received before finalizing the NFA for Phase 2 of the Cold Springs Subdivision. DEQ will provide written responses to all received public comments.

PROPOSED APPROVAL OF CLEANUP AT McNARY INDUSTRIAL PARK —OREGON RUSTICS PARCEL, UMATILLA COUNTY, OREGON

COMMENTS DUE: October 1, 2007

PROJECT LOCATION: Umatilla County, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "No Further Action" determination based soil excavation actions performed at the McNary Industrial Park — Oregon Rustics Parcel site located in Umatilla (McNary), Oregon.

HIGHLIGHTS: Petroleum contaminated surface soil from the area was excavated and transported off-site for disposal. Soil samples collected following removal actions indicate remaining concentrations are less than DEQ's generic occupational risk based concentrations.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by October 1, 2007 and sent to Katie Robertson, Project Manager, at the address listed above.

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

PROPOSED CONDITIONAL NO FURTHER ACTION BROGOITTI ELEVATOR — NORTH PARCEL (FORMER) UMATILLA COUNTY, OREGON

COMMENTS DUE: October 1, 2007

PROJECT LOCATION: Columbia Street & Harper Road, Helix, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to issue a "Conditional No Further Action" determination based on site investigations and remedial actions performed at the former Brogoitti Elevator site, located in the north of the Columbia Street near Harper Road in Helix, Oregon.

HIGHLIGHTS: The former Brogoitti Elevator — North Parcel contains several buildings including former warehouses, seed treatment and storage buildings, a vehicle maintenance shop, and equipment shed. Several underground storage tanks were present as part of the old fueling station. Three petroleum underground storage tanks (USTs) were located in the southwest area of the site. The USTs were removed in June 2007. The property was foreclosed on by Umatilla County. The North Parcel was purchased from Umatilla County in December 2004 by Quantum 9. Prior to their purchase of the North Parcel, Quantum 9 and DEQ entered into a Prospective Purchaser Agreement (PPA).

OTHER NOTICES

The site has been proposed for a risk-based closure. All of the potential exposure concerns are proposed to be addressed through the elimination of potential pathways and by placement of institutional controls on the property. The institutional controls consist of deed restrictions with the following restriction: no beneficial use of groundwater.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by October 1, 2007 and sent to Katie Robertson, Project Manager, at the address listed above.

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

NO FURTHER ACTION DETERMINATION BEND TRAP CLUB, BEND, OREGON

COMMENT PERIOD: September 1–30, 2007

PROJECT LOCATION: 61400 Brosterhous Rd., Bend, OR 97701
PROPOSAL: Pursuant to Oregon Revised Statute ORS 465.320 and Oregon Administrative Rules OAR 340-122-100, the Department of Environmental Quality (DEQ) is proposing approval of a cleanup conducted at the former Bend Trap Club site located at 61400 Brosterhous Road in Bend, Oregon.

HIGHLIGHTS: Since November 2005, DEQ has been providing oversight under a Voluntary Cleanup Agreement to investigate the Bend Trap Club, formerly used as a skeet shooting range since 1932. The approximately 40-acre site property is slated to be redeveloped into residential uses.

A Record of Decision (ROD) for the Bend Trap Club site was approved by DEQ in August 2006 for the cleanup of lead and polynuclear aromatic hydrocarbons (PAHs) detected in shallow soil and primarily from lead shot and clay pigeon fragments (CPF) containing PAHs.

The Remedial Action was completed in June 2007 and removed all the lead and PAHs from the site. Subsequent sampling indicates that it meets DEQ's residential human health and ecological risk based cleanup goals.

The full file, including the project documents, are available for review at DEQ's Bend office, 300 SE Reed Market Road, Bend, OR 97702, (541) 388-6146. Office hours are 8 a.m. to noon and 1 to 5 p.m., Monday through Friday. Questions or concerns regarding DEQ's decision should be sent to the project manager at the Department of Environmental Quality, Eastern Region, 300 SE Reed Market Rd, Bend, OR 97702, or via e-mail to anderson.david@deq.state.or.us.

PROPOSED NO FURTHER ACTION FOR CENTRAL WASTE OIL HAULERS SITE BEND OREGON

COMMENTS DUE: October 1, 2007

PROJECT LOCATION: 20475 Brandis Court, Bend, Oregon
Proposal: The Department of Environmental Quality (DEQ) is proposing to issue a decision regarding cleanup activities at the above referenced site based on approval of investigation and removal actions conducted to date. Public notification is required by ORS 465.320.

HIGHLIGHTS: Central Waste Oil Haulers (CWOH) operated a used-oil collection operation at the Brandis Court site from about 1988 through 2003. Oily residues and spilled antifreeze in surface soils around the used-oil and antifreeze storage and transfer areas were discovered during a facility compliance inspection by DEQ. Soil sampling confirmed the presence of heavy oils, diesel, lead, metals, glycols, volatile organic compounds (VOCs), and polynuclear aromatic hydrocarbons (PAHs). A total of 110 tons of soil was exca-

vated and hauled to Knott Landfill for disposal. Confirmation soil samples collected after the removal action identified residual diesel, heavy oil, metal, VOCs, PAHs, and glycols. All constituents were below the most stringent cleanup levels for an industrial scenario.

Based on the findings to date, DEQ is proposing a No Further Action determination at the site and believes that this determination is protective as defined in OAR-340-11-040.

COMMENT: The staff report recommending the proposed action may be reviewed by appointment at DEQ's Office in Bend, 300 SE Reed Market Road, Bend OR 97702. To schedule an appointment, contact Marcy Kirk at (541) 388-6146, ext. 222. Written comments should be sent by October 1, 2007 to Ms. Kirk at the address listed above. Questions may also be directed to Ms. Kirk by calling her directly.

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

A CHANCE TO COMMENT ON PROPOSED NO FURTHER ACTION DETERMINATION AT THE LINNTON PLYWOOD ASSOCIATION SITE

COMMENTS DUE: October 1, 2007

PROJECT LOCATION: 10504 NW St. Helens Road, Portland, Oregon.

PROPOSAL: Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on acceptance of completed removal actions and a proposed no further action determination (NFA) at the Linnton Plywood Association property at 10504 NW St. Helens Road in Portland, Oregon.

HIGHLIGHTS: The Linnton Plywood Association (LPA) property consists of 24.74 acres on three parcels fronting the Willamette River. A sawmill operated there from 1894 to 1947. LPA began operating a plywood mill at the site in 1951 and shut down operations in December 2001. The southern 10.9 acres of the site are leased for a sand distribution operation.

LPA was asked to enter the Department of Environmental Quality (DEQ) Voluntary Cleanup Program in 1999 based primarily on contamination found in sediments of the Willamette River. Investigations of possible sources of contamination led to two minor contaminated soil removal actions. Based on these investigations and removals, the LPA site was issued a Source Control Decision from DEQ in 2004 that determined that there did not appear to be current or ongoing sources of contamination from the upland portion of the site threatening the Willamette River, and that no additional source control measures were needed to protect the river.

LPA has recently expanded the scope of review at the site to facilitate its request for a no further action determination for all upland concerns. DEQ's review of the site data identified a few locations with minor exceedances of environmental screening values (primarily lead in soils), and a few locations where the potential sources have not been fully characterized. However, the current site conditions, such as cover by pavements, existing buildings, significant fill, and/or vegetation that prevents erosion, are such that there do not appear to be unacceptable threats to human health or the environment.

The proposed NFA will identify these areas as to which there is some uncertainty. If these areas are changed from their current protective condition, further characterization and appropriate handling of any contaminated media above applicable screening levels will occur pursuant to a management plan.

Based on the environmental assessment and contaminated soil removal work performed by Linnton Plywood Association, DEQ is prepared to accept the completed removal actions and issue a no further action determination to Linnton Plywood Association for upland impacts at this site. All concerns related to the Willamette River itself or sediments of the river, are outside the scope of this proposed NFA but remain part of the ongoing investigation of Portland Harbor

OTHER NOTICES

under the oversight of the U.S. Environmental Protection Agency Superfund Program.

HOW TO COMMENT: The project file is available for public review (ECSI File # 2373). To schedule an appointment, contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Loren Garner, 503-229-6900. Written comments should be sent to Loren Garner, DEQ Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by October 1, 2007. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more. Please notify DEQ if you need copies of written materials in an alternative format (e.g., Braille, large print, etc.). To make these arrangements, contact DEQ Office of Communication and Outreach at 503-229-5317. Additional information is also available at: <http://www.deq.state.or.us/news/publicnotices/pn.asp>

THE NEXT STEP: DEQ will consider all public comments before making the final decision.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number indicated.

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

Agencies providing notice request public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

In Notices of Proposed Rulemaking where no hearing has been set, a hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing within 21 days following notice publication in the *Oregon Bulletin* or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

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

Board of Examiners for Engineering and Land Surveying Chapter 820

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

Date:	Time:	Location:
9-17-07	1 p.m.	670 Hawthorne Avenue SE Suite 220 Salem, OR 97301

Hearing Officer: Sue Laszlo

Stat. Auth.: ORS 672.153, 672.155, 672.255

Other Auth.: ORS 670.310

Stats. Implemented: ORS 672.002–672.325

Proposed Adoptions: 820-010-0417, 820-010-0463, 820-010-0510, 820-010-0520

Proposed Amendments: 820-010-0010, 820-010-0200, 820-010-0215, 820-010-0227, 820-010-0228, 820-010-0230, 820-010-0231, 820-010-0305, 820-010-0415, 820-010-0425, 820-010-0427, 820-010-0440, 820-010-0470, 820-010-0635

Last Date for Comment: 9-17-07, Close of Hearing

Summary: OAR 820-010-0417 — Clarifies additional requirements to obtain the structural discipline.

OAR 820-010-0463 — Establishes cut scores for Oregon Specific exams.

OAR 820-010-0510 — Clarifies that only active registrants are authorized to engage in professional practice.

OAR 820-010-0520 — Prescribes standards and guidelines for retired and inactive status of registrants, including provisions to allow for the return to active status.

OAR 820-010-0010 — Deletes definitions of license statuses now prescribed in proposed rule for adoption (OAR 820-010-0520). Adds an alternative organization accepted by the board to complete required evaluations.

OAR 820-010-0200 — Clarifies time frame in which supporting documentation is considered.

OAR 820-010-0215 — Clarifies that all supporting documentation related to an application must be submitted at the time of applying.

OAR 820-010-0227 — Adds an alternative organization accepted by the board to complete required evaluations. (Housekeeping)

OAR 820-010-0228 — Adds an alternative organization accepted by the board to complete required evaluations. (Housekeeping)

OAR 820-010-0230 — Includes additional provisions for those who applied for the fundamentals of engineering exam based combined education and experience. (Housekeeping)

OAR 820-010-0231 — Includes additional provisions for those who applied for the fundamentals of land surveying exam based combined education and experience. (Housekeeping)

OAR 820-010-0305 — Includes fee for additional services provided and those in the proposed rule for adoption (OAR 820-010-0520).

OAR 820-010-0415 — Clarifies the nature of the professional engineering exam since the change of exam administration.

OAR 820-010-0425 — Clarifies the nature of the professional land surveyor exam.

OAR 820-010-0427 — Clarifies the nature of the registered professional photogrammetrist exam.

OAR 820-010-0440 — Revises the deadline to apply for exam administrations.

OAR 820-010-0470 — Deletes cut scores established in proposed rule OAR 820-010-0463 and clarifies the process in which an examinee may review a failed examination.

OAR 820-010-0635 — Deletes exemptions that conflict with statute and clarifies continuing professional development required to attain active status.

Rules Coordinator: Mari Lopez

Address: 670 Hawthorne Avenue, SE Suite 220, Salem, OR 97301

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

Board of Medical Examiners Chapter 847

Rule Caption: Remove reference to fee no longer required for a name change.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-008-0065

Last Date for Comment: 9-28-07

Summary: The proposed rule amendment removes reference to a fee that is no longer required for change of a licensee's legal name.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

Rule Caption: Add podiatric physician and surgeon to licensees who can dispense drugs.

Stat. Auth.: ORS 677.265

Stats. Implemented: 677.010, 677.089

Proposed Amendments: 847-015-0025

Last Date for Comment: 9-28-07

Summary: The proposed rule amendment adds podiatric physician and surgeon to licensees who can dispense drugs.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

Rule Caption: Amend training requirements for foreign medical graduates and consolidate exam requirements for licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: 677.100, 677.110, 677.120, 677.265

Proposed Adoptions: 847-020-0183

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 847-020-0130, 847-020-0150, 847-020-0170, 847-020-0180

Last Date for Comment: 9-28-07

Summary: Proposed rules 1) establish foreign medical school graduate must provide the Board with documentation to substantiate that the medical school from which the applicant graduated provided a resident course of professional instruction equivalent to that provided in an approved medical school; 2) allow for ABMS specialty board dispensation toward postgraduate training requirement for foreign medical school graduate; 3) move the requirement to pass open-book exams to the rule that addresses documents and forms to be submitted for licensure; 4) consolidate language regarding requirements for the SPEX examination and personal interview to reduce redundancy in the rule language; and 5) add language regarding requirements to pass the COMVEX examination for DOs.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

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Rule Caption: Add administration of fentanyl to EMT-I scope of practice.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Proposed Amendments: 847-035-0030

Last Date for Comment: 9-28-07

Summary: The proposed rule amendment adds the administration of fentanyl to the EMT-Intermediate (EMT-I) scope of practice.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

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Rule Caption: Eliminate redundancy in rule language regarding grounds for discipline against physician assistants.

Stat. Auth.: ORS 677.190, 677.205, 677.265

Stats. Implemented: ORS 677.190, 677.205, 677.265, 677.505

Proposed Amendments: 847-050-0031, 847-050-0035

Proposed Repeals: 847-050-0045

Last Date for Comment: 9-28-07

Summary: The proposed rule amendments remove reference to a fee that is no longer required for a name change and remove some of the reasons listed in the rules as grounds for discipline against a physician assistant in order to eliminate redundancy between statutory language (in ORS 677.190) and the rule language.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

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Rule Caption: Add national licensing exam limit waivers for Board certification for podiatrists.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.825, 677.830

Proposed Amendments: 847-080-0018

Last Date for Comment: 9-28-07

Summary: Proposed rule adds waivers to the podiatrist rules similar to waivers in the physician administrative rules: Board certification waives the requirement to pass the National Board of Podiatric Medical Examiners (NBPME) Parts I, II and III within seven years and the requirement to pass Part III of this examination within four attempts.

Rules Coordinator: Diana M. Dolstra

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

Telephone: (971) 673-2713

Bureau of Labor and Industries Chapter 839

Rule Caption: Changing OSHA retaliation complaint deadline from 30 to 90 days to conform with statutory change.

Stat. Auth.: ORS 659A.805, 654.062

Other Auth.: HB 2259, Oregon Legislature 2007 Session

Stats. Implemented: ORS 30.670 – 30.574, 654.005, 654.062, 659A.820, 29 CFR Part 15(d)(3)

Proposed Amendments: 839-003-0025, 839-004-0001, 839-004-0021

Last Date for Comment: 9-21-07

Summary: The amendments would conform the rules with a statutory change in the OSHA retaliation complaint deadline. A temporary rule identical to the proposed amendments is already in effect.

Rules Coordinator: Marcia Ohlemiller

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

Telephone: (971) 673-0784

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Department of Administrative Services Chapter 125

Rule Caption: Enterprise Geographic Information Systems (GIS) Software Standard and Non-standard GIS Software Exception Process.

Date:	Time:	Location:
9-27-07	9:30–11 a.m.	Fishbowl Rm., Revenue Bldg. 955 Center St. NE Salem, OR

Hearing Officer: Scott Riordan

Stat. Auth.: ORS 291.038

Stats. Implemented: ORS 291.038

Proposed Adoptions: 125-600-7550

Last Date for Comment: 9-27-07, 5 p.m.

Summary: This rule establishes a geographic information systems (GIS) software standard across the agencies of state government with the objective of creating a common geospatial software and data framework. This rule also: describes, at high level, the purpose of the rule and anticipated outcomes; provides clarifying definitions; defines the applicability of the GIS software standard to specific agencies; assigns accountability for related processes to certain individuals; establishes the requirement that all agencies using standard and non-standard GIS software undertake and report to DAS a one-time inventory of that use; based on the inventory excepts agencies' pre-existing non-standard GIS software use until certain events occur; authorizes and defines an exception request process for agency use of non-standard GIS software; establishes considerations to be weighed in evaluating an exception; prescribes the content of an agency request for exception; requires agencies to seek exception to the GIS software standard when certain conditions arise including anticipated expanded or new use of non-standard GIS software, and use for research or instructional purposes; authorizes a streamlined exception request process when an agency has an urgent need for non-standard use of GIS software; authorizes a process prompting reconsideration of a denial an agency exception request; and requires the State CIO to report biennially to the Oregon Geographic Information Council regarding the efficacy of the GIS software standard.

Rules Coordinator: Cheryl Knottingham

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

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

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

Rule Caption: Clarification and changes have identified the need for amendment of the existing rules.

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 243.061–243.302

Other Auth.: ORS 279

Stats. Implemented: ORS 243, 659, 743

Proposed Adoptions: 101-015-0015, 101-015-0025, 101-020-0002, 101-020-0032, 101-020-0050, 101-020-0070, 101-030-0027

Proposed Amendments: 101-015-0005, 101-020-0005, 101-020-0015, 101-020-0018, 101-020-0020, 101-020-0025, 101-020-0040, 101-020-0045, 101-030-0005, 101-030-0010, 101-030-0015, 101-030-0020, 101-030-0022, 101-050-0005, 101-050-0010, 101-050-0015, 101-050-0020, 101-050-0025, 101-060-0005, 101-060-0010

Proposed Repeals: 101-015-0010, 101-020-0010, 101-020-0030, 101-020-0035, 101-030-0025, 101-030-0030, 101-030-0040, 101-040-0005, 101-040-0010, 101-040-0025, 101-040-0030, 101-040-0035, 101-040-0040, 101-040-0045, 101-050-0030

Proposed Ren. & Amends: 101-040-0015 to 101-020-0012, 101-040-0080 to 101-020-0037, 101-040-0020 to 101-020-0047, 101-040-0050 to 101-020-0060, 101-040-0055 to 101-020-0065, 101-030-0035 to 101-030-0007

Last Date for Comment: 9-21-07

Summary: This rulemaking amends the current rules governing the eligibility for benefits and procedures of the Public Employee's Benefit Board and is made a part of OAR Chapter 101 generally. Experience in using the rule, changes and clarification of federal regulations governing Internal Revenue Code and the ongoing development of agency specific PEBB Administrative Manual and the PEBB online system have identified the need for amendment of the existing rules.

Rules Coordinator: Sharon M. Sheehan

Address: Department of Administrative Services, Public Employees' Benefit Board, 775 Court St. NE, Salem, OR 97301

Telephone: (503) 378-8031

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Department of Agriculture, Oregon Orchardgrass Seed Producers Commission Chapter 655

Rule Caption: Adopt rules related to per diem compensation, reimbursement for hiring a substitute and travel reimbursement.

Date:	Time:	Location:
10-10-07	7:30 a.m.	Yaquina Bay Restaurant 325 Airport Rd. Albany, OR

Hearing Officer: Larry Pfennig

Stat. Auth.: ORS 292.495, 576.051–576.595

Stats. Implemented: ORS 292.495, 576.051–576.595

Proposed Adoptions: 655-040-0000, 655-040-0010, 655-040-0020

Last Date for Comment: 10-10-07, 7:30 a.m.

Summary: The proposed rules establish per diem compensation for commissioners, payment of travel reimbursement and reimbursement for hiring a substitute in an emergency.

Rules Coordinator: John H. McCulley

Address: Department of Agriculture, Orchardgrass Seed Commission, PO Box 2042, Salem, OR 97308

Telephone: (503) 370-7019

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Department of Agriculture, Oregon Sheep Commission Chapter 644

Rule Caption: Sets per diem and reimbursement for a substitute rates for commissioners that correspond with ORS 292.495.

Stat. Auth.: ORS 576.304

Other Auth.: Motion made by Commission at June 22, 2007 meeting.

Stats. Implemented: ORS 292.495, 576.206(7), 576.265

Proposed Adoptions: 644-040-0010, 644-040-0020, 644-040-0030

Last Date for Comment: 10-1-07, Close of Business

Summary: As proposed, OAR 644-040-0010 establishes the per diem rate for commissioners at \$30 per day and OAR 644-040-0030 establishes the rate for hiring a substitute at a maximum of \$25 per day. Both rules correspond with the limits set in ORS 292.495. In addition, OAR 644-040-0020 provides that Commissioners may be reimbursed for allowable travel and other expenses, subject to the limitations stated in sections 2–6 of the rule.

Rules Coordinator: Richard Kosesan

Address: 1270 Chemeketa Street NE, Salem, OR 97301

Telephone: (503) 370-7024

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Department of Agriculture, Oregon Sweet Cherry Commission Chapter 669

Rule Caption: Sets per diem and reimbursement for a substitute rates for commissioners that correspond with ORS 292.495.

Date:	Time:	Location:
9-21-07	10 a.m.	OSU Extension Office 2990 Experiment Station Dr. Hood River, OR

Hearing Officer: Dana Branson

Stat. Auth.: ORS 292.495, 576.265

Stats. Implemented: ORS 292.495, 576.206(7), 576.265

Proposed Adoptions: 669-030-050, 669-030-0060, 669-030-0070

Last Date for Comment: 9-21-07, Close of Hearing

Summary: Sets per diem stipend, reimbursement for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limit set in ORS 292.495.

Rules Coordinator: Dana Branson

Address: Department of Agriculture, Sweet Cherry Commission, 2667 Reed Rd., Hood River, OR 97031

Telephone: (541) 386-5761

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

Rule Caption: Implements a statewide e-permitting system surcharge effective January 1, 2008.

Date:	Time:	Location:
9-18-07	9:30 a.m.	1535 Edgewater St. NW Salem, OR

Hearing Officer: Richard J. Baumann

Stat. Auth.: ORS 455.044, 455.210

Stats. Implemented: ORS 455.044, 455.210

Proposed Amendments: Rules in 918-050

Last Date for Comment: 9-21-07, 5 p.m.

Summary: The purpose of this proposed rule is to implement HB 2405 which requires the division to develop a statewide e-permitting system for construction permits.

The bill allows a 5% surcharge and flexibility to set a lower surcharge. The proposed rule would be effective January 1, 2008.

Rules Coordinator: Marianne Manning

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

Telephone: (503) 373-7438

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

Rule Caption: Revisions to banking and trust company rules, including substantive, streamlining, and technical changes.

Date:	Time:	Location:
9-20-07	9:30 a.m.	Conf. Rm. E, L&I Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Patricia Locnikar

Stat. Auth.: ORS 706.015, 706.630, 706.790, 706.795, 709.030

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 706.015, 706.530, 706.630, 708A.120, 708A.175, 709.030

Proposed Adoptions: 441-505-1160

Proposed Amendments: 441-500-0020, 441-505-1110, 441-505-1120, 441-505-1130, 441-505-1150, 441-505-3010, 441-505-3030, 441-505-4010, 441-505-4020, 441-505-4030

Proposed Repeals: 441-505-1100, 441-505-1140, 441-505-3060, 441-505-9010

Last Date for Comment: 9-26-07

Summary: Following a periodic review of all current banking rules, amendments are proposed to make substantive amendments, streamlining deletions, and miscellaneous clean-up changes. The substantive changes are elimination of fees for out-of-state bank branches due to federal preemption, updating the reference to federal laws, a new requirement for trust companies not part of a bank to file annual financial statements, increased details to be provided concerning insurance activities of banks to address consumer protection concerns, clarification of "isolated trust company activity" conducted by out-of-state trust companies and revisions to exemptions of trust companies appointed by a court. Streamlining deletions include repeal of rules no longer relevant, and permitting filing of reports electronically, many of which can be accessed by the Department from federal regulators.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Rule Caption: Revise funeral prearrangement rules to implement recently amended laws for prearrangement providers and master trustees.

Date:	Time:	Location:
10-1-07	10 a.m.	Conf. Rm. 260, L&I Bldg. 350 Winter St NE Salem, OR

Hearing Officer: Patrick Fitzgerald

Stat. Auth.: ORS 97.933

Other Auth.: Sec. 25 of ch. 661, 2007 OL

Stats. Implemented: ORS 97.923, 97.933, 97.937

Proposed Amendments: 441-930-0010, 441-930-0080, 441-930-0210, 441-930-0240, 441-930-0250, 441-930-0320

Last Date for Comment: 10-5-07

Summary: Changes made by the 2007 legislature that are being implemented by these rule amendments include clarifying that a certificate issued to a provider terminates when the provider transfers ownership of its business, and requiring the filing of an annual inventory of merchandise sold to a consumer when the merchandise is stored by the provider or manufacturer. Other amendments make technical changes and correct erroneous or missing cross-references.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Rule Caption: Address variable annuities as securities, and securities activity on financial institutions or trust company premises.

Date:	Time:	Location:
9-28-07	9 a.m.	Room 260, L&I Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Patrick Fitzgerald

Stat. Auth.: ORS 59.049, 59.285

Other Auth.: Ch. 393, 2007 OL

Stats. Implemented: ORS 59.015, 59.049, 59.135, 59.195, 59.205

Proposed Adoptions: 441-205-0135

Proposed Amendments: 441-035-0021, 441-049-1021, 441-049-1041, 441-175-0040

Last Date for Comment: 10-3-07

Summary: To implement a change made in the 2007 legislature that variable annuities are securities, proposed amendments waive securities notice filing and fees if the variable annuity is in a form filed and approved under the Oregon Insurance Code, but do require that salespersons have a securities license. To address concerns about securities activities conducted on the premises of financial institutions and trust companies, a new rule is proposed which generally mirrors the requirements of the NASD (National Association of Securities Dealers, a securities self-regulatory association). Other proposed changes are technical in nature.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Rulemaking Relating to Long Term Care Insurance; Rule Renumbering.

Date:	Time:	Location:
10-3-07	9 a.m.	350 Winter St. NE Conference Rm. B (basement) Salem, OR

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244, 742.023, 743.013, 743.655, 743.656, 743.685, 746.240

Stats. Implemented: ORS 731.244, 742.003, 742.005, 742.009, 743.010, 743.013, 743.018, 743.650, 743.653, 743.655, 743.656, 746.240

Proposed Adoptions: 836-052-0508, 836-052-0531, 836-052-0639, 836-052-0738, 836-052-0740

Proposed Amendments: 836-052-0500, 836-052-0516, 836-052-0526, 836-052-0546, 836-052-0556, 836-052-0566, 836-052-0576, 836-052-0616, 836-052-0626, 836-052-0636, 836-052-0656, 836-052-0666, 836-052-0676, 836-052-0696, 836-052-0706, 836-052-0726, 836-052-0736, 836-052-0746, 836-052-0756, 836-052-0766, 836-052-0776, 836-052-0786

Proposed Renumberings: 836-052-0700 to 836-052-0900

Last Date for Comment: 10-12-07

Summary: This proposed rulemaking implements recent state legislation, chapter 486, Oregon Laws 2007 (Enrolled SB 191), which amends Oregon statutes governing long term care insurance. This legislation enables Oregon consumers to benefit from federal legislation, the Long Term Care Insurance Partnership Act. The rulemaking also proposes additional changes to the rules governing long term care insurance.

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 adopt changes to Portable Fire Extinguishers in General Industry.

Date:	Time:	Location:
9-27-07	10 a.m.	Labor & Industries Bldg. 350 Winter Street NE Basement - Conference Rm. E Salem OR 97303

Hearing Officer: Sue Joye

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

Stats. Implemented: ORS 654.001-654.295

Proposed Adoptions: 437-002-0187

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 437-002-0180

Last Date for Comment: 10-3-07

Summary: These changes represent an attempt to consolidate, simplify and update the old rules. They were reformatted for ease of reading and plain language. There are no new requirements. The requirement to inspect and maintain extinguishers will change to make following the manufacturers' instructions the primary emphasis on newer extinguishers. The old requirements remain for older extinguishers. These changes conform to rules about extinguisher maintenance and inspection, enforced by the Oregon Office of State Fire Marshall.

This action adopts a new rule, OAR 437-002-0187 Portable Fire Extinguishers, and will repeal the existing fire extinguisher rule OAR 437-002-1910.157. OAR 437-002-1910.66 Powered Platforms, and OAR 437-002-1910.109 Explosives and Blasting Agents, reference the 1910.157 standard. A note will be included at each of these locations to refer the reader to the new fire extinguisher standard OAR 437-002-0187.

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

Rules Coordinator: Sue C. Joye

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

Telephone: (503) 947-7449

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

Rule Caption: Proposed rules affecting workers' compensation insurance, claims processing, medical treatment, and return-to-work assistance.

Date:	Time:	Location:
9-24-07	2 p.m.	Room 260 (2nd Floor) Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS ch. 656, as amended by enrolled: SB 83 — OL 2007, ch. 70; SB 147 — OL 2007, ch. 86; SB 253 — OL 2007, ch. 491; SB 504 — OL 2007, ch. 505; SB 563 — OL 2007, ch. 423; SB 762 — OL 2007, ch. 518; HB 2218 — OL 270; HB 2756 — OL 2007, ch. 252; HB 2783 — OL 2007, ch. 656; HB 2943 — OL 2007, ch. 300

Proposed Adoptions: 436-105-0511, 436-105-0512, 436-160-0400, 436-160-0410, 436-160-0420, 436-160-0430

Proposed Amendments: Rules in 436-040, 436-105, 436-110, 436-120; 436-009-0005, 436-009-0010, 436-009-0020, 436-009-0030, 436-009-0040, 436-010-0005, 436-010-0210, 436-010-0220, 436-010-0230, 436-010-0240, 436-010-0265, 436-010-0280, 436-015-0005, 436-015-0030, 436-015-0040, 436-015-0120, 436-030-0007, 436-030-0020, 436-030-0035, 436-030-0115, 436-030-0135, 436-030-0145, 436-030-0155, 436-030-0165, 436-030-0175, 436-030-0185, 436-035-0005, 436-035-0110, 436-035-0350, 436-035-0390, 436-035-0420, 436-035-0500, 436-045-0008, 436-045-0030, 436-050-0003, 436-050-0005, 436-050-0100, 436-050-0175, 436-050-0200, 436-050-0400, 436-050-0410, 436-050-0420, 436-050-0440, 436-050-0450, 436-050-0455, 436-050-0460, 436-050-0470, 436-050-0480, 436-060-0008, 436-060-0010, 436-060-0015, 436-060-0018, 436-060-0055, 436-060-0060, 436-060-0140, 436-060-0147, 436-060-0150, 436-160-0001, 436-160-0002, 436-160-0003, 436-160-0004, 436-160-0005, 436-160-0006, 436-160-0010, 436-160-0020, 436-160-0030, 436-160-0040, 436-160-0050, 436-160-0060, 436-160-0070, 436-160-0080, 436-160-0090

Proposed Repeals: 436-030-0440, 436-030-0450, 436-030-0460, 436-030-0550, 436-030-0570, 436-110-0326, 436-110-0327, 436-110-0380, 436-120-0730

Last Date for Comment: 9-27-07

Summary: Amendments to implement changes in the Workers' Compensation Law, including:

- Replacing the term "Handicapped Workers" with "Workers with Disabilities" (SB 83);
 - Updating name of Board of Medical Examiners for the State of Oregon to "Oregon Medical Board" (SB 147);
 - Including "administrative law judge" as a person who may approve or disapprove a claims disposition agreement (SB 253);
 - Describing restrictions affecting emergency room physicians' rights to be attending physicians and authorize temporary disability benefits (SB 504);
 - Deleting requirement that managed care organizations send to the director copies of all new or amended treatment standards, protocols, and guidelines for the director's review and approval; deleting related definitions (SB 563);
 - Explaining how DCBS will publish the maximum reimbursable amount for medical services for non-disabling claims (SB 762);
 - Amending penalty provisions affecting managed care organizations; deleting procedures for temporary rule promulgation to address disability in individual claims (when medical conditions are not addressed by current standards), and addressing such conditions in the director's order on reconsideration, and providing that penalties will not be assessed if an increase in compensation results from such an order; describing how insurers must process requests for a lump sum payments of permanent partial disability awards (HB 2218);
 - Describing the authority and limitations for several types of providers - chiropractors, naturopaths, podiatrists, and physician assistants - when acting as attending physicians (HB 2756);
 - Referring to ORS 656.427 regarding time frames for termination of guaranty contracts; defining "premium" (HB 2783);
 - Adopting standards of professional conduct for health care providers who perform independent medical examinations, which apply if the provider's professional regulatory board has not adopted standards for performing such examinations (HB 2943);
- General amendments to OAR chapter 436, including:**
- Using plain language to add clarity to a number of rules;
 - Shortening some rules by removing unnecessary descriptions of DCBS procedures;

Amendments to OAR 436, 009, "Oregon Medical Fee and Payment Rules" and OAR 436-160, "Electronic Data Interchange" (EDI), to improve the quality of medical billing data for use by DCBS and its customers, including:

- Requiring hospitals and other health care providers to include sufficient data on their billings so insurers and DCBS can identify the providers;
- Requiring insurers to report medical billing data to DCBS using standards for electronic data interchange adopted by the International Association of Industrial Accident Boards and Commissions;
- Listing the data elements reportable to DCBS; testing procedures for EDI; phase-in dates for EDI and when insurers and self-insured employers are subject; procedures for requesting deferral of EDI reporting;

Amendment to OAR 436-010, "Medical Services," to remove obsolete medical utilization guideline:

- Regarding frequency of treatment in OAR 436-010-0230;

Amendments to OAR 436-030, "Claim Closure and Reconsideration," to eliminate conflicts between statute and rules, streamline processing, delete obsolete rules, and reduce litigation, including:

- Restricting reconsideration of claim closure to issues raised by the parties plus requirements under ORS 656.268(1);
- Requiring insurers to submit documents related to reconsideration of claim closure in chronological order;

NOTICES OF PROPOSED RULEMAKING

- Removing the limitation on attorney fees from OAR 436-030-0175(4);

- Deleting obsolete rules OAR 436-030-0440, 0450; 0460, 0550, and 0570; the relevant subject matter from these rules has been addressed in other rules in OAR 436-030 and 436-035 (since approximately 1988), but the rules have remained in the Oregon Administrative Rules published by the Secretary of State;

Amendments to OAR 436-035, “Disability Rating Standards,” to clarify or correct certain provisions, and to provide for rating disability for a medical condition not currently addressed by the standards, including:

- Clarifying the definition of “direct medical sequela”;
- Correcting the description of impairment involving angulation or malalignment of the humerus;
- Clarifying how to rate impairment for surgery involving one or more discs or vertebrae;
- Eliminating provision that if a value of impairment is determined for damage to the brain, no additional value for speech or psychiatric impairment is allowed;
- Provide standards for rating impairment for vaginal prolapse;

Amendments to OAR 436-050, “Employer/Insurer Coverage Responsibility,” to clarify certain provisions and ensure appropriate oversight of worker leasing company licensing and practices, including:

- Clarifying time frames and process for cancellation of self-insurance;
- Revising regulations affecting worker leasing companies, including:
 - Relevant definitions;
 - The application and license renewal process;
 - Reporting and record-keeping;
 - Grounds for disqualification, suspension of license, and revocation of license by the director;
 - Appeal rights for persons refused approval or renewal of a worker leasing license;
 - Reapplication following disqualification for, or revocation of, license;
 - Continuation of a disqualification, suspension, or revocation of a worker leasing license applicable to any new worker leasing company created through the sale, transfer, or conveyance of ownership or of the worker leasing company’s assets to another person or controlling person;
 - Penalties under ORS 656.990;

Amendments to OAR 436-060, “Claims Administration,” to eliminate inconsistencies in DCBS rules and clarify or streamline certain provisions, including:

- Revising time frame for employers’ first aid record-keeping (to be consistent with Oregon OSHA requirements);
- Reducing the documentation a worker must submit when appealing an insurer’s refusal to reclassify a claim;
- Clarifying conditions under which the insurer must notify health care providers when a workers’ compensation claim is denied or partially denied;

Amendments to OAR 436-105, “Employer-at-Injury Program” (EAIP), to promote increased use of the EAIP and therefore earlier return to work of injured workers with their employers at injury, by streamlining program administration, setting an appropriate fee payable to insurers for administration of the program, and expanding some incentives, including:

- Providing that a medical release remains in effect until another medical release is issued by the worker’s medical service provider;
- Providing that a worker is eligible for EAIP services while the claim is “deferred” (prior to acceptance or denial);
- Providing insurers greater discretion to determine appropriate EAIP worksite modifications and EAIP purchases;
- Providing insurers greater discretion to determine what is appropriate training; eliminating the requirement that EAIP purchases for

training are limited to “accredited” or “licensed” training or courses;

- Increasing maximum reimbursable amount for EAIP purchases for tools and equipment;
- Allowing insurers to submit more than one reimbursement request per EAIP;

- Stating the administrative fee payable to the insurer for its administration of EAIP services (formerly not prescribed by rule);

Amendments to OAR 436-110, “Preferred Worker Program” (PWP) to promote increased use of the PWP and therefore facilitate the return to work of injured workers and improve return-to-work outcomes (wages, tenure, etc.), by streamlining program administration, creating new PWP incentives, and expanding some existing incentives, including:

- Redefining and simplifying “date of hire” and “reimbursable wages”;
- Shortening and simplifying the wording that must appear on notices to workers about potential PWP benefits;
- Issuing PWP identification cards with no expiration date - workers could offer the initial and any subsequent employers three full years of premium exemption and claim cost reimbursement;
- Eliminating the requirement that a modification of regular work be “substantial” in order for a worker to be eligible for PWP benefits other than Worksite Modification;
- Removing the restriction that Wage Subsidies may not be combined with subsidies from other sources, with the exception of subsidies under OAR 436-120;
- Revising the name of “Obtained Employment Purchases” to “Employment Purchases”;
- Allowing Employment Purchases while a worker is receiving vocational assistance under OAR 436-120;
- Allowing replacement of Employment Purchases;
- Increasing the maximum expenditure for an Employment Purchase for tools and equipment;
- Providing Employment Purchases needed to create a new worksite;
- Creating a miscellaneous category of Employment Purchase that may be used to help a worker find, accept, or retain employment;
- Allowing a second use of Wage Subsidy and a second use of each category of Employment Purchase for a different job with the same employer (formerly two wage subsidies could not be used with the same employer);
- Eliminating forms currently required for Worksite Modifications costing \$2,500 or less;
- Eliminating the general requirement for competitive bids for Worksite Modification;

Amendments to OAR 436-120, “Vocational Assistance to Injured Workers,” to improve sufficiency of certain notices, clarify time frames for submitting information to DCBS, streamline return-to-work plan development process, clarify or define certain provisions, and delete obsolete provisions, including:

- Describing how the Workers’ Compensation Division will determine the timeliness of any document that must be sent to the division in vocational matters;
- Requiring that notices of eligibility for vocational assistance, training, or direct employment services explain the rights of the worker to request a return-to-work plan conference;
- Requiring that notice must be in writing when an insurer notifies a worker that an eligibility determination is postponed while awaiting information about permanent restrictions;
- Requiring that if an insurer ends a worker’s eligibility because lack of suitable employment is not due to the limitations caused by the injury, the insurer must have obtained new information that did not exist or that the insurer could not have discovered with reasonable effort at the time the insurer determined eligibility;
- Including among the reasons a worker would be ineligible for vocational assistance or for which eligibility would end, that the

NOTICES OF PROPOSED RULEMAKING

worker is unavailable for vocational assistance due to short-term incarceration;

- Eliminating all time frames related to return-to-work plan development except that a plan must be approved within 45 days (direct employment) or 90 days (training) under OAR 436-120-0500(1) & (2);

- Updating the vocational fee schedule (consistent with changes in state average weekly wage and Bulletin 124);

- Eliminating the requirement that insurers request administrative approval for vocational services when the insurer is entitled to claims cost reimbursement under OAR 436-110;

- Repealing the rule: "Reimbursement of Vocational Assistance Costs for Pre-1986 Injuries"; and

- Defining "show-cause hearing" for the purposes of OAR 436-120-0915(3).

Address questions to: Fred Bruyns, Rules Coordinator, phone 503-947-7717, fax 503-947-7581; e-mail 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#proprules> or from WCD Publications, 503-947-7627 or fax 503-947-7630

Rules Coordinator: Fred Bruyns

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

Telephone: (503) 947-7717

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Department of Corrections Chapter 291

Rule Caption: Mail Services and Electronic Messaging Services for Inmates Incarcerated in ODOC Facilities.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Proposed Adoptions: 291-131-0005 – 291-131-0050

Last Date for Comment: 9-28-07

Summary: These rule amendments are necessary to implement a change in department policy to permit eligible inmates confined in a limited number of department correctional facilities to send, receive and possess electronic messages as part of a pilot demonstration project.

Other amendments are necessary to clarify authorized receipt of catalogs, brochures, and similar material; further define unauthorized attachments and enclosures; and incorporate housekeeping changes.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

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Rule Caption: Searches of Persons, Property, and Areas Within and on the Grounds of DOC Correctional Institutions.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075

Proposed Adoptions: 291-041-0017

Proposed Amendments: 291-041-0005 – 291-041-0016, 291-041-0020 – 291-041-0035

Proposed Repeals: 291-041-0040

Last Date for Comment: 10-10-07

Summary: Modifications of these rules are necessary to clarify and update procedures for conducting searches in department correctional institutions, including searches of inmate hair, religious activity areas, religious and spiritual items, and inmate legal storage boxes.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

Department of Fish and Wildlife Chapter 635

Rule Caption: Establish 2008 Seasons and Regulations for Big Game Mammals.

Date:	Time:	Location:
10-12-07	8 a.m.	3406 Cherry Ave. N Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162

Proposed Amendments: Rules in 635-008, 010, 043, 045, 060, 065, 066, 067, 068, 069, 070, 071, 072, 073, 075, 080

Last Date for Comment: 10-12-07

Summary: Establish 2008 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including general hunting and controlled hunt regulations. Specific rule changes include: changes to the cougar quotas; set 2008 spring bear controlled tag numbers; and qualifications for resident licenses and tags.

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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Rule Caption: Adopts rules for agents to, under Department's control, pursue bear and cougar with dogs.

Date:	Time:	Location:
10-12-07	8 a.m.	3406 Cherry Ave. N Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 498.164

Stats. Implemented: HB 2971 (Chapter 143, OL 2007)

Proposed Adoptions: Rules in 635-079

Last Date for Comment: 10-12-07

Summary: These rules will enable the department to appoint agents with special skills to assist the department in implementing wildlife management plans and activities including actions relating to bear and cougar.

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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Rule Caption: Amendments to the Summer Lake & White River Wildlife Area management plans.

Date:	Time:	Location:
10-12-07	8 a.m.	3406 Cherry Ave. N Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.992

Proposed Amendments: Rules in 635-008

Last Date for Comment: 10-12-07

Summary: Amendments to Oregon Administrative Rules for the Summer Lake & the White River Wildlife Area Management Plans. Amendments will guide management activities for the next 10 years.

Rules Coordinator: Casaria Tuttle

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

Telephone: (503) 947-6033

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Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Establishment of process for restricting an individual's access to Department premises, employees, and visitors.

NOTICES OF PROPOSED RULEMAKING

Date: 9-25-07
Time: 10–11 a.m.
Location: Human Services Bldg.,
Room 137A
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Proposed Adoptions: 407-012-0005, 407-012-0010, 407-012-0015, 407-012-0020, 407-012-0025

Last Date for Comment: 9-28-07, 5 p.m.

Summary: Defines prohibited conduct; establishes process for restricting an individual's access to Department employees, visitors and premises; defines review process.

Rules Coordinator: Jennifer Bittel

Address: 500 Summer St. NE, E-03, Salem, OR 97301

Telephone: (503) 947-5250

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**Department of Human Services,
Children, Adults and Families Division:
Child Welfare Programs
Chapter 413**

Rule Caption: Changing OARs affecting Child Welfare programs.

Date: 9-25-07
Time: 8:30 a.m.
Location: Rm. 254
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 192.420, 192.430, 192.440, 409.010, 418.005, 419B.035

Proposed Amendments: 413-350-0000, 413-350-0010, 413-350-0020, 413-350-0030, 413-350-0040, 413-350-0050, 413-350-0060, 413-350-0070, 413-350-0080, 413-350-0090

Last Date for Comment: 9-25-07

Summary: OAR 413-350-0000, 413-350-0010, 413-350-0020, 413-350-0030, 413-350-0040, 413-350-0050, 413-350-0060, 413-350-0070, 413-350-0080, and 413-350-0090 are being amended make these rules consistent with Department-wide rules (OAR 407-003-0000 and 407-003-0010), clarify the rules, update program names and statutory references, and remove redundant language.

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, Children, Adults and Families Division: Child Welfare Programs, 550 Summer St. NE, E-48, Salem, OR 97301

Telephone: (503) 945-6067

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**Department of Human Services,
Division of Medical Assistance Programs
Chapter 410**

Rule Caption: Federal requirement for tamper resistant prescription pads.

Date: 9-17-07
Time: 10:30 a.m.–12 p.m.
Location: HRB 137 B
Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0145, 410-121-0147

Last Date for Comment: 9-24-07, 5 p.m.

Summary: The **Pharmaceutical Services Program** administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP will implement federal rules regarding the use of tamper resistant prescription pads for written, non-electronic prescriptions. Rule 410-125-0145 will be amended to specify the new federal requirement for tamper

resistant prescription pads for outpatient medications. Rule 410-121-0147 will be amended to eliminate reimbursement for written prescriptions that do not meet the federal requirements regarding use of tamper resistant prescription pads.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

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

Rule Caption: State Plan Personal Care Services.

Date: 9-17-07
Time: 2 p.m.
Location: Human Services Bldg.
500 Summer St. NE
Rm. 137AB
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.010, 410.020, 410.070, 410.608, 410.710, 411.116, 411.590, 411.675

Stats. Implemented: ORS 409.010, 410.020, 410.070, 410.608, 410.710, 411.116, 411.590, 411.675

Proposed Amendments: Rules in 411-034

Last Date for Comment: 9-21-07, 5 p.m.

Summary: The Department of Human Services, Seniors and People with Disabilities Division is proposing to amend the State Plan Personal Care Services rules in chapter 411, division 034 to clarify the scope of services, eligibility, payment limitations, employment relationship and the responsibilities of eligible individuals, qualified providers (including Personal Care Attendants), Case Managers and Contract Registered Nurses.

Rules Coordinator: Christina Hartman

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

Telephone: (503) 945-6398

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**Department of Justice
Chapter 137**

Rule Caption: Amends Attorney General's Model Rules on Contested Case Hearings, Including Changes Needed to Implement 2007 Legislation.

Date: 9-25-07
Time: 1 p.m.
Location: 158 12th Street NE
Salem, OR 97301

Hearing Officer: Kyle Martin

Stat. Auth.: ORS 183.341, 183.502

Stats. Implemented: ORS 9.320, 183.341, 183.413, 183.415, 183.470, 183.502, OL 1999, ch. 849, HB 2423 (2007)

Proposed Amendments: 137-003-0001, 137-003-0002, 137-003-0070, 137-003-0075, 137-003-0501, 137-003-0505, 137-003-0510, 137-003-0520, 137-003-0525, 137-003-0595, 137-003-0630, 137-003-0665, 137-003-0670, 137-003-0672

Last Date for Comment: 9-25-07

Summary: The proposed rule changes relate to OAR chapter 137, division 003, which contains the Attorney General's Model Rules that relate to contested case hearings. Agencies that do not use the Office of Administrative Hearings (OAH) may adopt these Model Rules without formal rulemaking, but are not required to do so. Hearings for agencies that use the Office of Administrative Hearings are generally governed by OAR 137-003-0501 through 137-003-0700. The proposed changes update the Model Rules to respond to changes in the contested case notice provisions made by the 2007 Legislative Assembly. The proposed changes give agencies the authority to have rules setting out the procedure to assess the cost(s) of an action or proceeding against a party and define "good cause" for purposes of OAR 137-003-0501 to 137-003-0700. The proposed changes add the OAH as an entity that may be notified of a possible threat to anyone

NOTICES OF PROPOSED RULEMAKING

involved in the hearing and add authority for the OAH to take measures to ensure the safety and security of the participants of a hearing. The proposed changes amend the timelines for filing and serving motions before the date of a contested case hearing, and require the moving party and agency to confer before filing a motion unless to do so would present a danger or be futile. Motions would be required to recite attempts to confer or explain why no attempt was made. Other changes are made to clarify existing rules.

NOTE: The proposed rules also expand the service requirements for final orders to require that all final orders be served on a represented party and the party's attorney. HB 2423 (2007) mandates such service of final orders in cases resolved by informal disposition. The proposed rules would require service on both the party and the party's attorney, if any, of all final orders that resolve contested cases.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Rule Caption: Amends Attorney General's Model Rules on Rulemaking, Including Changes Needed to Implement 2007 Legislation.

Date:	Time:	Location:
9-25-07	1 p.m.	158 12th Street NE Salem, OR 97301

Hearing Officer: Kyle Martin

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.333, 183.335, 183.341, 183.355, 183.540, HB 2121 (2007)

Proposed Amendments: 137-001-0011, 137-001-0018, 137-001-0030, 137-001-0080, 137-001-0100

Last Date for Comment: 9-25-07

Summary: The proposed rule changes relate to OAR chapter 137, division 001, which contains the Attorney General's Model Rules that relate to rulemaking. Agencies may adopt these Model Rules without formal rulemaking, but are not required to do so. The changes update the rules to respond to changes in the notice provisions in ORS 183.335(8) made by the 2007 Legislative Assembly. The changes specify how an agency can provide notice to persons who have asked to be kept apprised of the agency's rulemaking activities. In addition, the changes eliminate the requirement to summarize the notice at the start of a rulemaking hearing unless a participant asks for a summary; replace the requirement to send copies of temporary rules less than ten pages long with a requirement to summarize temporary rules and explain where to obtain a copy; and make edits in wording.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Rule Caption: Amends Model Rule Relating to Collaborative DR Provider Roster and Simplified Mediator Procurement Process.

Date:	Time:	Location:
9-25-07	1 p.m.	158 12th Street NE Salem, OR 97301

Hearing Officer: Kyle Martin

Stat. Auth.: ORS 183.341, 183.502

Stats. Implemented: ORS 183.502, OL 1997, ch. 670, OL 2005, ch. 334

Proposed Amendments: 137-005-0040

Last Date for Comment: 9-25-07

Summary: The rule change amends the Attorney General's Model Rule relating to the selection and procurement of dispute resolution providers. The change allows a roster of collaborative dispute resolution providers and a simplified mediator and facilitator procurement process developed by the Department of Justice to be used by the agency when selecting all collaborative dispute resolution

providers, whether by consensus or otherwise. Currently, agencies may use the simplified procurement process only when selecting a provider by consensus.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Department of Public Safety Standards and Training Chapter 259

Rule Caption: Amend Moral Fitness, Read/Write, Telecommunicator Employment Standard, Maintenance Training, Fees, Student Dismissal Rules.

Stat. Auth.: ORS 181.640, 703.230

Stats. Implemented: ORS 181.640, 703.230

Proposed Amendments: 259-008-0010, 259-008-0011, 259-008-0090, 259-025-0000

Last Date for Comment: 9-26-07, 5 p.m.

Summary: Amend language relating to moral fitness to clarify that background investigations are to be conducted by the employing agency on each law enforcement officer being considered for employment;

Amend administrative rule relating to 12th grade reading/writing test to allow waiver provision for individuals possessing at least a four-year academic degree;

Amend rules relating to the minimum standards for employment of Telecommunicators to provide for a field test for applicants who may not be able to satisfactorily meet the color vision standard;

Amend current rules to identify when individuals or agencies must report training on a Form F-6 or Form F-15;

Amend rules relating to fees charged for copying and printing materials to eliminate references to former tenancy.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Define Alarm Monitor and amend rules relating to private security services providers.

Stat. Auth.: ORS 181.870, 181.878, 181.880, 181.883

Stats. Implemented: ORS 181.870, 181.873, 181.875, 181.878, 181.880, 181.883

Proposed Amendments: 259-060-0010, 259-060-0090, 259-060-0150, 259-060-0450

Last Date for Comment: 9-26-07, 5 p.m.

Summary: Defines "Alarm Monitor" to mean a private security professional who remotely detects and reports conditions listed in ORS 181.870(8) to law enforcement agencies in Oregon.

Amends the private security providers training rules related to challenge of classroom instruction;

Amends the process for adding licenses or certificates to include alarm monitors; and

Amends the rules relating to compliance to include private security professionals.

Rules Coordinator: Bonnie Salle

Address: 4190 Aumsville Hwy SE Salem OR 97317

Telephone: (503) 378-2431

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Rule Caption: Establish Process to Administer Governor's Law Enforcement Medal of Honor.

Stat. Auth.: ORS 176.260, 181.640

Stats. Implemented: ORS 176.260, 181.640

Proposed Amendments: 259-008-0100

Last Date for Comment: 9-26-07, 5 p.m.

Summary: Establishes eligibility criteria and process for Law Enforcement Medal of Honor Commission nominations and awards.

Rules Coordinator: Bonnie Salle

NOTICES OF PROPOSED RULEMAKING

Address: 4190 Aumsville Hwy SE Salem, OR 97317
Telephone: (503) 378-2431

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Department of State Lands
Chapter 141

Rule Caption: Mitigation Banking Prospectus — Public Notice Process.

Date: 9-14-07 **Time:** 1–2 p.m. **Location:** 775 Summer St. NE
Salem, OR 97301-1279

Hearing Officer: Eric Metz

Stat. Auth.: ORS 196.825, 196.665

Stats. Implemented: ORS 196.600–196.692, 196.800–196.990

Proposed Amendments: 141-085-0421

Last Date for Comment: 9-22-07

Summary: The agency is changing the publication requirements for noticing its intent to create a mitigation bank by posting notice of the prospectus on the official agency Web site. The agency has had a temporary rule in place since March 20, 2007. Prior to that date, the agency was required to publish the notice no less than three (3) successive weeks in both a statewide and local newspaper.

Rules Coordinator: Elizabeth Bott

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5239

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

Rule Caption: Procedures and Requirements for the Release or Assignment of Ownership Interest in a Vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.094

Stats. Implemented: ORS 803.015, 803.094

Proposed Adoptions: 735-020-0075

Last Date for Comment: 9-21-07

Summary: As proposed, OAR 735-020-0075 describes requirements for the transfer, release or assignment of ownership interest in a vehicle. This includes the duties and responsibilities of persons who transfer interest in a vehicle (typically, but not always the seller) and those who receive interest (typically, but not always the buyer). The rule also explains how interest may be transferred by an operation of law, for example, when interest is transferred by court order, upon death, divorce, repossession, lien foreclosure, etc. Finally, the rule defines terms, specifies the documents required to release or assign interest and establishes timelines to submit relevant documents and information to DMV.

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

Rules Coordinator: Lauri Salsbury

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

.....
Rule Caption: Amends DMV Trip Permit Rule to add Term “Loaded Weight” and Requirements for Certain Commercial Vehicles.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.600, 803.625, 803.635, 803.640, 803.655

Other Auth.: Chapter 50, OL 2007

Stats. Implemented: ORS 801.420, 803.430, 803.600, 803.625, 803.635, 803.640, 803.655, 806.080, 810.490, Chapter 50, OL 2007

Proposed Amendments: 735-034-0050

Last Date for Comment: 9-21-07

Summary: The proposed amendment of OAR 735-034-0050 (Trip Permits) adds the term “loaded weight” to the list of vehicles that are registered in Oregon by weight and subject to registration weight trip permit requirements. This brings the rule into compliance with the statutory changes made by Chapter 50, Oregon Laws 2007. New lan-

guage describes when a registration trip permit is required for a vehicle registered in another jurisdiction, but operated in multiple jurisdictions, including Oregon. Additional changes are made for purposes of clarity.

DMV filed a temporary rule which became effective May 24, 2007, because there was not sufficient time to complete the permanent rulemaking process to coincide with effective date of Chapter 50, Oregon Laws 2007. DMV now proposes to adopt a permanent amendment of OAR 735-034-0050.

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

Rules Coordinator: Lauri Salsbury

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

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Department of Transportation,
Highway Division
Chapter 734

Rule Caption: Fee for issuance of Sno-Park Parking Permits.

Stat. Auth.: ORS 184.616, 184.619, 811.595, 811.600

Stats. Implemented: ORS 811.600

Proposed Amendments: 734-020-0070

Last Date for Comment: 9-21-07

Summary: In order to sustain the current level of service for snow removal in Sno-Parks and provide service to the recreation community, an increase in the annual permit fee was recommended by the Winter Recreation Advisory Committee. The committee was established in ORS 802.350 to advise the Department on matters relating to the Sno-Park program. The proposed fee increase was included as a program option package approved by the 2007 Legislature as part of Department of Transportation’s budget.

Driver and Motor Vehicle Services Division (DMV) of the Department of Transportation has a program for the issuance of Sno-Park permits established in OAR 735-080-0000. As a result of Oregon Laws 1997, Chapter 583, OAR 735-080-000 was amended to remove the specified handling fee allowed to be charged by retail sales outlets for the sale of Sno-Park permits. Since the ability to charge an additional handling fee under OAR 735-080-0000 is referenced in OAR 734-020-0070, the latter must be amended.

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

Rules Coordinator: Lauri Salsbury

Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

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Rule Caption: Increase maximum weight limit for motor vehicles using idle reduction systems.

Stat. Auth.: ORS 184.616, 184.619, 818.220

Other Auth.: Ch. 92, OL 2007 (SB 222)

Stats. Implemented: ORS 818.200, 818.220

Proposed Amendments: 734-074-0008, 734-074-0020, 734-082-0005, 734-082-0015, 734-082-0016

Last Date for Comment: 9-21-07

Summary: The idling of motor vehicles while parked has long been identified as a wasteful use of scarce energy resources and an avoidable source of air pollution. Technology has been developed to reduce excessive truck idling by providing ways to deliver heat, air conditioning, engine warming, refrigeration or electricity to components of the vehicle by means other than operating the drive engine. These technologies include advanced truck stop electrification systems to which vehicles may connect and auxiliary power units (APU) carried on motor vehicles to provide a more efficient, less polluting source of power than the drive engine. MCTD’s proposed rule amendments increase the maximum weight and axle

NOTICES OF PROPOSED RULEMAKING

weight allowance for motor vehicles by the actual weight of idle reduction systems or 400 pounds, whichever is less.

The rule changes also update terms and definitions relating to the legislative amendments as well as changes in federal law and rule.

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

Rules Coordinator: Lauri Salsbury

Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

Department of Veterans' Affairs Chapter 274

Rule Caption: Veterans' Organizations and Expansion and Enhancement Appropriations.

Date:	Time:	Location:
10-3-07	10 a.m.	ODVA Auditorium Salem, OR

Hearing Officer: Herb Riley

Stat. Auth.: ORS 406.030–406.130, 406.310–406.462

Other Auth.: HB 2158 & 2161 of the 2007 Regular Legislative Session

Stats. Implemented: ORS 406.030–406.130, 406.310–406.462

Proposed Adoptions: 274-030-0602

Proposed Amendments: 274-030-0500, 274-030-0505, 274-030-0506, 274-030-0510, 274-030-0515, 274-030-0520, 274-030-0535, 274-030-0545, 274-030-0550, 274-030-0555, 274-030-0560, 274-030-0565, 274-030-0570, 274-030-0575, 274-030-0600, 274-030-0610, 274-030-0620, 274-030-0630, 274-030-0640

Proposed Repeals: 274-030-0500(T), 274-030-0505(T), 274-030-0506(T), 274-030-0510(T), 274-030-0520(T), 274-030-0545(T), 274-030-0550(T), 274-030-0555(T), 274-030-0560(T), 274-030-0565(T), 274-030-0570(T), 274-030-0575(T), 274-030-0600(T), 274-030-0602(T), 274-030-0610(T), 274-030-0620(T), 274-030-0630(T), 274-030-0640(T), 274-030-0605

Last Date for Comment: 9-21-07

Summary: The Temporary Rules filed on July 25, 2007, are repealed and superceded. In addition to making the Temporary Rules permanent, OAR 274-030-0515 and 274-030-0535 are being amended to include the amendments per House Bill (HB) 2158 and HB 2161 of the 2007 Regular Legislative Session which are effective on January 1, 2008.

HB 2158 amends the role of the Advisory Committee as it relates to the Director of Veterans' Affairs for purposes of consistency with ORS 406.030, 406.215, and 406.217.

HB 2161 of the 2007 Regular Legislative Session changes the phrase "war veteran" to "veteran".

Housekeeping corrections have also been made to ensure rule consistency and for clarification purposes.

Rules Coordinator: Herbert D. Riley

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

Telephone: (503) 373-2055

Rule Caption: Educational Aid Benefits for Veterans.

Stat. Auth.: ORS 408.010–418.090

Other Auth.: HB 2208, 74th OR Legislative Assembly, 2007 Regular Session

Stats. Implemented: ORS 408.010, 408.020, 408.060

Proposed Amendments: 274-010-0145

Last Date for Comment: 9-21-07

Summary: The passage of House Bill (HB) 2208 of the 74th Oregon Legislative Assembly — 2007 Regular Session amended ORS 408.020 to include part-time students to be eligible to apply for educational aid through the Oregon Department of Veterans' Affairs (ODVA) Educational Aid Program.

Rules Coordinator: Herbert D. Riley

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

Telephone: (503) 373-2055

Oregon Department of Education Chapter 581

Rule Caption: Establishes requirements for ESD local service plans.

Date:	Time:	Location:
9-26-07	1 p.m.	Rm. 251A, Public Services Bldg. 255 Capitol St. NE Salem OR

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 326.051, 334.005

Stats. Implemented: ORS 334.005, 334.175

Proposed Amendments: 581-024-0285

Last Date for Comment: 9-26-07, 5 p.m.

Summary: The proposed amendment to OAR 581-024 0285 will implement the requirement that education service districts develop and approve local service plans as part of their annual budget development and adoption process.

Rules Coordinator: Paula Merritt

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

Telephone: (503) 378-3600, ext. 2223

Rule Caption: Adoption of instructional materials list for Health Education and Physical Education.

Date:	Time:	Location:
9-26-07	1 p.m.	Rm 251A, Public Services Bldg. 255 Capitol St. NE Salem OR

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 337.050

Stats. Implemented: ORS 337.050

Proposed Amendments: 581-011-0071

Last Date for Comment: 9-26-07, 5 p.m.

Summary: Adoption of instructional materials as specified in ORS 337.050 is done through the administrative rule making process. The adoption of amendments to OAR 581-011-0071 will add to the reference list programs in Health and Physical Education in the following categories:

Category 1 — Health Education, Grades K–5/6

Category 2 — Health Education, Grades 6–8

Category 3 — Health Education, Grades 9–12

Category 4 — Physical Education, Grades 6–8

Category 5 — Physical Education, Grades 9–12

Rules Coordinator: Paula Merritt

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

Telephone: (503) 378-3600, ext. 2223

Rule Caption: Modifies rules on expanded options to reflect recent requirements of Senate Bill 23.

Date:	Time:	Location:
9-26-07	1 p.m.	Rm 251A, Public Services Bldg. 255 Capitol St. NE Salem OR

Hearing Officer: Randy Harnisch

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 340.005–340.090

Proposed Adoptions: 581-022-1371, 581-022-1372

Proposed Amendments: 581-022-1362, 581-022-1363, 581-022-1364, 581-022-1365, 581-022-1366, 581-022-1367, 581-022-1368, 581-022-1369, 581-022-1370

Last Date for Comment: 9-26-07, 5 p.m.

Summary: Senate Bill 23 was enacted during the 2007 Legislative Session, which modified the requirements for the Expanded Options programs that provide high school students with access to

NOTICES OF PROPOSED RULEMAKING

programs offered in community colleges and higher education institutions. The amendments and new rule proposed here would implement that legislative directive.

Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

Rule Caption: Deletes 7 student minimum and 90 day definition for long term care and treatment centers.

Date:	Time:	Location:
9-26-07	1 p.m.	Rm 251A, Public Services Bldg. 255 Capitol St. NE Salem OR

Hearing Officer: Randy Harnisch
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 343.961
Proposed Amendments: 581-015-2570
Last Date for Comment: 9-26-07, 5 p.m.

Summary: The proposed amendment to OAR 581-015-2570 would eliminate the requirement that long term care and treatment program serve at least seven students in order to be eligible to receive state funds. Further the amendment would delete the definition for "long term" to allow services to be provided to students placed for less than 90 days. The proposed revisions are based on advice received from agency legal counsel.

Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

Rule Caption: Prohibits use of school buses manufactured before April 1977 beginning August 1, 2008.

Date:	Time:	Location:
9-26-07	1 p.m.	Rm 251A, Public Services Bldg. 255 Capitol St. NE Salem OR

Hearing Officer: Randy Harnisch
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 327.013
Proposed Amendments: 581-053-0002
Last Date for Comment: 9-26-07, 5 p.m.

Summary: The proposed rule responds to the direction in House Bill 2456, which was enacted during the 2007 Legislative Session. The bill would prohibit school districts from using school buses that were manufactured prior to April 1, 1977. The prohibition would take effect August 1, 2008.

Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

Rule Caption: Updates construction standards for school buses.

Date:	Time:	Location:
9-26-07	1 p.m.	Rm 251A, Public Services Bldg. 255 Capitol St. NE Salem OR

Hearing Officer: Randy Harnisch
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 327.013
Proposed Amendments: 581-053-0512, 581-053-0517, 581-053-0527
Last Date for Comment: 9-26-07, 5 p.m.

Summary: The proposed amendments update school bus construction standards based on changes in national industry standards.

Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

Rule Caption: Allows students in youth care centers operated by public and private agencies to receive educational services.

Date:	Time:	Location:
9-26-07	1 p.m.	Rm 251A, Public Services Bldg. 255 Capitol St. NE Salem OR

Hearing Officer: Randy Harnisch
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 336.580
Proposed Amendments: 581-015-2595
Last Date for Comment: 9-26-07, 5 p.m.

Summary: Senate Bill 216 was enacted during the 2007 Legislative Session, which deleted language limiting application of the law to youth care centers operated by private agencies. The amended law would permit students to be served in youth care centers operated by public and private agencies.

Rules Coordinator: Paula Merritt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-3600, ext. 2223

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Allow alternate payees to take distribution from account before they are eligible to receive distribution.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 243.470
Stats. Implemented: ORS 243.401-243.507
Proposed Amendments: 459-050-0080, 459-050-0220
Last Date for Comment: 10-26-07

Summary: Aligns rules with new statutory provisions under House Bill 2286 that will allow an alternate payee to take a distribution from his/her account before the date the employee would be eligible to receive a distribution.

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

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

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

Rule Caption: Change timing and standards of ETOB review by the PERS Board.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 237.620
Proposed Amendments: 459-030-0011, 459-030-0025, 459-030-0030
Last Date for Comment: 10-26-07

Summary: The modifications to these rules change the timing of and the standard by which the PERS Board will review the non-PERS sponsored benefit plans of those police officer and firefighters employed by public employers to ensure that they are equal to or better than (ETOB) pension benefits offered by PERS. These changes eliminate the requirement that the Board schedule an ETOB review every two years and replaces it with a new method by which the study will be engaged by the Board. The rules are also being modified to reflect a new ETOB standard that sets the comparative bench-

NOTICES OF PROPOSED RULEMAKING

mark for the study to the PERS pension benefits that were in effect at the time the employee was hired.

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

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

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Clarifies standards for position qualification, membership, and creditable service in PERS Chapter 238 Program.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.015, 238.280, 238A.025, 243.800, 353.250

Proposed Amendments: 459-010-0003, 459-010-0014, 459-010-0035, 459-013-0110

Last Date for Comment: 10-26-07

Summary: 459-010-0003: Clarifies standards for determination of qualifying position and active membership. Outlines effect of employer designation of position as qualifying or non-qualifying.

459-010-0014: Clarifies standards for accrual of creditable service in the PERS Chapter 238 Program.

459-010-0035: Clarifies standards for six-month waiting period required to establish membership in the PERS Chapter 238 Program.

459-013-0110: Eliminates unnecessary text regarding controlled groups and benefit accounts; clarifies status of active member within five years of earliest retirement age.

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

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

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Addresses employer concerns about delayed invoicing for delinquent employee contributions.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.200, 238.705

Proposed Amendments: 459-009-0130

Last Date for Comment: 10-26-07

Summary: Modifications address employer concerns about delayed invoicing for delinquent employee contributions.

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

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

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Modification of rule to accommodate 2007 legislation creating/amending exceptions to work after retirement restrictions.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.078, 238.082, 238.088, 238.092, 238.095, 238.280, 238A.165, 243.105, 409.150

Proposed Amendments: 459-017-0060

Last Date for Comment: 10-26-07

Summary: The rule modifications expand the exceptions to the existing work after retirement restrictions for PERS Chapter 238 Program retired members to comply with 2007 legislation. The rule also adopts the current Social Security annual earnings limitations for the purpose of determining the applicability of certain work after retirement restrictions.

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

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

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Modifies rules to clarify qualifying position and membership, and to implement HB 2285.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas

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

Stats. Implemented: ORS 238, 238A, ch. 769, OL 2007

Proposed Amendments: 459-011-0050, 459-070-0001, 459-075-0010, 459-075-0150

Last Date for Comment: 10-26-07

Summary: 459-011-0050: Eliminates "Break in Service" provisions affecting restoration of forfeited service rights in PERS Chapter 238 Program.

459-070-0001: Clarifies standards for determination of qualifying position and active membership for OPSRP Pension Program. Outlines effect of employer designation of position as qualifying or non-qualifying. Eliminates provisions regarding "Break in Service."

459-075-0010: Eliminates provisions regarding "Break in Service." Clarifies standards for membership in the OPSRP Pension Program. 459-075-0150: Eliminates existing provisions regarding retirement credit accrual in the OPSRP Pension Program and implements retirement accrual method established by HB 2285.

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

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

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Changes statutory term "Notice of Contest" to "Notice of Dispute."

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

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Stats. Implemented: ORS 238.450
Proposed Amendments: 459-045-0030
Last Date for Comment: 10-26-07

Summary: Changes statutory term "Notice of Contest" to "Notice of Dispute."

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.oregon.gov/PERS>
Public comment may be mailed to the address below or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

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Rule Caption: IAP Account Installments Over Member's Life Expectancy — Implements House Bill 2679.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238.400
Proposed Amendments: 459-080-0250
Last Date for Comment: 10-26-07

Summary: In addition to the 5, 10, 15 or 20-year payout periods, this change implements the option in House Bill 2679 for members to receive their IAP account in distributions over a period that is equal to the anticipated life span of the member. This rule outlines how installment payments, including payments over a member's life expectancy, will be administered.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.oregon.gov/PERS>
Public comment may be mailed to the address below or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

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Rule Caption: Implements portion of House Bill 2619 regarding crediting earnings to loss of membership accounts.

Date:	Time:	Location:
10-23-07	2 p.m.	Boardroom, PERS Headquarters 11410 SW 68th Parkway Tigard, OR 97223

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650
Stats. Implemented: Ch. 776, OL 2007

Proposed Adoptions: 459-007-0160
Proposed Amendments: 459-007-0110, 459-007-0290
Last Date for Comment: 10-26-07

Summary: 459-007-0110: Minor edit to reference new OAR 459-007-0160.

459-007-0160: Establishes manner by which loss of membership accounts will be credited with earnings during subsequent periods of active membership.

459-007-0290: Minor edit to reference new OAR 459-007-0160.

Copies of the proposed rules are available to any person upon request. The rules are also available at <http://www.oregon.gov/PERS>. Public comment may be mailed to the address below or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

Oregon State Library Chapter 543

Rule Caption: Ready to Read Grant Program.

Date:	Time:	Location:
10-19-07	10–10:30 a.m.	Oregon State Library 250 Winter St. NE Salem, OR

Hearing Officer: Doug Henrichs
Stat. Auth.: ORS 357.015(2), 357.760
Other Auth.: HB 2116, ch. 191, (2007 Laws)
Stats. Implemented: ORS 357.750–357.780
Proposed Amendments: 543-040-0005 – 543-040-0040
Last Date for Comment: 10-19-07, 10:30 a.m.

Summary: This rule provides the framework for awarding grants to public libraries to establish, develop or improve library services to children. This amendment implements HB 2116, passed by the 2007 Legislative Assembly, which narrows the focus of authorized activities to early literacy services for children birth to five years of age and to the statewide summer reading program for children from birth to 14 years of age. It also provides a definition of "statewide summer reading program," as required by HB 2116.

Rules Coordinator: James B. Scheppke
Address: Oregon State Library, State Library Building
250 Winter St. NE, Salem, OR 97301
Telephone: (503) 378-4367

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Oregon State Lottery Chapter 177

Rule Caption: Replace the Video LotterySM compensation rates in OAR 177-040-0028 with the rates specified in OAR 177-040-0029.

Date:	Time:	Location:
9-17-07	10–11 a.m.	Oregon Lottery 500 Airport Road SE Salem, OR

Hearing Officer: Larry Trott
Stat. Auth.: ORS chapter 461
Other Auth.: Oregon Constitution, Article XV, § 4(4)
Stats. Implemented: ORS 461.310, 461.445
Proposed Amendments: 177-040-0028, 177-040-0029
Last Date for Comment: 9-21-07, 12 p.m.

Summary: The Oregon State Lottery has initiated permanent rulemaking to amend the above referenced administrative rules. On July 25, 2007, the Oregon Lottery Commission initiated the review process required by OAR 177-040-0029 and directed that permanent rulemaking take place to amend OAR 177-040-0029 to make the findings required by the rule and to amend OAR 177-040-0028 to replace the Video LotterySM retailer compensation rates contained in OAR 177-040-0028 with the rates specified in OAR 177-040-0029.

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

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Oregon Student Assistance Commission Chapter 575

Rule Caption: Amends current OAR 575-071 pursuant to SB 188 (2007 Session).

Date:	Time:	Location:
9-21-07	9:30 a.m.	Linfield College 900 Baker St. McMinnville, OR 97128-6894

Hearing Officer: Bridget Burns, OSAC Commission Chair
Stat. Auth.: ORS 442.470–442.520
Stats. Implemented: ORS 442 as amended by 2007 Legislature
Proposed Amendments: Rules in 575-071
Last Date for Comment: 9-21-07

NOTICES OF PROPOSED RULEMAKING

Summary: Adds dentists to Rural Health Services Loan Repayment Program pursuant to SB 188 (2007 Session).

Provides a possible award preference to practitioners who have agreed to practice in a community that has contributed funds to the Rural Health Services Fund.

Revises the period of time a prospective recipient has to fulfill the minimum loan repayment obligation in order that the recipient does not delay his or her service obligation to rural Oregon.

Rules Coordinator: Susanne D. Ney

Address: Oregon Student Assistance Commission, 1500 Valley River Dr., Suite 100, Eugene, OR 97401

Telephone: (541) 687-7394

Rule Caption: Establishment of the Access to Student Assistance Programs in Reach of Everyone (ASPIRE) Program.

Date:	Time:	Location:
9-21-07	9:30 a.m.	Linfield College 900 Baker St. McMinnville, OR 97128-6894

Hearing Officer: Bridget Burns

Stat. Auth.: ORS 348, HB 2729 (2007 Session)

Stats. Implemented: ORS 348, HB 2729 (2007 Session)

Proposed Adoptions: Rules in 575-076

Last Date for Comment: 9-21-07

Summary: HB 2729 enacted by the 2007 Legislative Assembly, established the Access to Student Assistance Programs in Reach of Everyone (ASPIRE) program within the Oregon Student Assistance Commission. The program shall provide information about financial aid and education and training options beyond high school to students in Oregon secondary schools. The goals of the programs are to:

- Provide mentoring and resources to help students access education and training beyond high school;
- Help high schools build a sustainable community of volunteer mentors; and
- Educate students and families about the scholarship application process and other options for paying for post-secondary education.

The Commission proposes a set of rules for the purpose of implementation and administration of the program.

Rules Coordinator: Susanne D. Ney

Address: Oregon Student Assistance Commission, 1500 Valley River Dr., Suite 100, Eugene, OR 97401

Telephone: (541) 687-7394

Rule Caption: Implementation of Shared Responsibility Model for determining awards in the Oregon Opportunity Grant program.

Date:	Time:	Location:
9-21-07	9:30 a.m.	Linfield College 900 Baker St. McMinnville, OR 97128-6894

Hearing Officer: Bridget Burns

Stat. Auth.: SB 334C, 2007 Legislative Assembly

Stats. Implemented: SB 334C, Legislative Assembly

Proposed Amendments: 575-001-0015, Rules in 575-030, 575-031

Last Date for Comment: 9-21-07

Summary: SB 334C, enacted by the 2007 Legislative Assembly, implements provisions of the Shared Responsibility Model for determining an eligible student's award amount in the Oregon Opportunity Grant program, starting with calculation of grant awards for the 2008-09 academic year. The bill provides that a student enrolled at an eligible institution in 2007-08 who continues to be enrolled at the same institution in 2008-09, 2009-10, and 2010-11 will receive the greater of awards calculated under current methodology or the new SRM methodology. SB 334C also directs the commission to establish a Shared Responsibility Steering Committee to advise the commission on implementation of changes to the Opportunity Grant program. Revisions to OAR 275-001-0015 and various sections of OAR

575-030 and 575-031 are necessary to implement provision of SB 334C.

Rules Coordinator: Susanne D. Ney

Address: Oregon Student Assistance Commission, 1500 Valley River Dr., Suite 100, Eugene, OR 97401

Telephone: (541) 687-7394

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking to Adopt Rules Related to Small Generator Facility Interconnection.

Date:	Time:	Location:
11-13-07	9 a.m.	Public Utility Commission Main Hearing Rm., 1st Floor 550 Capitol Street NE Salem, OR

Hearing Officer: Sarah Wallace

Stat. Auth.: ORS Ch. 183, 756, 757

Stats. Implemented: ORS 756.040, 756.060

Proposed Adoptions: 860-082-0005 – 860-082-0080

Last Date for Comment: 11-27-07, 5 p.m.

Summary: The proposed rules provide procedures and standards for connecting a small generator facility of up to 10 MW output, including net metering facilities, located on an interconnection customer's premises, to a regulated electric company's distribution system. The proposed rules are necessary to facilitate small generator interconnection by standardizing interconnection requirements and procedures and by ensuring the safety and reliability of the distribution system. The proposed rules will impact regulated electric companies and those residential, commercial and perhaps industrial customers of regulated electric companies who desire to connect a small generator facility of no more than 10 MW to the electrical distribution system and either operate in parallel to the grid or sell excess power to the electric company.

Rules Coordinator: Diane Davis

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

Telephone: (503) 378-4372

Rule Caption: In the Matter of a Rulemaking to Make Housekeeping Changes to OAR 860-027-0005.

Stat. Auth.: ORS ch. 183, 756, 757

Other Auth.: SB 600 (2005)

Stats. Implemented: ORS 756.105, 757.105

Proposed Amendments: 860-027-0005

Last Date for Comment: 9-24-07, 5 p.m.

Summary: This amendment makes housekeeping changes to OAR 860-027-0005 by eliminating the requirement that large telecommunications utilities file annual budgets of expenditures with the Public Utility Commission. ORS 759.100 requiring large telecommunications utilities to file annual budgets of expenditures was repealed by Senate Bill 600 during the 2005 legislative session.

Rules Coordinator: Diane Davis

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

Telephone: (503) 378-4372

Real Estate Agency Chapter 863

Rule Caption: Real estate license transfers, broker responsibility, broker termination, inactive licenses, renewals, examinations and license reactivation.

Date:	Time:	Location:
9-21-07	10 a.m.	Real Estate Agency Salem, OR

Hearing Officer: Laurie Skillman

Stat. Auth.: ORS 696.385, 183.335

Stats. Implemented: ORS 696.020, 696.022, 696.425

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 863-015-0064

Proposed Amendments: 863-015-0020, 863-015-0030, 863-015-0050, 863-015-0065

Last Date for Comment: 9-21-07, 5 p.m.

Summary: Implements changes in statute caused by HB 2096 (2005). Clarifies and streamlines: (1) the procedures for transferring a real estate license from a sending broker to a receiving broker; (2) the procedure for a sending broker to terminate the relationship with a real estate broker associated with the principal broker; (3) the responsibilities of the principal broker; (4) the procedures for reactivation of a license; and (5) conforms rules to new technology implemented by the agency.

Rules Coordinator: Laurie Skillman

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4170, ext. 237

ADMINISTRATIVE RULES

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: 2007–2009 biennial budget of the Board.

Adm. Order No.: BEELS 3-2007

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07

Notice Publication Date: 4-1-07

Rules Amended: 820-010-0325

Subject: Delete unnecessary demarcation of operating budget and examination budget.

Rules Coordinator: Mari Lopez—(503) 362-2666, ext. 26

820-010-0325

Budget

The amount of \$2,060,432 is established for the biennium beginning July 1, 2007, as the intended limit for payment of expenses from fees, moneys or other revenue, including Miscellaneous Receipts, collected or received by the Board.

Stat. Auth.: ORS 670.310, 672.155 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 2-2002, f. & cert. ef. 5-15-02; BEELS 4-2003, f. 5-14-03, cert. ef. 7-1-03; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 2-2005(Temp), f. & cert. ef. 6-9-05 thru 12-5-05; BEELS 4-2005, f. & cert. ef. 9-23-05; BEELS 1-2007(Temp), f. & cert. ef. 3-23-07 thru 6-30-07; Administrative correction, 7-15-07; BEELS 3-2007, f. & cert. ef. 8-15-07

Rule Caption: Clarifies requirements for Official Seals.

Adm. Order No.: BEELS 4-2007

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07

Notice Publication Date: 2-1-07

Rules Amended: 820-010-0620

Subject: Clarify the requirements for Official Seals; include the practice and designates a seal for photogrammetry.

Rules Coordinator: Mari Lopez—(503) 362-2666, ext. 26

820-010-0620

Official Seal

(1) Seals, as referenced by ORS 672.020(2) and 672.025(2), must contain the printed name of the registrant, the date of registration, the number of the registrant's certificate of registration, and the registrant's professional title. The registrant's printed name on the seal will be exactly the same as the name printed on registrant's certificate of registration.

(2) The size, design and content of the seal will be an exact replica, in style, of the examples shown in Exhibit 1 (Official Seals) for the profession or branch of the profession in which the registrant is licensed. (A tolerance of 1/4" is permitted as to the size of the seal). The expiration or renewal date may be made part of the seal. If the expiration or renewal date is not made part of the seal, it must be handwritten, in permanent ink, after the word "Expires" or "Renewals." Reduced or enlarged seals are not permitted on final documents. In addition to these requirements, registrants will use the following seals:

(a) Professional engineers holding a structural engineering certificate will use the seal with the designation "Structural" above the words "Registered Professional Engineer," as shown in Exhibit 1-b. Other registered professional engineers will use the seal shown in Exhibit 1-a;

(b) Registered professional traffic engineer, who may practice only traffic engineering (as indicated by the initials "PTE" after their license number) will use the seal shown in Exhibit 1-f;

(c) Registered professional land surveyors will use the seal shown in Exhibit 1-c;

(d) Registered professional photogrammetrists will use the seal shown in Exhibit 1-d;

(e) Registered water rights examiners will use the seal shown in Exhibit 1-e. [Exhibit 1 not included. See Ed. Note].

(3) The seal may be applied to a document by rubber stamp or by handwriting or it may be computer-generated onto the document.

(4) The registrant will sign through the middle of the seal or in the place on the seal as indicated for signature, in handwriting, and in permanent ink.

(5) Only individuals registered as professional engineers, professional traffic engineers, professional land surveyors, professional photogrammetrists, or certified water rights examiners may use a seal with a shape, form or wording similar to those shown in Exhibit 1. Using such a seal

without registration constitutes falsely representing that the person is authorized to practice the profession.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2006(Temp), f. & cert. ef. 12-5-06 thru 6-3-07; Administrative Correction, 6-16-07; BEELS 4-2007, f. & cert. ef. 8-15-07

Board of Medical Examiners

Chapter 847

Rule Caption: Establish timeframes for accreditation of facilities performing office-based surgery or procedures.

Adm. Order No.: BME 14-2007

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07

Notice Publication Date: 6-1-07

Rules Amended: 847-017-0010

Subject: Proposed rule adds language following office-based procedures to be performed while the office of facility is in the process of being accredited and establishes time frame within which office or facility must become accredited.

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-017-0010

Patient Safety

(1) Offices in which only minor procedures are performed do not require accreditation or the presence of ACLS certified providers.

(2) The facility in which the office-based surgeries or procedures are performed must be appropriately equipped and maintained to ensure patient safety through accreditation by an appropriate, Board recognized, national or state organization, i.e., the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Accreditation Association for Ambulatory Health Care (AAAHC), the American Association for Accreditation of Ambulatory Surgical Facilities (AAAASF), the American Osteopathic Association (AOA), the Institute for Medical Quality (IMQ) or the Oregon Medical Association (OMA). Effective August 1, 2007, for an office or facility in which office-based surgeries are already being performed, the office or facility must become accredited within two years, or by August 1, 2009. When licensees of the Board start performing office-based procedures in a new office or facility, the new office or facility must be accredited within one year of the start date of the office-based procedures being performed. During the period of time the facility is in the accreditation process, the facility will make changes to come into compliance with the Administrative Rules in this Division.

(3) The licensee must be able to demonstrate qualifications and competency for the procedures performed by becoming or being board certified and maintaining board certification by a member of the American Board of Medical Specialties (ABMS). Alternatively, the governing body of the office facility is responsible for a peer review process for privileging physicians based on nationally recognized credentialing standards.

(4) The licensee must insure that a practitioner administering deep sedation or anesthesia and/or monitoring the patient shall not play an integral role in performing the procedure.

(5) At least one physician who is currently certified in advanced resuscitative techniques appropriate for the patient age group (e.g., ACLS, PALS or APLS) must be present or immediately available with age-size-appropriate resuscitative equipment until the patient has met the criteria for discharge from the facility. In addition other medical personnel with direct patient contact must at a minimum be trained in Basic Life Support (BLS).

(6) The governing body of the facility is responsible for providing healthcare providers who have appropriate education and training for administration of moderate sedation/analgesia, deep sedation/analgesia or general anesthesia.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

Hist.: BME 23-2006, f. & cert. ef. 10-23-06; BME 14-2007, f. & cert. ef. 7-23-07

Rule Caption: Remove documents required for physician licensure to streamline application process.

Adm. Order No.: BME 15-2007

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07

ADMINISTRATIVE RULES

Notice Publication Date: 6-1-07

Rules Amended: 847-020-0150, 847-020-0160

Subject: The proposed rule amendments delete documents no longer required to be submitted for physician licensure in accordance with the Board's approval of streamlining the licensure application process. No requirements for qualifications or eligibility for licensure are being deleted.

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-020-0150

Documents and Forms to be Submitted for Licensure

The documents submitted must be no larger than 8 1/2" x by 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. The application form, photographs and the results of the Practitioner Request for Information Disclosure (Self-Query) from the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank must be originals, and all other documents must be legible copies. The following documents are required for an applicant who is a graduate of an approved school of medicine or a foreign medical school as indicated:

(1) Application Form: Completed formal application form provided by the Board. Each and every question must be answered with dates, showing month and year.

(2) Birth Certificate: A copy of birth certificate for proof of name and birth date.

(3) Medical school Diploma: A copy of a diploma showing graduation from an approved school of medicine or a foreign school of medicine. Foreign medical graduate must have graduated after attendance of at least four full terms of instruction of eight months each.

(4) Fifth Pathway Certificate: A copy of Fifth Pathway Certificate if such program has been completed.

(5) American Specialty Board Certificate: A copy of the certificate issued by the American Specialty Board in the applicant's specialty, if applicable.

(6) American Specialty Board Recertification Certificate: A copy of the certificate of recertification issued by the American Specialty Board in the applicant's specialty, if applicable.

(7) Photograph: A close-up, finished, original photograph (passport quality), no smaller than 2" x 2" and no larger than 2 1/2" x 3", front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application with the applicant's signature in ink and date taken on the photograph side.

(8) The results of the Practitioner Request for Information Disclosure (Self-Query) from the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank sent to the Board by the applicant.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 3-2006, f. & cert. ef. 2-8-06; BME 15-2007, f. & cert. ef. 7-23-07

847-020-0160

Letters and Official Grade Certifications to be Submitted for Licensure

The applicant, a graduate of an approved school of medicine or foreign medical graduate, must request official letters sent to the Board directly from:

(1) The Dean of the Medical/Osteopathic School: This letter is required in addition to the certification on the application form. A copy of the Dean's Letter of Recommendation which shall include a statement concerning the applicant's moral and ethical character and overall performance as a medical student.

(2) The Program Director, Chairman or other official of the Fifth Pathway Hospital, if such applies: A currently dated original letter (a copy if not acceptable), sent directly from the hospital in which such training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(3) The Director of Medical Education, Chairman or other official of the internship, residency and fellowship hospitals in U.S. and foreign countries sent directly from the hospitals in which the postgraduate training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(4) The Director or other official for practice and employment in hospitals, clinics, etc. in the U.S. and foreign countries: A currently dated original letter (a copy is not acceptable), sent directly from the hospital/clinic

which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. If the applicant has not practiced for more than two years, employment verifications will be required for the past ten (10) years. For physicians who have been or are in solo practice without hospital privileges at the time of solo practice, provide three reference letters from physicians in the local medical community who are familiar with the applicant's practice and who have known the applicant for more than six months.

(5) The Executive Secretary of all State Boards in the United States or Canada where the applicant has ever been licensed; regardless of status, i.e., current, lapsed, never practiced there: The currently dated original letter (a copy is not acceptable), sent directly from the boards, shall show license number, date issued, grades if applicable and status.

(6) Official Grade Certifications: If such applies, an official grade certification is required directly from the National Board of Medical/Osteopathic Examiners, the Medical Council of Canada or the Federation of State Medical Boards.

(7) The Federation of State Medical Boards: A Board Action Databank Inquiry form sent directly from the Federation of State Medical Boards to the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 8-2005, f. & cert. ef. 7-20-05; BME 15-2007, f. & cert. ef. 7-23-07

Rule Caption: Establish application requirements for out-of-state physicians applying for Emeritus status.

Adm. Order No.: BME 16-2007

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07

Notice Publication Date: 6-1-07

Rules Adopted: 847-023-0010, 847-023-0015

Subject: The proposed rule adoptions establish application requirements for out-of-state physicians applying for Emeritus status, deleting some licensure requirements from Division 020 — Rules for Licensure to Practice Medicine in Oregon, in order to streamline the application process for out-of-state physician applicants for Emeritus status.

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-023-0010

Documents and Forms to be Submitted for Licensure

The documents submitted must be no larger than 8 1/2" x by 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x 11", the copies must be reduced to the correct size with all wording and signatures clearly shown. The application form and photographs must be originals and all other documents must be legible copies. The following documents are required for a physician applying for an Oregon license, with emeritus registration:

(1) Application Form: Completed formal application form provided by the Board. Each and every question must be answered with dates, showing month and year. The application fee is waived for physicians applying for an Oregon license, with emeritus registration.

(2) Birth Certificate: A copy of birth certificate for proof of name and birth date.

(3) Medical school Diploma: A copy of a diploma showing graduation from an approved school of medicine or a foreign school of medicine. Foreign medical graduates must have graduated after meeting the attendance requirements specified in OAR 847-020-0130.

(4) Fifth Pathway Certificate: A copy of fifth Pathway Certificate if such program has been completed.

(5) American Specialty Board Certification or Recertification. A copy of the certification or recertification certificate issued by the American Board Specialty Board in the applicant's specialty, if applicable.

(6) Photograph: A close-up, finished, original photograph (passport quality), no smaller than 2" x 2" and no larger than 2 1/2" x 3", front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application with the applicant's signature in ink and date taken on the photograph side.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.120, 677.265

Hist.: BME 9-2007(Temp), f. & cert. ef. 2-6-07 thru 8-3-07; BME 16-2007, f. & cert. ef. 7-23-07

ADMINISTRATIVE RULES

847-023-0015

Letters and Official Grade Certifications to be Submitted for Licensure with Emeritus Registration

(1) The applicant for licensure with emeritus registration must either request official letters to be sent directly to the Board from the following sources or a certified copy from another state medical board where the applicant is licensed:

(a) The Dean of the Medical/Osteopathic School to complete the Verification of Medical Education form, which includes: degree issued, date of degree, dates of attendance, dates and reason of any leaves of absence or repeated years, and dates, name and location of medical school if a transfer student, and submit directly to the Board. Graduates of U.S. medical schools must have graduated from a school per OAR 847-020-0120(2)(a) and graduates of a foreign medical school must have graduated from a school per OAR 847-020-0130(2)(b).

(b) A copy of the Dean's Letter of Recommendation which shall include a statement concerning the applicant's moral and ethical character and overall performance as a medical student.

(c) The Program Director, Chairman or other official of the Fifth Pathway Hospital, if such applies: A currently dated original letter from the hospital in which such training was served, shall include an evaluation of overall performance and specific beginning and ending dates of training. A certified copy from the state medical board is acceptable.

(d) The Director of Medical Education, Chairman or other official of the internship, residency and fellowship hospitals in U.S. and foreign countries, in which the postgraduate training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(2) The applicant for licensure with emeritus registration must request official letters to be sent directly to the Board from the following sources:

(a) The Director or other official for practice and employment in hospitals, clinics, etc., in the U.S. and foreign countries: A currently dated original letter (a copy is not acceptable), from the hospital/clinic which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment, for the past five (5) years only. If the applicant has not practiced for more than two years, employment verifications will be required for the past ten (10) years. For physicians who have been or are in solo practice without hospital privileges at the time of solo practice, provide three reference letters from physicians in the local medical community who are familiar with the applicant's practice and who have known the applicant for more than six months.

(b) The Executive Secretary of the State Board in the United States or Canada where the applicant has been licensed and is currently practicing or most recently practiced. The currently dated original letter (a copy is not acceptable) from the board shall show license number, date issued and status.

(c) Official Grade Certifications: An official grade certification is required from the National Board of Medical Examiners (NBME), National Board of Osteopathic Medical Examiners (NBOME), Federation Licensing Examination (FLEX), or the Federation of State Medical Boards for the United States Medical Licensing Examination (USMLE).

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.120, 677.265

Hist.: BME 9-2007(Temp), f. & cert. ef. 2-6-07 thru 8-3-07; BME 16-2007, f. & cert. ef. 7-23-07

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Rule Caption: Streamline application process for podiatric physician licensure.

Adm. Order No.: BME 17-2007

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07

Notice Publication Date: 6-1-07

Rules Amended: 847-080-0013, 847-080-0017, 847-080-0018

Subject: The proposed rules delete documents to be submitted for licensure in line with the Board's approval of streamlining the licensure process for physicians (MD/DOs) and podiatrists (DPMs), and list other items for podiatrists that are already required for physicians so that the rules are similar to the physician administrative rules.

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-080-0013

Documents to Be Submitted for Licensure

The documents submitted must be no larger than 8 1/2" x 11". All documents and photographs will be retained by the Board as a permanent part of the application file. If original documents are larger than 8 1/2" x

11", the copies must be reduced to the correct size with all wording and signatures clearly shown. The application form, photographs and the results of the Practitioner Request for Information Disclosure (Self-Query) from the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank must be originals, and all other documents must be legible copies. The following documents are required:

(1) Application Form: Completed formal application form provided by the Board. Each and every question must be answered with dates, showing month and year.

(2) Birth Certificate: A copy of birth certificate for proof of name and birth date.

(3) Doctor of Podiatric Medicine Diploma: A copy of a diploma showing graduation from a school of podiatry.

(4) Photograph: A close-up, finished, original photograph (passport quality), no smaller than 2" x 2" and no larger than 2-1/2" x 3", front view, head and shoulders (not profile), with features distinct, taken within 90 days preceding the filing of the application with the applicant's signature in ink and date taken on the photograph side.

(5) The results of the Practitioner Request for Information Disclosure (Self-Query) from the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank sent directly to the Board by the applicant.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.820, 677.825 & 677.830

Hist.: ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; BME 17-2007, f. & cert. ef. 7-23-07

847-080-0017

Letters and Official Grade Certifications to Be Submitted for Licensure

The applicant must request official letters directly from:

(1) The Dean of the School of Podiatry: The Verification of Medical Education form, which includes: degree issued, date of degree, dates of attendance, dates and reason of any leaves of absence or repeated years, and dates, name and location of school of podiatric medicine school if a transfer student, and submit directly to the Board.

(2) A copy of the Dean's Letter of Recommendation which shall include a statement concerning the applicant's moral and ethical character and overall performance as a podiatric medical student.

(3) The Director of Podiatric Education, Chairman or other official of the residency hospital in U.S.: A currently dated original letter (a copy is not acceptable), sent directly from the hospitals in which any post-graduate training was served, which shall include an evaluation of overall performance and specific beginning and ending dates of training.

(4) The Director or other official for practice and employment in hospitals, clinics, etc., in the U.S. and foreign countries: A currently dated original letter (a copy is not acceptable), sent directly from the hospital/clinic which shall include an evaluation of overall performance and specific beginning and ending dates of practice and employment.

(5) The Executive Secretary of all State Boards in the United States where the applicant has ever been licensed; regardless of status, i.e., current, lapsed, never practiced there: The currently dated original letter (a copy is not acceptable), sent directly from the boards, shall show license number, date issued and status.

(6) Official National Board Certification: An official grade certification of the National Board of Podiatric Medical Examiners (NBPME) examination Part I and II is required directly from the National Board of Podiatric Medical Examiners. For applicants who took the NBPME examination on or after January 1, 1987, an official grade certification of the NBPME examination Part III is required directly from the Federation of Podiatric Medical Boards.

(7) Federation of Podiatric Medical Boards Disciplinary Report: A Disciplinary Report sent directly from the Federation of Podiatric Medical Boards to the Board.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.825

Hist.: ME 4-1982, f. & ef. 4-23-82; ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; BME 20-2004, f. & cert. ef. 10-20-04; BME 19-2006, f. & cert. ef. 7-25-06; BME 17-2007, f. & cert. ef. 7-23-07

847-080-0018

Endorsement, Competency Examination and Personal Interview

(1) The applicant shall base an application upon certification by the National Board of Podiatric Medical Examiners.

(a) For applicants who took the NBPME examination on or after January 1, 1987, all three Parts of the NBPME examination must be passed within a seven-year period which begins when the first Part, either Part I or Part II, is passed. The score achieved on each Part must equal or exceed the

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figure established by the National Board of Podiatric Medical Examiners as a recommended passing score.

(b) An applicant who took the NBPME examination on or after January 1, 1987 and who has not passed all three Parts within the seven-year period may request an exception to the seven-year requirement if he/she suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's podiatric study.

(c) Effective July 25, 2005, to be eligible for licensure, the applicant who took the NBPME examination on or after January 1, 1987 must have passed NBPME Part III within three attempts whether for Oregon or for any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed Part III on their fourth and final attempt. If the fourth attempt of Part III is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass Part III, the applicant is not eligible for licensure.

(2) The applicant may also be required to pass a competency examination in podiatry. The competency examination may be waived if, within ten years of filing the application with the Board, the applicant has:

(a) Passed the examination administered by the National Board of Podiatric Medical Examiners; or

(b) Been certified or recertified by the American Board of Podiatric Surgery, or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine; or

(c) Completed an approved one-year residency; and

(d) Has not ceased the practice of podiatry for a period of 12 or more consecutive months.

(3) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. The interview shall be conducted during a regular meeting of a committee of the Board or the Board.

(4) Licensure shall not be granted until all requirements of OAR 847-080-0002 through 847-080-0020 are completed satisfactorily.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265, 677.820, 677.830

Hist.: ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; ME 23-1989(Temp), f. & cert. ef. 10-20-89; ME 3-1990, f. & cert. ef. 1-29-90; ME 13-1992, f. & cert. ef. 10-22-92; ME 8-1994, f. & cert. ef. 4-29-94; ME 11-1996, f. & cert. ef. 10-29-96; BME 2-1999, f. & cert. ef. 1-26-99; BME 4-1999, f. & cert. ef. 2-17-99; BME 10-2005, f. & cert. ef. 7-20-05; BME 19-2006, f. & cert. ef. 7-25-06; BME 17-2007, f. & cert. ef. 7-23-07

Rule Caption: Add national licensing exam limit waivers for Board certification for podiatrists.

Adm. Order No.: BME 18-2007(Temp)

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07 thru 1-8-08

Notice Publication Date:

Rules Amended: 847-080-0018

Subject: Proposed rule adds waivers to the podiatrist rules similar to waivers in the physician administrative rules: Board certification waives the requirement to pass the National Board of Podiatric Medical Examiners (NBPME) Parts I, II and III within seven years and the requirement to pass Part III of this examination within four attempts.

Rules Coordinator: Diana M. Dolstra—(971) 673-2713

847-080-0018

Endorsement, Competency Examination and Personal Interview

(1) The applicant shall base an application upon certification by the National Board of Podiatric Medical Examiners.

(a) For applicants who took the NBPME examination on or after January 1, 1987, all three Parts of the NBPME examination must be passed within a seven-year period which begins when the first Part, either Part I or Part II, is passed. The score achieved on each Part must equal or exceed the figure established by the National Board of Podiatric Medical Examiners as a recommended passing score.

(b) An applicant who took the NBPME examination on or after January 1, 1987 and who has not passed all three Parts within the seven-

year period may request an exception to the seven-year requirement if he/she:

(A) Has current certification by the American Board of Podiatric Surgery, or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine, or

(B) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's podiatric study.

(c) Except as noted in Section (1) (d) of this rule, effective July 25, 2005, to be eligible for licensure, the applicant who took the NBPME examination on or after January 1, 1987 must have passed NBPME Part III within four attempts whether for Oregon or for any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed Part III on their fourth and final attempt. If the fourth attempt of Part III is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass Part III, the applicant is not eligible for licensure.

(d) An applicant who has passed the NBPME Part III, but not within the four attempts required by OAR 847-080-0018(1)c), may request a waiver of this requirement if he/she has current certification by the American Board of Podiatric Surgery, or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine.

(2) The applicant may also be required to pass a competency examination in podiatry. The competency examination may be waived if, within ten years of filing the application with the Board, the applicant has:

(a) Passed the examination administered by the National Board of Podiatric Medical Examiners; or

(b) Been certified or recertified by the American Board of Podiatric Surgery, or the American Board of Podiatric Orthopedics and Primary Podiatric Medicine; or

(c) Completed an approved one-year residency; and

(d) Has not ceased the practice of podiatry for a period of 12 or more consecutive months.

(3) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. The interview shall be conducted during a regular meeting of a committee of the Board or the Board.

(4) Licensure shall not be granted until all requirements of OAR 847-080-0002 through 847-080-0020 are completed satisfactorily.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.825, 677.830

Hist.: ME 6-1986, f. & ef. 4-23-86; ME 17-1987, f. & ef. 8-3-87; ME 23-1989(Temp), f. & cert. ef. 10-20-89; ME 3-1990, f. & cert. ef. 1-29-90; ME 13-1992, f. & cert. ef. 10-22-92; ME 8-1994, f. & cert. ef. 4-29-94; ME 11-1996, f. & cert. ef. 10-29-96; BME 2-1999, f. & cert. ef. 1-26-99; BME 4-1999, f. & cert. ef. 2-17-99; BME 10-2005, f. & cert. ef. 7-20-05; BME 19-2006, f. & cert. ef. 7-25-06; BME 17-2007, f. & cert. ef. 7-23-07; BME 18-2007(Temp), f. & cert. ef. 7-23-07 thru 1-8-08

Board of Nursing

Chapter 851

Rule Caption: Rules Established for State and Nationwide Criminal Records Checks, Fitness Determinations.

Adm. Order No.: BN 8-2007

Filed with Sec. of State: 8-14-2007

Certified to be Effective: 8-14-07

Notice Publication Date: 3-1-07

Rules Adopted: 851-031-0007, 851-062-0135

Subject: This proposed rule covers the Board's authority to request the Oregon State Police to conduct a nationwide criminal records check, including fingerprint identification, through the FBI, on an applicant or licensee. House Bill 2157, Section 2 (2005 Legislative Session) gave the Board such authority.

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

851-031-0007

State and Nationwide Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history

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of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the Board.

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

(3) The Board may require fingerprints of all initial applicants for a Registered Nurse (RN), Licensed Practical Nurse (LPN), Nurse Practitioner (NP), Clinical Nurse Specialist (CNS), Certified Registered Nurse Anesthetist (CRNA), Certified Nursing Assistant, or Certified Medication Aide license, licensees renewing their license, and licensees under investigation to determine the fitness of an applicant or licensee. (All categories above are referred to as "licensee" for the purpose of these rules.) These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a National Criminal Records Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

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

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

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
- (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and
- (d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:
 - (A) The passage of time since the commission of the crime;
 - (B) The age of the applicant or licensee at the time of the crime;
 - (C) The likelihood of a repetition of offenses or of the commission of another crime;

- (D) The subsequent commission of another relevant crime;
- (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
- (F) A recommendation of an employer.

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

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

(8) Criminal offender information is confidential. Dissemination of information received under House Bill 2157 (2005 Legislative Session) is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 678.126.

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

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

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to

ORS 183.414-470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

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

Stat. Auth.: ORS 678.150, 678.153
Stats. Implemented: ORS 678.126, 678.153
Hist.: BN 8-2007, f. & cert. ef. 8-14-07

851-062-0135

State and Nationwide Criminal Records Checks, Fitness Determinations

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

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

(3) The Board may require fingerprints of all initial applicants for a Registered Nurse (RN), Licensed Practical Nurse (LPN), Nurse Practitioner (NP), Clinical Nurse Specialist (CNS), Certified Registered Nurse Anesthetist (CRNA), Certified Nursing Assistant, or Certified Medication Aide license, licensees renewing their license, and licensees under investigation to determine the fitness of an applicant or licensee. (All categories above are referred to as "licensee" for the purpose of these rules.) These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a National Criminal Records Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

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

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

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
- (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and
- (d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

- (A) The passage of time since the commission of the crime;
- (B) The age of the applicant or licensee at the time of the crime;
- (C) The likelihood of a repetition of offenses or of the commission of another crime;
- (D) The subsequent commission of another relevant crime;
- (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
- (F) A recommendation of an employer.

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

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

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(8) Criminal offender information is confidential. Dissemination of information received under House Bill 2157 (2005 Legislative Session) is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 678.126.

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

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

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

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

Stat. Auth.: ORS 678.150, 678.153
Stats. Implemented: ORS 678.126, 678.153
Hist.: BN 8-2007, f. & cert. ef. 8-14-07

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Return to DOC for a Period of Greater than 12 months.

Adm. Order No.: PAR 3-2007

Filed with Sec. of State: 7-17-2007

Certified to be Effective: 7-17-07

Notice Publication Date: 5-1-07

Rules Amended: 255-075-0073

Subject: Add language to Exhibit R to clarify the restriction on the qualifying crime in order to be eligible for consideration under this rule.

Rules Coordinator: Peggy Barber—(503) 945-0914

255-075-0073

Return to DOC for a Period of Greater than 12 months

(1) Post-prison supervision may be revoked and an offender returned to the custody of the Department of Corrections for a sanction that exceeds 12 months when:

(a) The offender is currently in violation of a condition of supervision; and

(b) The offender scores at least a total of 44 points on the scale in Exhibit R of these rules; and

(c) The community corrections agency supervising the offender and/or a hearing officer recommend a return to the Department of Corrections for a sanction exceeding 12 months; and

(d) The Board finds that a sanction exceeding 12 months is appropriate.

(2) This rule may only be applied to offenders serving a term of post-prison supervision for a felony crime committed on or after July 14, 1997, and the term of post-prison supervision:

(a) Follows completion of a sentence to a term of imprisonment that exceeds 12 months; or

(b) Was imposed for a felony classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid; or

(c) Was imposed as part of a sentence under ORS 137.700 or 137.707; or

(d) Was imposed as part of a sentence as a dangerous offender under ORS 161.725 and 161.737; or

(e) Is subject to ORS 144.103 (length of post-prison supervision for certain sex offenses).

(3) A revocation hearing as described in OAR 255-075-0005 must be held when there is a recommendation under this rule.

(4) A community corrections agency and/or hearing officer recommending a sanction under this rule must specifically state how the offender fits the requirements of this rule (including the score on the scale), what efforts have been made to manage the offender in the community and why the offender cannot be safely managed in the community. The recommendation may also contain any other information that may assist the board.

(5) If a community corrections agency and/or hearing officer recommends a sanction under this rule, the board shall hold a hearing as described in OAR 255-075-0097 to determine whether a sanction exceeding 12 months is appropriate. After a hearing, the board can order a sanction of up to 24 months incarceration. The board must hold a subsequent hearing before it can order continued incarceration exceeding 24 months. The length of sanction imposed under this rule is determined by the board.

(6) Subject to the requirements of this rule, an offender may be required to serve a sanction under this rule up to the post-prison supervision expiration date for any offense for which an offender was on post-prison supervision at the time the board ordered a sanction under this rule. When an offender is released from a sanction imposed under this rule, the offender must serve the balance, if any, of any post-prison supervision remaining up to the post-prison supervision expiration date. If the offender is not released prior to the post-prison supervision expiration date, the post-prison supervision will expire. The periods of post-prison supervision for all offenses for which an offender was on post-prison supervision at the time the board ordered a sanction under this rule continue to run while an offender is serving a sanction under this rule.

(7) Board hearings under this rule will be conducted in the same manner that the board conducts future disposition hearings. The board may order a psychological evaluation for a hearing under this rule. The procedures for records, disclosure and notice outlined in divisions 15 and 30 shall govern these hearings. A panel may conduct the hearing and the board shall make decisions pursuant to OAR 255-030-0015.

(8) In determining whether a sanction exceeding 12 months is appropriate or whether continued incarceration exceeding 24 months is appropriate, the board must consider the recommendation by the community corrections agency or hearing officer and may also consider the following:

(a) The nature of the underlying conviction(s);

(b) The offender's criminal history;

(c) The history and nature of violations of post-prison supervision or parole;

(d) Findings made by a psychologist in a psychological evaluation;

(e) Conduct in institutions or jails;

(f) Programs completed in custody and/or in the community;

(g) Treatment available in the community;

(h) Release plans;

(i) Victim's statements, if any; and

(j) Any indications of reformation and rehabilitation.

[ED. NOTE: Exhibits referenced are available from the agency.]

Statutory Auth.: ORS 144.107

Stats. Implemented:

Hist.: PAR 4-2001, f. & cert. ef. 3-12-01; PAR 3-2007, f. & cert. ef. 7-17-07

Rule Caption: Procedures for Predatory Sex Offender Designation for Inmates.

Adm. Order No.: PAR 4-2007

Filed with Sec. of State: 7-17-2007

Certified to be Effective: 7-17-07

Notice Publication Date: 5-1-07

Rules Amended: 255-060-0016

Subject: Amend rule to conform language to ORS 181.585.

Rules Coordinator: Peggy Barber—(503) 945-0914

255-060-0016

Procedures for Predatory Sex Offender Designation for Inmates

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

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showing a tendency to victimize or injure others submitted in written reports prepared by an approved evaluator and a release counselor of any Department of Corrections institution.

(2) Predatory sex offender designations made by the board for inmates released from a Department of Corrections institution before August 7, 2006, are not included in this rule. Those designations are governed by the rules in effect when the designation was made or when the inmate was released from custody.

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

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

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

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

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

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

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

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

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

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

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

Board will make a determination as to whether the inmate should be designated as a predatory sex offender.

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

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: 1999 OL ch. 163, ORS 144.050, 144.140, 181.585, 181.586.

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

Hist.: PAR 7-2006(Temp), f. & cert. ef. 8-7-2006 thru 2-2-07; PAR 8-2006(Temp), f. & cert. ef. 8-30-06 thru 2-2-07; PAR 10-2006, f. & cert. ef. 10-30-06; PAR 4-2007, f. & cert. ef. 7-17-07

Rule Caption: Amendment of Rules Regarding Procedure for Conducting Murder Review Hearings pursuant to the *Larsen* decision.

Adm. Order No.: PAR 5-2007

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 7-30-07

Notice Publication Date: 3-1-07

Rules Adopted: 255-032-0022, 255-032-0026, 255-032-0027, 255-032-0029, 255-032-0030, 255-032-0031, 255-032-0032

Rules Amended: 255-032-0025

Subject: The amendment of this rule is necessary in order to be consistent with the Oregon Court of Appeals ruling in *Larsen v. Board of Parole*, 206 Or App 353 (2006).

Rules Coordinator: Peggy Barber—(503) 945-0914

255-032-0022

Murder Review Hearings Notice

The Board's contested case notice issued pursuant to ORS 183.415 must include:

(1) A statement that the sole issue to be considered shall be whether or not the inmate is likely to be rehabilitated within a reasonable period of time, and that the inmate shall have the burden of proof, by a preponderance of the evidence;

(2) A statement of the inmate's right to be represented by counsel; and if the inmate is without sufficient funds, counsel will be appointed by the Board at Board expense;

(3) A statement that the Board has authority and jurisdiction to hold a hearing on the issue pursuant to ORS 163.105(2) or 163.115(5); and

(4) A statement of rights of the inmate at the hearing.

Stat. Auth.: ORS 183.415, 163.105(2), 163.115(5)

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0025

Manner of Review Hearing

(1) The proceeding shall be governed by the procedures for records, disclosure, and notice outlined in Divisions 15 and 30.

(2) At the hearing, the inmate has:

(a) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and

(b) If the inmate is without sufficient funds to employ an attorney, the right to Board appointed legal counsel. Board payment to legal counsel shall not exceed \$100 per hour and \$1000 per case. The attorney shall send the Board a billing within 90 days of the hearing.

(c) The right to a subpoena issued by the Board upon a showing of the general relevance and reasonable scope of the evidence sought, and pursuant to Board rules.

(3) If upon hearing all the evidence, the full Board, upon a unanimous vote of all members, finds that the inmate is capable of rehabilitation and that the terms of the inmate's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the inmate's confinement to life imprisonment with the possibility of parole or work release and may set a parole release date. Otherwise, the Board shall deny the relief sought in the petition. The Board's final order granting or denying relief shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Board's order.

(4) When an inmate has a consecutive sentence for a crime other than Aggravated Murder or Murder as described in OAR 255-032-0005, the Board shall determine the prison term for the consecutive sentences(s) pur-

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suant to ORS 144.120. The prison term for the consecutive sentence(s) will not begin to run until and unless the Board orders a release date on the Aggravated Murder sentence established pursuant to ORS 163.105, or the Murder sentence established pursuant to ORS 163.115.

Stat. Auth.: ORS 144.120, 163.105, 163.115, 183.415

Stats. Implemented:

Hist.: 2PB 8-1985, f. & ef. 5-31-85; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 3-1991(Temp), f. & cert. ef. 5-1-91; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 2-2000, f. 1-3-00, cert. ef. 1-4-00; PAR 3-2001, f. & cert. ef. 2-6-01; PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0026

Manner of Review Hearing For Hearings Requested Before June 28, 2007

(1) OAR 255-032-0022 to 255-032-0032 apply only to hearings conducted for inmates who:

(a) Were eligible for a murder review hearing prior to June 28, 2007; and

(b) Petitioned the Board for a hearing under ORS 163.105 or 163.115 prior to June 28, 2007; and

(c) Were not granted a hearing on the petition that was filed prior to June 28, 2007.

(2) The Board shall conduct the proceeding in the manner prescribed for a contested case hearing under ORS Chapter 183 except that:

(a) The inmate shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time; and

(b) If the inmate is without sufficient funds to employ an attorney, the inmate shall have the right to Board appointed legal counsel. Board payment to legal counsel shall not exceed \$100 per hour and \$1000 per case. The attorney shall send the Board a billing within 90 days of the hearing.

(3) During hearings of the Board, the chairperson or designated board member shall preside. The presiding member shall designate the order of presentation and questioning. The presiding member shall also determine the scope of questioning and may set time limits and cut off irrelevant questions and irrelevant or unresponsive answers.

(4) At the commencement of the hearing, the presiding board member shall explain the issues involved in the hearing and that the inmate shall have the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time.

(5) Testimony at the hearing shall be taken upon oath or affirmation of the witness from whom it is received. The presiding board member shall administer oaths or affirmations to witnesses.

(6) The initial testimony of each witness shall not exceed three minutes. The presiding Board member may grant the witness additional time upon a finding that further testimony is likely to be relevant to the board's decision. The presiding Board member may exclude or limit irrelevant, immaterial or unduly repetitious testimony and evidence.

(7) The record in a Murder Review Hearing must include:

(a) Evidence received or considered;

(b) Stipulations;

(c) Questions and offers of proof, objections and rulings thereon;

(d) Proposed findings and exceptions; and

(e) Any proposed, intermediate, or final order prepared by the Board.

(8) If upon hearing all the evidence, the full Board, upon a unanimous vote of all members, finds that the inmate is capable of rehabilitation and that the terms of the inmate's confinement should be changed to life imprisonment with the possibility of parole or work release, it shall convert the terms of the inmate's confinement to life imprisonment with the possibility of parole or work release and may set a parole release date. Otherwise, the Board shall deny the relief sought in the petition.

(9) When an inmate has a consecutive sentence for a crime other than Aggravated Murder or Murder as described in OAR 255-032-0005, the Board shall determine the prison term for the consecutive sentence(s) pursuant to ORS 144.120. The prison term for the consecutive sentence(s) will not begin to run until and unless the Board orders a release date on the Aggravated Murder sentence established pursuant to ORS 163.105, or the Murder sentence established pursuant to ORS 163.115.

Stat. Auth.: ORS 144.120, 163.105, 163.115, 183.415

Stats. Implemented:

Hist.: PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0027

Inmate's Right to Review Record; Exceptions

Except as provided in OAR 255-015-0010, all exhibits to be considered by the Board shall be disclosed to the inmate's attorney or the inmate, if proceeding pro se, within a reasonable period of time before the hearing:

(1) Exhibits not available prior to the hearing shall be made available to the inmate's attorney or to the inmate, if not represented, at the hearing.

(2) All material relevant and pertinent to issues before the Board shall be made a part of the record.

(3) Any material not made part of the record shall be separated and a statement to that effect shall be placed in the record. The board shall follow the criteria for denial or disclosure of records set out in OAR 255-015-0010.

Stat. Auth.: ORS 183.335, 192.410 – 192.505, 144.025(3) & 144.050

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0029

Subpoenas for a Murder Review Hearing

(1) Inmates must make their own arrangements for calling and presenting witnesses. However, upon the request of an inmate, and upon a proper showing of general relevance and reasonable scope of the evidence being sought, the Board may issue subpoenas requiring the attendance and testimony of witnesses.

(2) Witnesses are not required to appear in person, but may participate via teleconference.

(3) Witnesses appearing pursuant to subpoena, other than inmates, state officers, or employees of the Board, must receive fees and mileage payable by the Board as prescribed by law for witnesses in ORS 44.415(2), provided the Board certifies that the witness's testimony was relevant and material to the hearing.

Stat. Auth.: ORS 44.415, 183.440

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0030

Evidence in a Murder Review Hearing

(1) Irrelevant, immaterial, or unduly repetitious evidence will be excluded, and privileges afforded by Oregon law shall be recognized by the presiding member. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs will be admissible. All offered evidence, not objected to, will be received by the presiding member subject to the presiding member's power to exclude irrelevant, immaterial, or unduly repetitious matter.

(2) In determining whether the evidence is material, relevant or reliable, the Board shall consider the following:

(a) The age and source of the documents;

(b) The ability of the witness to have observed and had personal knowledge of the incidents;

(c) The credibility of the witness and whether the witness has bias or interest in the matter.

(3) The inmate, the inmate's attorney, or the Board, may object to any evidence. Objections to evidence being introduced by the Board or the inmate may be made and will be noted in the record. The presiding board member must accept an offer of proof for excluded evidence. The offer of proof must contain sufficient detail to allow the Board or a court to determine whether the evidence was properly excluded. The presiding member shall have discretion to decide whether the offer of proof is to be oral or written and at what stage of the proceeding it will be made. The presiding member may place reasonable limits on the offer of proof, including the time to be devoted to an oral offer or the number of pages in a written offer. The Board may decide the following:

(a) To sustain the objection and deny the admission and consideration of the evidence on the grounds that it is not material, relevant or reliable; or

(b) To overrule the objection and admit the evidence and in considering the weight given to that evidence, consider the reason for the objection.

(4) The Board will consider all available relevant evidence for purposes of determining the inmate's likelihood of rehabilitation within a reasonable period of time.

(5) The Board and the inmate will have the right of cross-examination of each witness that testifies, and will have the right to submit rebuttal evidence.

Stat. Auth.: ORS 163.105, 163.115, 183.450

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0031

Final Orders in Murder Review Hearings

(1) Final orders in Murder Review hearings must be in writing, and if adverse to the inmate include the following:

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(a) Findings of fact — a concise statement of those matters that are either agreed as fact or that, when disputed, are determined by the Board to be facts over contentions to the contrary. A finding must be made on each fact necessary to reach the conclusions of law on which the order is based; and

(b) Conclusion(s) of law — applications of the controlling law to the facts found and the legal results of the application.

(2) If the Board finds that the inmate has proven by a preponderance of the evidence that the inmate is likely to be rehabilitated within a reasonable period of time, then it is not necessary that the final order include findings of fact or conclusions of law.

(3) The Board may also issue its decision orally on the record at the hearing.

Stat. Auth.: ORS 163.105, 163.115, 183.470

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

255-032-0032

Continuance of Hearings: Cancellation of Hearings

(1) Upon the request of any party or on its own motion, the Board may, for good cause, continue a hearing for a reasonable period of time not to exceed 60 days to obtain additional information required to assist the Board in its decision.

(2) If an inmate asks for cancellation of a hearing, it must be for good cause, in writing, and with seven days advance notice. If the board finds that the cancellation request does not fulfill these requirements, the inmate shall not be eligible to request another hearing for 90 days from the date of the scheduled hearing.

Stat. Auth.: ORS 183.341(2)

Stats. Implemented:

Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07

Board of Tax Practitioners
Chapter 800

Rule Caption: OAR 800-020-0025—Fees & OAR 800-030-0050.

Adm. Order No.: BTP 3-2007

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Amended: 800-020-0025

Subject: The proposed amendment to OAR 800-020-0025 is to increase the business branch fee of the Board. The increased revenues will be used to cover the agencies; Department of Administrative Services assessments, Department of Justice assessments, inflation, salary increases and rent. The remaining revenues will be used to add an additional staff member; upgrade the agency's database to include the compliance program; and replace the agency's computer hardware per the Department of Administrative Services schedule.

Rules Coordinator: Monica J. Walker—(503) 378-4034

800-020-0025

Fees

(1) The fee for application for examination for a tax preparer's license is \$40.

(2) The fee for application for examination for a tax consultant's license is \$70.

(3) The fee for issuance or renewal of a tax preparer's active license is \$65.

(4) The fee for an initial Preparer license issued within 6 months of the renewal date will be one-half the annual fee.

(5) Except as provided in subsection (a) of this section, the fee for issuance of a tax consultant's active license is \$75. If an applicant holds an active tax preparer's license which was renewed less than six months previously, the fee for issuance of a tax consultant's active license is offset by a credit equal to 50% of the preparer license fee.

(6) The fee for renewal of a tax consultant's active license is \$75.

(7) The fee for issuance or renewal of a tax preparer's inactive license is \$35.

(8) The fee for issuance or renewal of a tax consultant's inactive license is \$50.

(9) The fee for reactivation of a tax preparer's inactive license is \$65.

(10) The fee for reactivation of a tax consultant's inactive license is \$75.

(11) The late fee for restoration of a tax preparer's or tax consultant's lapsed license is \$25, plus payment of all unpaid renewal fees.

(12) The fee for a replacement or duplicate license is \$10.

(13) The fee for a replacement tax consultant's certificate is \$15.

(14) The fee for issuance or renewal of a tax preparation business registration is \$95.

(15) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$120:

(a) For Consultants — If postmarked on or before June 15th.

(b) For Preparers — If postmarked on or before October 15th.

(16) The fee for issuance or renewal of a branch office registration is \$10.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.685

Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07

Bureau of Labor and Industries
Chapter 839

Rule Caption: Changing OSHA retaliation complaint deadline from 30–60 days to conform with statutory change.

Adm. Order No.: BLI 19-2007(Temp)

Filed with Sec. of State: 7-18-2007

Certified to be Effective: 7-18-07 thru 1-1-08

Notice Publication Date:

Rules Amended: 839-003-0025, 839-004-0001, 839-004-0021

Subject: The amendments will conform the rules with a statutory change in the OSHA retaliation complaint deadline.

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

839-003-0025

Filing a Complaint

(1) A person or the person's attorney may file a complaint, in person or by mail, with the division at any bureau office in the state of Oregon. The complaint must meet the standards provided in OAR 839-003-0005(4).

(2) The filing date is the date the division receives a complaint that meets the standards contained in OAR 839-003-0005(4).

(3) Except as provided in section (5) of this rule, a person must file a complaint with the division no later than one year after the alleged unlawful practice. If the alleged unlawful practice is of a continuing nature, the right to file a complaint exists so long as the person files the complaint within one year of the most recent date the unlawful practice occurred.

(4) A person alleging constructive discharge must file a discrimination complaint with the division within one year of the date the discharge occurred.

(5) A person alleging discrimination for reporting or opposing unsafe or unhealthy work conditions under ORS 654.062 must contact the division within 90 days of having reasonable cause to believe that such violation has occurred. An employee would have reasonable cause to believe a violation has occurred on the earliest date that the employee:

(a) Believed retaliation had occurred against the employee for opposing employee health and safety hazards; and

(b) Knew or should have known of the right to file a complaint with the division and of the requirement that the complaint be filed within 90 days of the alleged retaliation.

(A) If a notice required by OSEA, as provided in OAR 437-001-0275(2)(a), was properly posted in the employee's workplace, continuously on and following the date of the alleged retaliation, the division will find that the employee knew or should have known of the 90-day filing requirement.

(B) If the employer failed to post the required OSEA poster, the 90-day filing requirement will begin on the date the employee learned of the right to file a complaint and of the 90-day filing requirement. The employee may establish this date based on the employee's own statement or other evidence offered by the employee.

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(C) If the employer disagrees with the employee's presented date as the date the employee learned of the right to file a complaint, the burden is on the employer to show that the employee knew or should have known on an earlier date.

(D) If extenuating circumstances exist, the division may extend the 90-day period as provided in 29 CFR Part 15(d)(3).

(6) The procedures for filing a complaint are as follows:

(a) A person or the person's attorney makes an inquiry to the division;

(b) The division may provide the person or the person's attorney with a letter of information and/or questionnaire to assist in determining if there is a basis for filing a complaint;

(c) If the division determines the person has a basis for filing a complaint, the division will draft a complaint based upon the information provided by the person and send or give the complaint to the person or the person's attorney for verification. The person or the person's attorney will request any necessary changes to the complaint.

(d) The person or the person's attorney will verify and sign the complaint. The complaint will then be submitted to the division.

(e) If the person is an unemancipated minor the complaint must be signed by the minor and the parent or legal guardian of the minor.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 30.670-685, 654.062, 659A.820, 29 CFR Part 15(d)(3)

Hist.: BL 7-1981, f. & cert. ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BL 2-1998, f. & cert. ef. 2-3-98; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 12-2004, f. 10-22-04 cert. ef. 10-25-04; BLI 19-2007(Temp), f. & cert. ef. 7-18-07 thru 1-1-08

839-004-0001

Purpose and Scope

(1) The Oregon Safe Employment Act (OSEA) recognizes the right of employees to have a safe and healthy workplace. In addition to the OSEA health and safety provisions enforced by the Oregon Occupational Safety and Health Division (OR-OSHA), OSEA prohibits discrimination against employees because of an employee's complaint about or opposition to health and safety hazards in the workplace. The Bureau of Labor and Industries, through its Civil Rights Division, is responsible for enforcing the prohibitions against discrimination for opposition to health and safety hazards, pursuant to ORS 654.062(5). The purpose of these rules is to clarify the interpretations of ORS 654.062(5) that guide the division in implementing this statute. Provisions of OSEA should be construed to the extent possible in a manner that is consistent with any similar provisions of the federal Occupational Safety and Health Act of 1970 (OSHA), 29 USC 651 (1999).

(2) It is an unlawful employment practice for any person to bar or discharge from employment or otherwise discriminate against any employee or prospective employee because that employee has opposed any practice forbidden under or related to OSEA.

(3) Employees or prospective employees having reason to believe they have been discriminated against may file a complaint with the division, as described in OAR 839-003-0025.

(4) Health and safety discrimination complaints must be filed with the division within 90 days of the date the employee has reasonable cause to believe that a violation has occurred.

Stat. Auth.: ORS 654.062(5)

Stats. Implemented: ORS 654.062(5) & 659A.820

Hist.: BLI 14-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 19-2007(Temp), f. & cert. ef. 7-18-07 thru 1-1-08

839-004-0021

Employee Opposition to Health and Safety Hazards

(1) ORS 654.062(5) prohibits discrimination against an employee because the employee "opposed" health and safety hazards in the workplace. OSEA does not specify to whom or in what manner an employee must oppose health and safety hazards and be protected. The concern is not with how the opposition is communicated, but with the employer's reaction to the opposition. What constitutes opposition covers a broad range of activities including, but not limited to the following:

(a) An employee opposing health and safety hazards in a co-worker discussion that is overheard by management;

(b) An employee opposing employee health and safety hazards in a letter to a newspaper read by management; or

(c) An employee opposing employee health and safety hazards by written or verbal protest to the employer.

(2) OSEA does not normally cover an employee opposing health and safety hazards if the employee refuses to work or walks off the job. If an employee, however, refuses to perform work that presents risk of serious injury or death, the employee would have OSEA protection under the following conditions:

(a) The employee has reasonable cause to believe the work or work

area poses an imminent risk of serious injury or death due to hazardous conditions not inherent in the job; and

(b) The employee has reasonable cause to believe there is insufficient time or opportunity to seek employer redress or to resort to regulatory enforcement channels. (For example, the employer refuses to correct the hazard, denies the danger exists, is not available, or no regulatory representative is available.)

(3) A person alleging discrimination for reporting or opposing unsafe or unhealthy work conditions under ORS 654.062 must contact the division within 90 days of having reasonable cause to believe that such violation has occurred. An employee would have reasonable cause to believe a violation has occurred on the earliest date that the employee:

(a) Believed retaliation had occurred against the employee for opposing employee health and safety hazards; and

(b) Knew or should have known of the right to file a complaint with the division and of the requirement that the complaint be filed within 90 days of the alleged retaliation.

Stat. Auth.: ORS 654.062(5)

Stats. Implemented: ORS 654.005 & 654.062(5)

Hist.: BLI 14-2000, f. & cert. ef. 8-11-00; BLI 5-2005, f. 1-13-05, cert. ef. 1-19-05; BLI 19-2007(Temp), f. & cert. ef. 7-18-07 thru 1-1-08

Rule Caption: Conforms Prevailing Wage Rate rules to the provisions of HB 2140 (2007 Legislature).

Adm. Order No.: BLI 20-2007(Temp)

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 8-1-07 thru 1-27-08

Notice Publication Date:

Rules Adopted: 839-025-0005

Rules Amended: 839-025-0004, 839-025-0020, 839-025-0100, 839-025-0310, 839-025-0340, 839-025-0530

Subject: The temporary rules implement the provisions of HB 2140 (2007 Legislature) which became effective July 1, 2007; conform existing rules to the legislation; and adopt a new rule (OAR 839-025-0005) pertaining to the issuance of determinations pursuant to the legislation.

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

839-025-0004

Definitions

As used in these rules, unless the context requires otherwise:

(1) "Apprentice" means:

(a) A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training (BAT) or with any state apprenticeship agency recognized by BAT; or

(b) A person in probationary employment as an apprentice in such an apprenticeship program, but who is not individually registered in the program, but who has been certified by the BAT or a state apprenticeship agency to be eligible for probationary employment as an apprentice.

(2) "The Basic Hourly Rate of Pay" or "Hourly Rate" means the rate of hourly wage, excluding fringe benefits, paid to the worker.

(3) "Bureau" means the Bureau of Labor and Industries.

(4) "Commissioner" means the Commissioner of the Bureau of Labor and Industries, or designee.

(5) "Construction" means the initial construction of buildings and other structures, or additions thereto, and of highways and roads. "Construction" does not include the transportation of material or supplies to or from the public works project by employees of a construction contractor or construction subcontractor.

(6) "Division" means the Wage and Hour Division of the Bureau of Labor and Industries.

(7) "Employ" includes to suffer or permit to work.

(8) "Fringe benefits" means the amount of:

(a) The rate of contribution irrevocably made on a regular basis and not less often than quarterly by a contractor or subcontractor to a trustee or to a third person pursuant to a plan, fund or program; and

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program which is committed in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance or accident insurance, for vacation and holiday pay, for

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defraying costs of apprenticeship or other similar programs or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state or local law to provide any of such benefits. Other bona fide fringe benefits do not include reimbursement to workers for meals, lodging or other travel expenses, nor contributions to industry advancement funds (CIAF for example).

(9)(a) "Funds of a public agency" includes any funds of a public agency that are directly or indirectly used, as described below.

(A) "Directly used funds of a public agency" means any revenue, money, or that which can be valued in money that is collected for a public agency or that is derived from a public agency's immediate custody and control, and, except as provided in ORS 279C.810(1)(a)(H) and (J), includes but is not limited to any money loaned by a public agency including the loan of proceeds from the sale of conduit or pass-through revenue bonds for the specific purpose of financing a project, and public property or other assets that is used as payment for all or part of a project.

(B) "Indirectly used funds of a public agency" means that a public agency ultimately bears the cost of all or part of the project, even if a public agency is not paying for the project directly or completing payment at the time it occurs or shortly thereafter. A public agency does not indirectly use funds of a public agency when it elects not to collect land rent that is due. Examples of when an agency "ultimately bears the cost" of all or part of a project include but are not limited to:

(i) Amortizing the costs of construction over the life of a lease and paying these costs with funds of a public agency during the course of the lease;

(ii) A public agency subsidizing the costs of construction that would normally be borne by the contractor.

(iii) Using insurance proceeds that belong to a public agency to pay for construction. Insurance proceeds represent "money collected for the custody and control of a public agency" and therefore are funds of a public agency, whether the contractor obtains payment directly from the insurance company or the public agency; or

(iv) Using or creating a private entity as a conduit for funding a project when the private entity is in fact an alter ego of the public agency.

(b) "Funds of a public agency" does not include:

(A) Funds provided in the form of a government grant to a nonprofit organization, unless the government grant is issued for the purpose of construction, reconstruction, major renovation or painting;

(B) Building and development permit fees paid or waived by the public agency;

(C) Tax credits or tax abatements;

(D) Land that a public agency sells to a private entity at fair market value;

(E) The difference between:

(i) The value of land that a public agency sells to a private entity as determined at the time of the sale after taking into account any plan, requirement, covenant, condition, restriction or other limitation, exclusive of zoning or land use regulations, that the public agency imposes on the development or use of the land; and

(ii) The fair market value of the land if the land is not subject to the limitations described in subparagraph (i) of this paragraph;

(F) Staff resources of the public agency used to manage a project or to provide a principal source of supervision, coordination or oversight of a project;

(G) Staff resources of the public agency used to design or inspect one or more components of a project;

(H) Moneys derived from the sale of bonds that are loaned by a state agency to a private entity, unless the moneys will be used for a public improvement;

(I) Value added to land as a consequence of a public agency's site preparation, demolition of real property or remediation or removal of environmental contamination, except for value added in excess of the expenses the public agency incurred in the site preparation, demolition or remediation or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870; or

(J) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289 or ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

(10) "Housing" has the meaning given that term in ORS 279C.800.

(11) "Major renovation" means the remodeling or alteration of buildings and other structures within the framework of an existing building or structure and the alteration of existing highways and roads, the contract price of which exceeds \$50,000.

(12) "Nonprofit organization," as used in subsection (9)(b)(A) of this

rule, means an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(13) "Normal business hours" means the hours during which the office of the contractor or subcontractor is normally open for business. In the absence of evidence to the contrary, the Division will consider the hours between 8:00 a.m. and 5:00 p.m., excluding the hours between 12:00 noon and 1:00 p.m., on weekdays as normal business hours.

(14) "Overtime" means all hours worked:

(a) On Saturdays;

(b) On the following legal holidays:

(A) Each Sunday;

(B) New Year's Day on January 1;

(C) Memorial Day on the last Monday in May;

(D) Independence Day on July 4;

(E) Labor Day on the first Monday in September;

(F) Thanksgiving Day on the fourth Thursday in November;

(G) Christmas Day on December 25.

(c) Over 40 hours in a week; and either

(d) Over eight (8) hours in a day; or

(e) Over 10 hours in a day provided:

(A) The employer has established a work schedule of four consecutive days (Monday through Thursday or Tuesday through Friday) pursuant to OAR 839-025-0034; and

(B) The employer operates in accordance with this established work schedule.

(15) "Overtime rate" means the basic hourly rate of pay multiplied by one and one-half.

(16) "Overtime wages" means the overtime hours worked multiplied by the overtime rate.

(17) "Person" includes a public or private corporation, a partnership, a sole proprietorship, a limited liability company, a government or governmental instrumentality.

(18) "Prevailing wage rate claim" means a claim for wages filed by a worker with the Division.

(19) "Public agency" means the State of Oregon or any political subdivision thereof or any county, city, district, authority, public corporation or entity and any instrumentality thereof organized and existing under law or charter.

(20)(a) "Public work," "public works" or "public works project" includes but is not limited to:

(A) Roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest;

(B) A project for the construction, reconstruction, major renovation or painting of a privately owned road, highway, building structure or improvement of any type that uses funds of a private entity and \$750,000 or more of funds of a public agency; or

(C) A project for the construction of a privately owned road, highway, building, structure or improvement of any type that uses funds of a private entity and in which 25 percent or more of the square footage of the completed project will be occupied or used by a public agency.

(b) "Public works" does not include:

(A) The reconstruction or renovation of privately owned property that is leased by a public agency; or

(B) The renovation of publicly owned real property that is more than 75 years old by a private nonprofit entity if:

(i) The real property is leased to the private nonprofit entity for more than 25 years;

(ii) Funds of a public agency used in the renovation do not exceed 15 percent of the total cost of the renovation; and

(iii) Contracts for the renovation were advertised or, if not advertised, were entered into before July 1, 2003, but the renovation has not been completed on or before the effective date of this 2007 act.

(21) "Public works contract" or "contract" means any contract, agreement or understanding, written or oral, into which a public agency enters for any public work.

(22) "Reconstruction" means highway and road resurfacing and rebuilding, the restoration of existing highways and roads, and the restoration of buildings and other structures.

(23) "Reconstruction or renovation of privately owned property which is leased by a public agency" includes improvements of all types within the framework or footprint of an existing building or structure.

(24) "Residential construction project" means:

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(a) A public work project that is not exempt under the provisions of ORS 279C.810 for the construction, reconstruction, major renovation or painting of a single family house or apartment building of no more than four (4) stories in height and all incidental items such as site work, parking areas, utilities, streets and sidewalks pursuant to the U.S. Department of Labor's "All Agency Memorandum No. 130" — "Application Of The Standard of Comparison 'Projects Of A Character Similar' Under the Davis-Bacon and Related Acts" dated March 17, 1978. (See Appendix 6.)

(b) Notwithstanding the provisions of subsection (a) of this rule, where it is determined that a different definition of "residential construction" has been adopted by local ordinance or code, or that the prevailing practice of a particular trade or occupation regarding what is considered "residential construction" differs from the U.S. Department of Labor definition of residential construction, the commissioner may consider such information in determining a project to be a "residential construction project."

(25) "Site of work" is defined as follows:

(a) The site of work is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed, and other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the site.

(b) Except as provided in paragraph (c) of this section, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards and similar facilities, are part of the site of work provided they are dedicated exclusively, or nearly so, to the performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them. Such facilities which are established by a supplier of materials for the project after the opening of bids are deemed to be dedicated exclusively to the performance of the contract or project.

(c) Not included in the site of work are permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, and similar facilities of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the site of work. Such permanent, previously established facilities are not part of the site of the work, even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract or project.

(26) "Special wage determination" means a wage determination made at the request of a public contracting agency and which is applicable only to specific job classes. A special wage determination is issued in those cases where there is no current wage determination applicable to specific job classes and the use of such job classes is contemplated on a public works project.

(27) "Trade" or "occupation" is defined in accordance with the prevailing practices of the construction industry in Oregon.

(28) "Trainee" means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Bureau of Apprenticeship and Training as meeting its standards for on-the-job training programs and which has been so certified by that bureau.

(29) "Wage determination" includes the original decision and any subsequent amendments made by the commissioner in accordance with ORS 279C.815.

(30) "Wages" or "Prevailing Wages" means the basic hourly rate of pay and fringe benefits as defined in sections (2) and (8) of this rule.

(31) "Worker" means a person employed on a public works project and whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental, professional or managerial. The term "worker" includes apprentices, trainees and any person employed or working on a public works project in a trade or occupation for which the commissioner has determined a prevailing rate of wage. (See OAR 839-025-0035.)

[ED. NOTE: Attachment referenced are available from the agency.]

Stat. Auth.: ORS 279C & 651.060

Stats. Implemented: ORS 279C.800, 279C.870

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 4-1984, f. & ef. 3-13-84; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 3-1996, f. & cert. ef. 1-26-96; BL 8-1996, f. 8-26-96, cert. ef. 9-1-96; BL 3-1997(Temp), f. 7-31-97, cert. ef. 8-1-97; BL 1-1998, f. & cert. ef. 1-5-98; BLI 15-2001, f. & cert. ef. 11-14-01; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0004, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06; BLI 39-2006, f. 11-8-06, cert. ef. 11-10-06; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08

839-025-0005

Determination Requests

(1) A request for a determination as to whether a project or proposed project is a public works under Section 43 of House Bill 2140 (Enrolled), OR Laws 2007, must meet the following requirements before it will be considered by the commissioner:

(a) The request must be in writing, describe all relevant details of the project or proposed project, and be submitted to: Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon St., #1045, Portland, OR, 97232.

(b) A copy of the request must be sent to any public agency known to be associated with the project at the time it is submitted to the Prevailing Wage Rate Unit. The request submitted to the Prevailing Wage Rate Unit must identify the public agencies receiving a copy of the request.

(c) In addition to the written request, the requester must provide all documents, records, and other information necessary to enable the commissioner to make the determination. This information includes but is not limited to copies of advertisements, project plans and specifications, development and disposition agreements, contracts, project financing information, loan agreements, and any other relevant information related to the project or proposed project.

(2)(a) The requester has a continuing duty to provide the Prevailing Wage Rate Unit with all relevant documents, records and other information until a determination is made. A requester must promptly provide documents, records or other information that the commissioner informs the requester is necessary to make a determination. When the requester is not a public agency and information necessary for a determination is in the custody or control of a public agency, the requester shall obtain the information from the public agency and provide it to the Prevailing Wage Rate Unit.

(b) If any information submitted in connection with a request is modified or superseded in any material respect after being submitted to the Prevailing Wage Rate Unit, the requester must promptly submit the updated information to the Prevailing Wage Rate Unit.

(c) If a requestor fails or refuses to provide information required under subsection (1) or (2) of this rule, and the commissioner has reasonable grounds to believe such information exists, the commissioner may inform the requestor that the commissioner is unable to issue a determination.

(3) If the commissioner informs a requester that the Prevailing Wage Rate Unit has not received all the information necessary to make a determination, the request shall remain pending for 90 calendar days with the Prevailing Wage Rate Unit. After 90 days, the requester will need to submit a new request for a determination.

(4) When the commissioner issues a determination, it shall be issued to the requester, with copies mailed to any public agencies identified on the request.

(5) After a determination by the commissioner is issued, the requester or any public agency served with a copy of the determination may request that the commissioner reconsider the determination.

(a) A request for reconsideration must be filed within 15 calendar days of the date the determination was mailed. Requests must be filed with the Prevailing Wage Rate Unit. Filing of a request for reconsideration does not toll the time period for requesting an administrative hearing on the determination.

(b) The reconsideration request must be in writing and include the reason or reasons for the request and any documents in support of the request.

(c) The commissioner will accept or reject the request within 15 business days of receipt of the request by the Prevailing Wage Rate Unit. If the commissioner does not accept the request within 15 business days, it shall be deemed denied.

Stat. Auth.: ORS 279C & 651.060, Other Auth. HB 2140, Sec. 45, 2007

Stats. Implemented: ORS 279C.800, 279C.870

Hist.: BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08

839-025-0020

Public Works Contracts and Contract Specifications; Required Conditions

(1) For purposes of this rule:

(a) "Construction Manager/General Contractor contract" (or "CM/GC contract") means a contract that typically results in a general contractor/construction manager initially undertaking various pre-construction tasks that may include, but are not limited to: design phase development, constructability reviews, value engineering, scheduling, and cost estimating, and in which a guaranteed maximum price for completion of

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construction-type work is typically established by amendment of the initial contract, after the pre-construction tasks are complete or substantially complete. "CM/GC" refers to the general contractor/construction manager under this form of contract. Following the design phase, the CM/GC may then act as a General Contractor and begin the subcontracting process. The CM/GC typically coordinates and manages the construction process, provides contractor expertise, and acts as a member of the project team;

(b) "Construction specifications" include the detailed description of physical characteristics of the improvement, design details, technical descriptions of the method and manner of doing the work, quantities or qualities of any materials required to be furnished, descriptions of dimensions, required units of measurement, composition or manufacturer, and descriptions of any quality, performance, or acceptance requirements.

(2) Every public works contract must contain the following:

(a) A condition or clause that, if the contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person, or the assignee of the person, in connection with the public works contract as such claim becomes due, the proper officer or officers of the public contracting agency may pay such claim and charge the amount of the payment against funds due or to become due the contractor by reason of the contract (Reference: ORS 279C.515);

(b) A condition that no person will be employed for more than 10 hours in any one day, or 40 hours in any one week except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases the person so employed must be paid at least time and one-half the regular rate of pay for all time worked:

(A) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(B) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(C) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

(c) A condition that an employer must give notice to employees who work on a public works contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work (Reference: ORS 279C.520);

(d) A condition that the contractor must promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such contractor, of all sums which the contractor agrees to pay for such services and all moneys and sums which the contractor collected or deducted from the wages of the contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service (Reference: ORS 279C.530);

(e) A provision that the contractor must pay to the commissioner a fee equal to one tenth of one percent (.001) of the contract price but no less than \$100 nor more than \$5,000 regardless of the contract price; that the fee must be paid no later than 10 days after receipt of the first progress payment or 60 days after work on the contract has begun, whichever comes first; that final adjustments to the fee must be made within 30 days of the final progress payment after completion of the contract.

(3) Every public works contract and subcontract must contain a provision that each worker in each trade or occupation employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the contract, must be paid not less than the applicable state prevailing rate of wage, or the applicable federal prevailing rate of wage, whichever is higher.

(4)(a) Except as provided in subsections (7) and (8) of this rule, the existing rate of wage is the rate in effect at the time the initial specifications were first advertised for bid solicitations.

(b) If a public agency is required under (a) of this section or section (7) to include the state and federal prevailing rates of wage in the specifications for a contract for public works, the public agency also shall include in the specifications information showing which prevailing rate of wage is higher for workers in each trade or occupation in each locality, as determined by the Commissioner of the Bureau of Labor and Industries under ORS 279C.815(2)(b).

(5) The provisions described in sections (3) and (4), and sections (7) and (8) if applicable, must be included in all specifications for each contract

awarded on the project, regardless of the price of any individual contract, so long as the combined price of all contracts awarded on the project is \$50,000 or more (Reference: ORS 279C.830)

(a) A statement incorporating the applicable prevailing wage rate publication and any amendments thereto or Davis-Bacon wage rate determination into the specifications by reference will satisfy these requirements. Such reference must include the title of the applicable wage rates publication or determination and the date of the publication or determination as well as the date of any applicable amendments.

(b) When the prevailing wage rates are available electronically or are accessible on the Internet, the rates may be incorporated into the specifications by referring to the electronically accessible or Internet-accessible rates and by providing adequate information about how to access the rates. Such reference must include the title of the applicable wage rates publication or determination and the date of the publication or determination as well as the date of any applicable amendments.

(6) All specifications for each contract awarded on the project must contain a provision stating that the contractor must pay to the commissioner a fee equal to one tenth of one percent (.001) of the contract price but no less than \$100 nor more than \$5,000 regardless of the contract price pursuant to ORS 279C.825. The fee must be paid no later than 10 days after receipt of the first progress payment or 60 days after work on the contract has begun, whichever comes first; that final adjustments to the fee must be made within 30 days of the final progress payment after completion of the contract (Reference: ORS 279C.830).

(7) When a public agency is a party to a CM/GC contract, the CM/GC contract becomes a public works contract either when the contract first constitutes a binding and enforceable obligation on the part of the CM/GC to perform or arrange for the performance of construction, reconstruction, major renovation or painting of an improvement that is a public works or when the CM/GC contract enters the construction phase, whichever occurs first. The prevailing wage rate in effect at that time shall apply and must be included with the construction specifications for the CM/GC contract. For example, the CM/GC will have a binding and enforceable obligation to perform or arrange for the performance of construction, reconstruction, major renovation or painting of an improvement after the public agency and CM/GC commit to the guaranteed maximum price. For purposes of this rule, the CM/GC contract enters the construction phase when the agency first authorizes the performance of early construction, reconstruction, major renovation or painting work directly related to the improvement project.

(8) A public works project described in ORS 279C.800(6)(a)(B) or (C) that is not a CM/GC contract subject to section (7) is subject to the existing state prevailing rate of wage or, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act that is in effect at the time a public agency enters into an agreement with a private entity for the project. After that time, the specifications for any contract for the public works shall include the applicable prevailing rate of wage.

(9) Public contracting agencies may obtain, without cost, a copy of the existing prevailing rate of wages for use in preparing the contract specifications by contacting the Prevailing Wage Rate Unit or any office of the bureau.

Stat. Auth.: ORS 279C & 651.060

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

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 3-1996, f. & cert. ef. 1-26-96; BL 3-1997(Temp), f. 7-31-97, cert. ef. 8-1-97; BL 1-1998, f. & cert. ef. 1-5-98; BL 1-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0020, BL 1-2005, f. 2-25-05, cert. ef. 3-1-05; BL 29-2005, f. 12-29-05, cert. ef. 1-1-06; BL 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06; BL 1-2006, f. 11-8-06, cert. ef. 11-10-06; BL 2-2007, f. & cert. ef. 1-23-07; BL 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08

839-025-0100

Exemptions

(1) All public works are regulated under ORS 279C.800 to 279C.870 except as follows:

(a) Projects for which the total price does not exceed \$50,000. As used in this section, the price of a project includes, but is not limited to, the value of work performed by every person paid by a contractor or subcontractor in any manner for the person's work on the project, but does not include the value of donated materials or work performed on the project by individuals volunteering to the public agency without pay.

(b) Contracts of a People's Utility District which are regulated under ORS 261.345.

(c) Projects for which no funds of a public agency are directly or indirectly used.

(d) Projects:

(A) That are privately owned;

(B) That use funds of a private entity;

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(C) In which less than 25 percent of the square footage of a completed project will be occupied or used by a public agency; and

(D) For which less than \$750,000 of funds of a public agency are used.

(e) Projects for residential construction that are privately owned and that predominantly provide affordable housing. As used in this paragraph:

(A) "Affordable housing" means housing that serves occupants whose incomes are no greater than 60 percent of the area median income or, if the occupants are owners, whose incomes are no greater than 80 percent of the area median income.

(B) "Predominantly" means 60 percent or more.

(C) "Privately owned" includes:

(i) Affordable housing provided on real property owned by a public agency if the real property and related structures are leased to a private entity for 50 or more years; and

(ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability company in which a housing authority, as defined in ORS 456.005, is a general partner, director or managing member and the housing authority is not a majority owner in the partnership, nonprofit corporation or limited liability company.

(2) The provisions of ORS 279C.840 and these rules that regulate payment of the prevailing rate of wage do not apply to:

(a) Inmates of the Oregon Department of Corrections assigned to:

(A) A work release program or otherwise working in gainful private employment pursuant to ORS 144.480, relating to prison inmate labor; or

(B) State Parks and Recreation Department projects to improve, maintain and repair buildings and property at state parks and recreation areas pursuant to ORS 390.195(1).

(b) Oregon Youth Conservation Corps members.

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

Stat. Auth.: ORS 279 & 651.060

Stats. Implemented: ORS 279.357, 390.195(1) & OL Ch. 628 (2001)

Hist.: BL 4-1984, f. & ef. 3-13-84; BL 3-1996, f. & cert. ef. 1-26-96; BL 1-1998, f. & cert. ef. 1-5-98; BLI 15-2001, f. & cert. ef. 11-14-01; Renumbered from 839-016-0100, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 18-2006, f. 5-12-06, cert. ef. 5-15-06; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08

839-025-0310

Division of Projects

(1)(a) A public agency may not divide a public works project into more than one project for the purpose of avoiding compliance with ORS 279C.800 to 279C.870.

(b) When making a determination of whether the public agency divided a public works project to avoid compliance with ORS 279C.800 to 279C.870, the commissioner will consider the facts and circumstances in any given situation including, but not limited to, the following matters:

(A) The physical separation of project structures;

(B) Whether a single public works project includes several types of improvements or structures;

(C) The anticipated outcome of the particular improvements or structures the agency plans to fund;

(D) Whether the structures or improvements are similar to one another and combine to form a single, logical entity having an overall purpose or function;

(E) Whether the work on the project is performed in one time period or in several phases as components of a larger entity;

(F) Whether a contractor or subcontractor and their employees are the same or substantially the same throughout the particular project;

(G) The manner in which the public agency and the contractors administer and implement the project;

(H) Other relevant matters as may arise in any particular case.

(c) When the commissioner determines that a public agency has divided a public works project for the purpose of avoiding compliance with ORS 279C.800 to 279C.870, the commissioner will issue a written order compelling compliance with ORS 279C.800 to 279C.870. The order will offer the public agency the opportunity to contest the order pursuant to OAR 839-050-0000 through 839-050-0420.

(2) If a project is a public works of the type described in ORS 279C.800(6)(a)(B) or (C), the commissioner shall divide the project, if appropriate, after applying the considerations set forth in subsection (1)(b) of this section to separate the parts of the project that include funds of a public agency or that will be occupied or used by a public agency from the parts of the project that do not include funds of a public agency and that will not be occupied or used by a public agency. If the commissioner divides the project, any part of the project that does not include funds of a public agency and that will not be occupied or used by a public agency is not subject to ORS 279C.800 to 279C.870.

(3) If a project includes parts that are owned by a public agency and parts that are owned by a private entity, the commissioner shall divide the project, if appropriate, after applying the considerations set forth in subsections (1)(b) and (2) of this section to separate the parts of the project that are public works from the parts of the project that are not public works. If the commissioner divides the project, parts of the project that are not public works are not subject to ORS 279C.800 to 279C.870.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0310, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08

839-025-0340

Other Circumventions

(1) A contracting agency circumvents the payment of the prevailing rate of wage when it knowingly or intentionally:

(a) Fails or refuses to include a provision stating the existing prevailing rate of wage in the contract specifications in violation of ORS 279C.830;

(b) Fails or refuses to include a provision in the contract that workers on the contract shall be paid no less than the specified minimum hourly rate of wage in violation of ORS 279C.830;

(c) Divides a project for the purpose of avoiding compliance with ORS 279C.800 to 279C.870 in violation of HB 2140 Section 44 (Engrossed) OR Laws 2007.

(d) Awards a contract to a contractor whose name appears on the list of ineligible maintained pursuant to ORS 279C.860.

(2) The "specified minimum hourly rate of wage" as used in subsection (1)(b) of this rule means the applicable prevailing rate of wage.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; Renumbered from 839-016-0340, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08

839-025-0530

Violations for Which a Civil Penalty May Be Assessed

(1) The commissioner may assess a civil penalty for each violation of any provision of the Prevailing Wage Rate Law (ORS 279C.800 to 279C.870) and for each violation of any provision of the administrative rules adopted under the Prevailing Wage Rate Law.

(2) Civil penalties may be assessed against any contractor, subcontractor or contracting agency regulated under the Prevailing Wage Rate Law and are in addition to, not in lieu of, any other penalty prescribed by law.

(3) The commissioner may assess a civil penalty against a contractor or subcontractor for any of the following violations:

(a) Failure to pay the applicable prevailing rate of wage in violation of ORS 279C.840;

(b) Failure to post the applicable prevailing wage rates in violation of ORS 279C.840(4);

(c) Failure to post the notice describing the health and welfare or pension plans in violation of ORS 279C.840(5);

(d) Failure to include a provision in a subcontract that workers shall be paid not less than the specified minimum hourly rate of wage in violation of ORS 279C.830(1)(c);

(e) Failure to include in a subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt in violation of ORS 279C.830(3);

(f) Failure to file with the Construction Contractors Board a public works bond as required pursuant to Oregon Laws 2005, chapter 360, section 2, before starting work on a contract or subcontract for a public works project subject to the provisions of ORS 279C.800 to 279C.870;

(g) Failure to verify that a subcontractor has filed a public works bond as required or has elected not to file a public works bond pursuant to the provisions of Oregon Laws 2005, chapter 360, section 2, prior to permitting a subcontractor to start work on a public works project.

(h) Failure to file certified statements in violation of ORS 279C.845;

(i) Filing inaccurate or incomplete certified statements in violation of ORS 279C.845;

(j) Failure to retain 25 percent of the amount the first-tier subcontractor earned when the first-tier subcontractor fails to submit payroll and certified statement forms to the public contracting agency in violation of ORS 279C.845;

(k) Paying the prevailing rate of wage in violation of ORS 279C.840(6);

(l) Reducing an employee's pay in violation of ORS 279C.840(7);

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(m) Taking action to circumvent the payment of the prevailing wage, other than subsections (i) and (k) of this section, in violation of ORS 279C.840(7);

(n) Failure to submit reports and returns in violation of ORS 279C.815(3);

(o) Failure to certify the accuracy of reports and returns in violation of ORS 279C.815(3);

(p) Failure to timely pay the fee required by ORS 279C.825;

(q) Receiving a public works contract or subcontract while on the List of Ineligibles in violation of ORS 279C.860;

(4) The commissioner may assess a civil penalty against a public contracting agency for any of the following violations:

(a) Failure to include a contract provision stating that workers must be paid the applicable prevailing rate of wage in violation of ORS 279C.830(1)(c);

(b) Failure to include a contract provision stating that a fee is to be paid to the commissioner in violation of ORS 279C.830(2);

(c) Failure to include in the contract specifications a provision stating the applicable existing prevailing wage rate in violation of ORS 279C.830(1);

(d) Failure to include in the contract specifications a provision stating that a fee is required to be paid to the commissioner in violation of ORS 279C.830(2);

(e) Failure to include in the specifications for a contract for a public works stating that the contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt in violation of ORS 279C.830(3);

(f) Failure to include in a contract for a public works a provision requiring the contractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt in violation of ORS 279C.830(3)(a);

(g) Failure to include in a contract for a public works a provision requiring the contractor to include in every subcontract a provision requiring the contractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt in violation of ORS 279C.830(3)(b);

(h) Failure to notify the commissioner when a contract is awarded in violation of ORS 279C.835;

(i) Dividing a public works project in violation of HB 2140 Section 44 (Engrossed) OR Laws 2007;

(j) Failure to include a copy of the disclosure of first-tier subcontractors with the Notice of Award in violation of ORS 279C.835;

(k) Failure to retain 25 percent of the amount the contractor earned when the contractor fails to submit payroll and certified statement forms to the public contracting agency in violation of ORS 279C.845.

Stat. Auth.: ORS 279 & 651.060

Stats. Implemented: ORS 279.370

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; BL 1-1998, f. & cert. ef. 1-5-98; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0530, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08

Rule Caption: Amends the prevailing rates of wage for period beginning July 1, 2007.

Adm. Order No.: BLI 21-2007

Filed with Sec. of State: 8-3-2007

Certified to be Effective: 8-8-07

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, 2007.

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, 2007, 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, 2007, and the effective dates of the applicable special wage determination and rates amendments:

(a) Marine Rates for Public Works Contracts in Oregon (effective October 4, 2006);

(b) Amendments/Corrections to July 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 22, 2007);

(c) Amendments/Corrections to July 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 6, 2007);

(d) Amendments/Corrections to July 1, 2007 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 13, 2007).

(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, 2007, 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.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07

Department of Administrative Services Chapter 125

Rule Caption: Repeal Chapter 125, Division 22, rules that supported the previously repealed rules related to personal services contracts.

Adm. Order No.: DAS 3-2007

Filed with Sec. of State: 8-10-2007

Certified to be Effective: 8-10-07

Notice Publication Date: 4-1-07

Rules Repealed: 125-022-0050, 125-022-0100, 125-022-0200, 125-022-0300

Subject: The repeal of Chapter 125, Division 22, personal services agreements with state agencies and other governmental entities (Rules), is a routine housekeeping matter. It repeals Rules that supported the previously repealed Chapter 125, Division 20, related to personal services contracts. Repeal of the Rules eliminates confusion and potential conflict with the Public Contracting Code (ORS 279ABC) and the Department of Administrative Services (DAS) Public Contracting Rules (OAR 125-246 through 125-249).

Rules Coordinator: Cheryl Knottingham—(503) 378-2349, ext. 325

ADMINISTRATIVE RULES

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

Stats. Implemented: ORS 414.312 - 414.320
Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07

Rule Caption: Oregon Prescription Drug Program amends eligibility requirements, eligibility definition, program price, and contracting rules.

Adm. Order No.: OHP 3-2007

Filed with Sec. of State: 8-3-2007

Certified to be Effective: 8-3-07

Notice Publication Date: 7-1-07

Rules Adopted: 409-030-0065

Rules Amended: 409-030-0000, 409-030-0005, 409-030-0010, 409-030-0020, 409-030-0040, 409-030-0050

Subject: These rules implement Ballot Measure 44 passed by majority vote of the people of the State of Oregon on November 7, 2006.

These rules implement Senate Bill 362 signed into law by Governor Kulongoski on April 26, 2007.

These rules amend the contracting authority delegated to DAS SPO.

Rules Coordinator: Cheryl Knottingham—(503) 378-2349, ext. 325

409-030-0000

Definitions

(1) Administrator — The Administrator of the Oregon Prescription Drug Program.

(2) Department — The Department of Administrative Services acting by and through the Administrator of the Oregon Prescription Drug Program, the Office of Health Policy and Research, and any other office of the Department.

(3) Contractor(s) — One or more PBAs or TPAs authorized by the Oregon Prescription Drug Program (OPDP) to perform administrative duties of the program including but not limited to processing and paying claims, issuing I.D. cards and maintaining eligibility files.

(4) Enrollee — Any person who meets the eligibility requirements of the Oregon Prescription Drug Program according to ORS 414.312 (c) or (f) pays the applicable enrollment fee and is issued an enrollment card.

(5) OPDP — Oregon Prescription Drug Program

(6) Participating Groups — Agencies or institutions eligible to participate in the OPDP according to ORS 414.312(4)(a) (b) (d) (e) (g) or (h). Group Enrollee means any person who is issued an OPDP I.D. card through a Participating Group.

(7) PDL — Preferred Drug List

(8) Pharmacy Benefit Administrator (PBA) — An entity that, in addition to being a prescription drug claims processor, negotiates and executes contracts with pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary between the Administrator, prescription drug manufacturers and pharmacies.

(9) Pharmacy providers — Retail drug outlets that volunteer to participate in the Oregon Prescription Drug Program and that contract with the Department as a pharmacy provider.

(10) Prescription drugs — Drugs that must legally be prescribed by a practitioner authorized to prescribe drugs (legend drugs).

(11) Prescription drug claims processor — An entity that processes and pays prescription drug claims, transmits prescription drug prices and claims data between pharmacies and the OPDP and processes payments to pharmacies.

(12) Program Price — The reimbursement rates and prescription drug prices established by the Administrator of the Oregon Prescription Drug Program (OPDP), including program cost and the dispensing fee and all applicable manufacturers discounts and rebates.

(13) Rebates — Promotional or volume related refunds pre-arranged with manufacturers on certain prescription drugs used to reduce the cost to purchaser.

(14) Third Party Administrator (TPA) — An entity that, in addition to being a prescription drug claim processor, facilitates program management including processing and paying prescription drug claims; transmitting prescription drug prices and claims and enrollment data between pharmacies and the OPDP and its groups; maintaining enrollment and issuing I.D. cards; and processing payments to pharmacies. The TPA could be contracted through the Department or PBAs.

Stat. Auth.: ORS 414.320

409-030-0005

General Administration

(1) The purpose of these rules is to implement the Oregon Prescription Drug Program authorized in ORS 414.312 to 414.318.

(2) The Administrator will administer and implement the OPDP.

(3) The Administrator may enter into contracts with one or more PBAs or TPAs to assist in the administration of the OPDP.

(4) The Administrator, or designee, may:

(a) Negotiate price discounts and rebates on prescription drugs with prescription drug manufacturers;

(b) Purchase prescription drugs on behalf of Enrollees and Participating Groups;

(c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and transmit program prices to pharmacies;

(d) Determine Program Prices and reimburse pharmacies for prescription drugs;

(e) Adopt and implement a Preferred Drug List for the program;

(f) Develop a system for allocating and distributing the operational costs of the program and any Rebates obtained to participants of the program; and

(g) Cooperate with any state or regional consortia in the bulk purchase of prescription drugs.

(3) The Administrator may adopt rules and develop forms to implement the OPDP.

(4) The Administrator is authorized to oversee the implementation of the OPDP, including review of Enrollee eligibility information, Participating Group information, and pharmacy provider compliance with the requirements of the program. The Administrator, or designee, may review such records or other information, including health information, necessary to perform such oversight responsibilities.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; Administrative Correction, 6-16-07; OHP 3-2007, f. & cert. ef. 8-3-07

409-030-0010

Pharmacy Providers

(1) To be a pharmacy provider under the Oregon Prescription Drug Program (OPDP), the pharmacy must contract with the Department of Administrative Services (Department) and the pharmacy provider must be licensed with the State of Oregon Board of Pharmacy as a pharmacy in Oregon.

(2) Signing the pharmacy provider contract constitutes agreement by the pharmacy provider to comply with all applicable state and federal laws and regulations, including these rules, and the terms and conditions of the contract. The contract authorizes the pharmacy to serve Enrollees in OPDP and outlines program compliance requirements.

(3) A contract may be issued to a qualified pharmacy provider upon:

(i) Completion and signing of the contract by the pharmacy provider or a person authorized by the pharmacy provider to bind the organization to compliance with these rules;

(j) Verification of pharmacy licensing with the Oregon Board of Pharmacy. Loss of the appropriate licensure will result in immediate termination of the OPDP contract; and

(k) Approval of the contract by the Department of Administrative Services.

(4) To contract for the OPDP, the pharmacy provider must agree to:

(a) Accept the Program Price in effect on the date of the transaction as established by the Administrator including but not limited to dispensing fees which may be charged to the Enrollee;

(b) Keep sufficient documentation of transactions to resolve disagreements with the Enrollee about the amount charged for the prescription drugs;

(c) Reimburse the Enrollee or Participating Group directly for overcharges as determined by Program Price in effect on the date of the transaction.

(d) Cooperate with the Contractor designated by the Administrator for claims processing, reimbursement, and such other tasks as necessary to administer the OPDP, including providing access to records.

(e) Agree to not charge Enrollees for costs incurred by the pharmacy provider for the electronic transmittal of the Program Price from the Department to the pharmacy.

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(5) Advertising:

(a) A pharmacy provider may advertise that it participates in the OPDP;

(b) Advertising or marketing materials must be accurate and not misleading or confusing to Enrollees or to the public about participation in the OPDP or the savings offered by the pharmacy provider.

(c) The pharmacy provider must stop all advertisements pertaining to participation in the program if the Department suspends or terminates the contract.

(6) The Administrator may, at its discretion, suspend or remove a pharmacy provider from the OPDP if the pharmacy provider fails to comply with any material term or condition of its contract or these rules.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07

409-030-0020

Program Price

(1) The price for a prescription drug a pharmacy provider can charge an Enrollee under the Oregon Prescription Drug Program (OPDP) is the lesser of the following on the date of the transaction:

(a) The Program Price, or

(b) The pharmacy provider's usual and customary price, including program cost and dispensing fee.

(2) The Contractor will transmit the price of the prescription drugs to the pharmacy providers electronically.

(3) The OPDP is limited to prescription drugs prescribed in the name of and for the use by the Enrollee, except as otherwise provided in section (8) of this Rule.

(4) Prescription drug benefits will be outlined on Enrollee and Group Enrollee identification cards.

(5) The OPDP does not include prescriptions for over-the-counter drugs.

(6) The Administrator may establish different reimbursement rates or prescription drug prices for pharmacies in rural areas to maintain statewide access to the OPDP.

(7) Certain Participating Groups may receive the Program Price based on other reimbursement arrangements with OPDP, where the prescription drug is not being dispensed by a pharmacy provider to an individual Group Enrollee. Such reimbursement arrangements shall be approved and arranged by the PBA or TPA, as appropriate.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07

409-030-0040

Participating Groups and Small Entity Participating Groups

The Administrator may establish processes, terms and conditions describing how the entities identified in ORS 414.312(4) may participate in the OPDP as a Participating Group, including such entities otherwise subject to ORS 731.036(6).

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07

409-030-0050

Enrollment

(1) Participating Groups. Participating Groups will enroll for participation through the PBA or TPA chosen by the OPDP to administer the Participating Group's enrollment and claims processing.

(a) Eligibility for Group Enrollees of a Participating Group will be maintained electronically between the group and PBA or TPA.

(b) I.D. cards will be issued for Group Enrollees through the Participating Group at initial enrollment and renewals, and to individuals within the group between those times as needed.

(2) Individual Enrollees. Oregon who do not have prescription drug coverage or who are underinsured for prescription drug coverage and enrollees in the Senior Prescription Drug Assistance Program created under ORS 414.342 may be enrolled by the PBA or TPA.

(a) I.D. cards will be issued for Enrollees by the PBA or TPA.

(b) Individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program.

(3) The OPDP may charge a nominal fee to participate in the program.

Stat. Auth.: ORS 414.320

Stats. Implemented: ORS 414.312 - 414.320

Hist.: OHP 1-2004, f. & cert. ef. 9-24-04; OHP 2-2006(Temp), f. & cert. ef. 11-28-06 thru 5-23-07; OHP 2-2007(Temp), f. & cert. ef. 5-16-07 thru 11-6-07; OHP 3-2007, f. & cert. ef. 8-3-07

409-030-0065

Contracted Services

The Administrator of the Oregon Prescription Drug Program (OPDP) has procurement authority for goods and services to implement and administer ORS 414.312 to 414.318. The Administrator recognizes the benefits of statewide consistency and expertise when certain procurements under OPDP authority are instead procured for OPDP by the Department of Administrative Services. Therefore:

(1) OPDP adopts the public contracting rules in OAR Chapter 125 division 246 (General Provisions Related to Public Contracting) and division 247 (Public Procurements of Supplies and Services) (effective May 31, 2006) as the contracting rules that will apply to its procurements, except as otherwise provided in section (4) of this rule. The terms used in this rule will have the meaning set forth in the OAR 125 divisions 246 and 247.

(2) The Administrator of OPDP delegates procurement authority to the Chief Procurement Officer of the Department of Administrative Services for goods and services for OPDP, except as otherwise provided in section (4) of this rule. Procurements under this delegation shall be processed in accordance with OAR ch. 125, divisions 246 and 247.

(3) The Administrator of OPDP shall act as the agency's representative for each Contract. The Administrator may delegate in writing the representative's responsibilities to a designee. The agency's representative may participate with the Designated Procurement Officer assigned by the Chief Procurement Officer in all aspects of procurement.

(4) OPDP's mechanism for and administration of the enrollment of participating pharmacy providers or Participating Groups do not constitute procurements subject to this rule. The Administrator of OPDP may delegate to DAS on a case-by-case basis, by written agreement, procurement authority for such matters. Procurements under such a delegation shall be processed in accordance with OAR divisions 246 and 247.

Stat. Auth.: ORS 414.312 - 414.320

Stats. Implemented: ORS 414.312 - 414.318, OL 2007 (SB 362)

Hist.: OHP 3-2007, f. & cert. ef. 8-3-07

Department of Administrative Services, Oregon Educators Benefit Board Chapter 111

Rule Caption: Establishes Oregon Educator Benefits Board's rule-making authority, powers and duties of the Board and procurement and contracting authority of the Board.

Adm. Order No.: OEBC 1-2007(Temp)

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07 thru 1-4-08

Notice Publication Date:

Rules Adopted: 111-001-0000, 111-001-0005, 111-002-0005, 111-002-0010, 111-005-0010, 111-005-0015, 111-005-0020, 111-005-0040, 111-005-0042, 111-005-0044, 111-005-0046, 111-005-0048, 111-005-0050, 111-005-0060, 111-005-0070

Subject: Establishes procedures to be used for rulemaking; powers and duties of the Board and procurement and contracting processes and requirements for the Oregon Educators Benefit Board (OEBB).

Rules Coordinator: Rose Mann—(503) 378-4606

111-001-0000

Notice of Proposed Rule Changes

Prior to adoption, amendment, or repeal of any permanent rule, the Oregon Educators Benefit Board (OEBB) will give notice of the intended action:

(1) In the Secretary of State's Bulletin at least 21 days before the effective date as provided in ORS 183.335.

(2) By mailing or electronically transmitting a copy of the notice to persons on the OEBB mailing list at least 28 days before the effective date of the rule as provided in ORS 183.335. Notice will be mailed unless the recipient requests or approves the use of electronic mail; and

(3) By mailing, or transmitting by electronic mail, a copy of the notice to:

(a) The Associated Press;

(b) The Capitol Building Press Room;

(c) Oregon Education Association;

(d) Oregon School Board Association;

(e) Confederation of Oregon School Administrators;

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(f) Oregon Federation of Teachers, Education and Health Professionals;

(g) Oregon School Employees Association;

(h) Oregon Community College Association;

(i) School and education service district superintendents, school board chairs and district payroll officers;

(j) AFT Oregon;

(k) The Oregon State Bar Association; and

(l) The state legislator who introduced legislation that created the need for a rule to be adopted, amended, or repealed, and the chair or co-chair of all committees that reported the bill out. If notice cannot be given to the legislator, notice will be provided to the Speaker of the House of Representatives and the President of the Senate.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: ORS 183.310-183.550, 192.660, Sec. 3(1), Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-001-0005

Uniform and Model Rules of Procedure

The Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedure Act, effective January 1, 2004, are adopted as rules of procedure of the Oregon Educators Benefit Board and are made a part of OAR chapter 111.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedures is available from the office of the Attorney General or the Department of Administrative Services, Oregon Educators Benefit Board.]

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: ORS 183.310-183.550, 192.660, Sec. 3(1), Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-002-0005

Powers and Duties of the Board

(1) The board will study all matters connected with providing adequate benefit plan coverage for eligible employees with concern for the welfare of the employees and affordability for the districts.

(2) The board will design benefit plans, devise specifications, analyze carrier responses to advertisements for bids and decide on the award of contracts. The board will place emphasis on:

(a) Employee choice among high-quality plans;

(b) A competitive marketplace;

(c) Plan performance and information;

(d) District flexibility in plan design and contracting;

(e) Quality customer services;

(f) Creativity and innovation;

(g) Benefit plans as part of total employee compensation; and

(h) Improvement of employee health.

(3) The board will prepare specifications, invite bids, and do acts necessary to award contracts for benefit plan coverage of eligible employees.

(4) The board will retain consultants, brokers, or other advisory personnel as it deems necessary and will employ such personnel as are required to perform the functions of the board.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 1-14, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-002-0010

Conduct of Meetings of the Board

(1) The board will select one of its appointed voting members as chair and another voting member as vice chair.

(2) The chair will conduct and control meetings of the board. The vice chair will preside over meetings in the absence of the chair. A majority vote of the board will designate the member to preside over meetings in the absence of the chair and the vice chair.

(3) All meetings of the board will be conducted according to Oregon Public Meetings Law, ORS 192.610 to 192.690.

(4) A person must not smoke any cigar or cigarette, or use tobacco in any form in meetings of the board.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: ORS 183.310-183.550, 192.660, 292.051, Sec. 2 & 3, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0010

Policy

The policy of the Oregon Educators Benefit Board (OEBB) is to select contractors and consultants in an expeditious, fair, and efficient manner that is consistent with the goal of delivering high-quality benefits and other services at a cost that is affordable to both the employees and the school districts, education service districts, and community college districts, and meets the requirements of section 4, chapter 00007, Oregon

Laws 2007. The Board may enter into more than one contract for each type of benefit plan or other service sought.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0015

Applicable Personal Service Contract Rules

The following provisions of the Department of Administrative Services' Personal Service Contracts rules apply to the Oregon Educators Benefit Board's (OEBB's) procurement contracts for services from contractors and consultants as defined in OAR 111-005-0020(5) and (6). "Contracting Agency" or "Agency," means the OEBB. Reference to approval by the Division or DAS is not incorporated in these rules and approval is not required for OEBB to obtain, renew, or amend contracts. References to an Agency providing notice to DAS or providing DAS with access to its records are not incorporated in these rules and do not apply to the Board. Applicable DAS rules are: OAR 125-247-0310, 125-247-0400 (offer preparation), 125-247-0410 (offer submission), 125-247-0430 (addenda), 125-247-0440 (withdrawal of offers), 125-247-0450 (receipt and opening offers), 125-247-0460 (late offers), 125-247-0470 (mistakes), 125-247-0480 & 0490 (Agency acceptance), 125-247-0500 (proposal responsibility), 125-247-0600 (offer evaluation), 125-247-0610 (notice of intent to award), 125-247-0640 (rejection), 125-247-0650 (rejection of all offers), and 125-247-0660 (cancellation).

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0020

Definitions

For the purposes of OARs 111-005-0010, 111-005-0015 and 111-005-0040 through 111-005-0160 the following definitions will apply:

(1) "Apparent successful proposer" or "ASP" means the organization selected as a result of a competitive and completed procurement process.

(2) "Benefit plan" includes, but is not limited to:

(a) Insurance or other benefits including medical, dental, vision, life, disability, accidental death, long term care, flexible spending accounts, supplemental medical, supplemental dental, supplemental vision, or any other remedial care recognized by state law, and related services and supplies;

(b) Comparable benefits for employees who rely on spiritual means of healing; and

(c) Self insurance programs managed by the Board.

(3) "Benefits" means goods and services provided under benefit plans.

(4) "Board" means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under chapter 7, Oregon Laws 2007.

(5) "Consultant" means brokers or other advisory personnel hired by the Board pursuant to section 3(5), chapter 7, Oregon Laws 2007, to:

(a) Assist in acquiring adequate benefit plan coverage for eligible district employees;

(b) Assist in the study of all matters connected with the provision of adequate benefit plan coverage for eligible district employees;

(c) Assist in the development and implementation of decision-making processes;

(d) Design and implement additional programs to review, monitor and assist in the improvement of eligible district employees and their dependents' health; and

(e) Provide other services as required by the Board.

(6) "Contractor" means an individual or firm who provides services to the Board under a public contract.

(7) "District" means a common school district, a union high school district, an education service district, or a community college district.

(8) "Emergency" means a situation characterized by a substantial risk of interruption of benefit services that requires prompt execution of a contract to remedy the condition.

(9) "Extensive procurement" means the process of soliciting proposals and bids and selecting a contractor for services amounting to \$150,000 and over.

(10) "Intermediate procurement" means the process of soliciting proposals and bids and selecting a contractor for services amounting to under \$150,000 but over \$5,000.

(11) "Non-responsive proposal" means the Proposer:

(a) Fails to provide information as required in the specification of the RFP;

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(b) Takes exception to the terms and conditions in the proposed contract;

(c) Misses the RFP submission deadline;

(d) Has been debarred as set forth in ORS 279 B.130;

(e) Is not licensed to do business in Oregon or fails to meet other licensure and certification requirements included in the RFP;

(f) Will not provide or adhere to the certification of non-discrimination required under ORS 279A.110(4);

(g) Is found non-responsible as described under ORS 279B.110; or

(h) Fails to meet any other requirement set forth in the RFP.

(12) "Proposal" means a document submitted in response to a Request for Proposal.

(13) "Oregon Educators Benefit Board or OEGB" means the program created under chapter 7, Oregon Laws 2007.

(14) "ORPIN" means the Oregon Procurement Information Network, an online service operated by the Department of Administrative Services that displays procurements and contracts issued by the state of Oregon's agencies.

(15) "Proposer" means a person or entity submitting a proposal in response to a Request for Proposal.

(16) "Renewal contractor" means a contractor or consultant who provided the same or similar employee benefit plan or other services under a contract with the Board in the plan year immediately prior.

(17) "Request for Proposal" or "RFP" means the written document soliciting competitive written proposals and setting forth the criteria and method to be used by the Board to the best responsive proposals, apparent successful proposer, and the eventual contractor.

(18) "Responsible proposer" means the proposer:

(a) Is qualified legally to contract with the Board;

(b) Has supplied all necessary information in connection with the inquiry concerning responsibility;

(c) Is authorized to do business in Oregon;

(d) Has the appropriate financial, material, equipment, facility, and personnel resources and expertise necessary to indicate the proposer can meet all contractual responsibilities;

(e) Has a satisfactory record of contract performance; and

(f) Has a satisfactory record of business integrity. This includes no convictions for violations of confidentiality, monetary fraud, or collusion.

(19) "Responsive proposal" means that the proposal meets the minimum requirements of the RFP and has not been deemed "non-responsive" as described in section (11).

(20) "Selection committee" means the group of individuals appointed and approved by the Board to review, evaluate and score proposals received as part of an intermediate or extensive procurement and who recommend the apparent successful proposer (ASP) for the Board's approval.

(21) "Small procurement" means the process of securing contractors or consultants for services amounting to \$5,000 or less.

(22) "Sole source" means the only contractor or consultant of a particular product or service reasonably available.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEGB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0040

Extensive Procurement Process

The Board will use the following procedure except as provided for under OAR 111-005-0046 or 111-005-0048.

(1) Announcement. The Board will post solicitation notices for benefits or other consultant, broker, or advisory services via the Oregon Procurement and Information Network (ORPIN). The Board may also post solicitation notices for benefits, consultant, broker, or advisory services in trade periodicals or newspapers of general or specialized circulation. The solicitation notice will include a description of the benefits or services sought, the scope of the services required, evaluation and selection criteria, and a description of any special requirements. The notice will invite qualified prospective proposers to submit proposals. The notice will specify when and where to obtain the application, return the application, and the closing date.

(2) Pre-proposal conference. If a pre-proposal conference requires mandatory attendance by prospective proposers, no remuneration will be offered to prospective proposers for attendance, travel, document preparation, etc. Unless identified otherwise in the procurement, the pre-proposal conference will:

(a) Be voluntary; and

(b) Be held in Salem, Oregon.

(3) RFP protest; request for change or request for clarification.

(a) Protest.

(A) A proposer may deliver a protest to the Board not less than ten calendar days prior to closing, unless otherwise specified in the RFP.

(B) Proposer protests must be in writing and must include:

(i) A detailed statement of the legal and factual grounds for the protest;

(ii) A description of the resulting prejudice to the proposer; and

(iii) A statement of the desired changes to the RFP.

(C) The Board will not consider a proposer's protest after the submission deadline.

(i) The Board will provide notice to the applicable entity if it entirely rejects a protest. If the Board agrees with the entity's protest, in whole or in part, the Board will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the solicitation under OAR 137-030-0115.

(ii) If the Board receives a written protest from a proposer according to this rule, the closing may be extended if the Board determines an extension is necessary to consider the protest and to issue any addendum to the RFP.

(b) Request for change.

(A) A proposer may request in writing a change to the RFP specifications, unless otherwise specified in the RFP. If the RFP allows a proposer to make a request for changes and does not specify otherwise, proposer must deliver the written request for change to the Board not less than ten calendar days prior to closing.

(B) A proposer's written request for change must include a statement of the requested changes to the RFP specifications, including the reason for the requested change.

(C) The Board will not consider a proposer's request for change after the submission deadline.

(i) The Board will provide notice to the applicable entity if it entirely rejects a change. If the Board agrees with the entity's request for change, in whole or in part, the Board will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the solicitation under OAR 137-030-0115.

(ii) If the Board receives a written request for a change from a proposer according to this rule, closing may be extended if the Board determines an extension is necessary to consider the request and to issue any addendum to the RFP.

(c) Request for clarification.

(A) A proposer may request in writing clarification of the RFP specifications, unless otherwise specified in the RFP. If the RFP allows a proposer to make a request for clarification and does not specify otherwise, a proposer must deliver the written request for clarification to the Board not less than ten calendar days prior to closing.

(B) A proposer may request that the Board clarify any provision of the RFP.

(C) The Board will not consider a proposer's request for clarification after the submission deadline. The Board's clarification to a proposer, whether orally or in writing, does not change the RFP and is not binding on the Board unless the Board amends the RFP by addendum.

(4) Addenda to an RFP following an appeal or request for change or clarification.

(a) Issuance; receipt. The Board may change an RFP only by written addenda. A proposer must provide written acknowledgement of receipt of all issued addenda with its proposal, unless the Board otherwise specifies in the addenda.

(b) Notice and distribution. The RFP must specify how the Board will provide notice of addenda and how the Board will make the addenda available.

(c) Timelines; extensions. The Board will issue addenda within a reasonable time to allow prospective proposers to consider the addenda in preparing their proposals. The Board may extend the closing if the Board determines prospective proposers need additional time to review and respond to addenda. The Board will not issue addenda less than 72 hours before the closing unless an addendum also extends the closing, except to the extent required by public interest.

(d) Request for change or protest. A proposer may submit a written request for change or protest to the addendum by the close of the Board's next business day after issuance of the addendum, unless a different deadline is set forth in an addendum.

(5) Submission. All proposals submitted must comply with the procurement's specifications.

(a) If portions of the proposal to any solicitation are deemed unacceptable or non-responsive portions of the proposal to any solicitation are

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deemed unacceptable or non-responsive to the specifications of the solicitation, the proposal will be deemed non-responsive and will not be given further evaluation or consideration. If a proposal to any solicitation is delivered late, it will be deemed non-responsive to the specification of the solicitation and will be returned to the proposer unopened.

(b) Submission of proposals must be in writing and delivered in the written format, as required by the specifications of the solicitation. Proposals may also be submitted electronically with the written proposal and will be considered as a supplemental and not the sole format.

(6) Evaluation. The Selection Committee will evaluate proposals only in accordance with criteria set forth in the RFP and applicable law. The Board will not divulge the names of the selection committee until completion of the cost negotiations or the apparent successful proposer has been announced. The Board will evaluate proposals to determine the responsible proposer or proposers submitting the best responsive proposal or proposals.

(7) Rejection of proposal. The Board may reject any proposal for good cause upon written finding it is in the states, Districts', or employees' interest to do so, or acceptance of the proposal may impair the integrity of the procurement process.

(a) The Board will notify all proposers of the rejection of all proposals, along with the good cause justification and finding. The Board may reject any proposal for benefit plan or other services and deem the proposal as non-responsive or the Board finds that:

(8) Intent to award, discuss or negotiate. After the protest period provided in subsection (3)(a) expires, or after the Board has provided a final response to any protest, whichever date is later, the Board may engage in discussions and negotiations with proposers in the competitive range.

(9) Discussions and negotiations. If the Board chooses to enter into discussions and negotiations with the Proposers in the competitive range, the Board will proceed as follows:

(a) Initiating discussions. The Board must initiate oral or written discussions and negotiations with all of the proposers in the competitive range regarding their proposals.

(b) Conducting discussions. The Board may conduct discussions and negotiations with each proposer in the competitive range as necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions or negotiations with each proposer. The Board may terminate discussions and negotiations with any proposer in the competitive range at any time. All proposers in the competitive range will be offered the opportunity to discuss their proposals with the Board before the Board notifies proposers of the award decisions. In conducting discussions, the Board and any designated representatives:

(A) Will treat all proposers fairly and will not favor any proposer over another.

(B) Will not discuss proposers' proposals with any other proposers and will maintain all proposals as confidential documents.

(C) Will not divulge the name of the proposers or the content of the proposals until cost negotiations are complete or an apparent successful proposer has been announced.

(D) Will determine whether other factors, including but not limited to, Oregon residency of the primary business office and proposer demonstration of services and products, will be used to determine the apparent successful proposer, if a tie between proposers occurs.

(c) At any time during the period allowed for discussions and negotiations, the Board may:

(A) Continue discussions and negotiations with a particular proposer or proposers; or

(B) Terminate discussions with a particular proposer and continue discussions with other proposers in the competitive range.

(d) The Board may continue discussions and negotiations with proposers until determining who will be awarded contracts.

(10) Notice of intent to award. The Board will provide written notice to all proposers of intent to award the contract, unless otherwise provided in the RFP. The Board's award will not be final until the later of the following:

(a) Seven days after the date of the notice, unless the RFP provided a different period for protest; or

(b) The Board's written response to all timely filed protests that denies the protests and affirms the award.

(11) Right to protest award. An adversely affected or aggrieved proposer may submit to the Board a written protest of the Board's intent to award. The protest must be made within fourteen days after issuance of the notice of intent to award the contract, unless a different protest period is provided under the RFP.

(a) The proposer's protest must be in writing and must specify the grounds upon which the protest is based.

(b) A proposer is adversely affected or aggrieved only if:

(A) The proposer is eligible for award of the contract as a responsible proposer;

(B) The Board committed a substantial violation of a provision in the RFP or of an applicable procurement statute or administrative rule; and

(C) The protesting proposer was unfairly evaluated.

(c) The Board will not consider a protest submitted after the time period specified in this section or a different period if provided in the RFP.

(d) The Board Chair, or designee, has the authority to settle or resolve a written protest meeting the submission requirements of this rule.

(e) If a protest is not settled, the Board Chair, or designee, will promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

(12) Award of contracts. The Board will make final selections based on the evaluation criteria including, but not limited to, contractor or consultant availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBC, members and clients; debarment status; and references. The Board will place emphasis on employee choice among high-quality plans, plan performance and information, a competitive marketplace, employer flexibility in plan design and contracting, quality customer service, creativity and innovation and the improvement of employee health.

(13) Contract. The successful proposer must promptly execute the contract after the award is final. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

(14) An amendment for additional services that are reasonably related to the scope of work under the original benefits plan or other services contract, including extra work or a change that increases the original contract price or length of time, may be made with the contractor or consultant without re-entering the formal procurement process provided that the cumulative amendment does not materially alter the contract.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBC 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0042

Intermediate Procurement Process

The Board will use the following procedure except as provided for under OAR 111-005-0046 or 111-005-0048.

(1) Announcement. The Board will post solicitation notices for benefits or consultant, broker, or advisory services via the Oregon Procurement and Information Network (ORPIN). The Board may also post solicitation notices for benefits, consultant, broker, and advisory services in trade periodicals or newspapers of general or specialized circulation. The notice will include a description of the benefits or services sought, the scope of the services required, and a description of any special requirements. The notice will invite qualified prospective proposers to submit proposals. The notice will specify when and where to obtain the application, return the application, and the closing date.

(2) Submission. All submitted proposals must comply with the proposer's specifications. If portions of the proposal to any solicitation are deemed unacceptable or non-responsive to the specifications of the solicitation, the proposal will be deemed non-responsive and will not be given further evaluation or consideration. If a proposal to any solicitation is delivered late, it will be deemed non-responsive to the specification of the solicitation and will be returned to the proposer unopened.

(a) Submission of proposals must be in writing and delivered in the written format, as required by the specifications of the solicitation. Proposals may also be submitted electronically with the written proposal and will be considered as a supplemental and not the sole format.

(b) The proposal from the prospective proposers will consist of a statement that describes the prospective proposer's credentials, performance data and other information sufficient to establish proposer's qualifications for providing the benefits or consultant, broker, or advisory services sought. The proposal must also contain information requested in the announcement.

(3) Evaluation. The Selection Committee will evaluate proposals in accordance with the Board's needs and applicable law. The Board will not divulge the names of the selection committee until completion of the cost negotiations. The Selection Committee will evaluate proposals to determine the responsible proposer or proposers submitting the best responsive proposal or proposals.

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(4) Discussions and negotiations. If the Board chooses to enter into discussions and negotiations with the proposers, the Board:

(a) Will treat all proposers fairly and will not favor any proposer over another.

(b) Will not discuss proposers' proposals with any other proposers and will maintain all proposals as confidential documents.

(c) Will not divulge the name of the proposers or the content of the proposals until cost negotiations are complete.

(d) Will determine whether other factors, including but not limited to, Oregon residency of the primary business office and proposer demonstration of services and products, will be used to award the contract.

(5) Notice of award. The Board will provide written notice to all proposers when the Board awards the contract. The Board's award will be final.

(6) Award of contracts. The Board will make final selections based on the evaluation criteria including, but not limited to, contractor or consultant availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references. The Board will place emphasis on employee choice among high-quality plans, plan performance and information, a competitive marketplace, employer flexibility in plan design and contracting, quality customer service, creativity and innovation and the improvement of employee health.

(7) Contract. The successful proposer must promptly execute the contract after the award is final. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

(8) An amendment for additional services that are reasonably related to the scope of work under the original benefits plan or other services contract, including extra work or a change that increases the original contract price or length of time, may be made with the contractor or consultant without re-entering the formal procurement process provided that the cumulative amendment does not:

(a) Materially alter the contract; or

(b) Increase the total contract cost to a sum that is greater than twenty-five percent of the original contract cost.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0044

Small Procurement Process

OEBB may procure contractor and consultant services in any manner it deems practical, including by direct selection, negotiation and award.

(1) The Board Chair delegates authority to the Public Employees' Benefit Board Administrator and the OEBB Deputy Administrator to enter into contracts on behalf of the Board.

(2) Award of contracts. The PEBB Administrator or OEBB Deputy Administrator will base selections on evaluation criteria which may include, but is not limited to, contractor or consultant availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references. Emphasis will be placed on quality customer service, creativity and innovation and the improvement of employee health.

(3) Contract. The selected contractor must promptly execute the contract. The PEBB Administrator or OEBB Deputy Administrator will execute the contract only after obtaining all applicable required documents and contractor signatures.

(4) An amendment for additional services that are reasonably related to the scope of work under the original benefits plan or other services contract, including extra work or a change that increases the original contract price or length of time, may be made with the contractor or consultant without re-entering the formal procurement process provided that the cumulative amendment does not:

(a) Materially alter the contract; or

(b) Increase the total contract cost to a sum that is greater than twenty-five percent of the original contract cost.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0046

Sole Source Procurement Process

The Board may negotiate with a single source provider of benefits or consultant, broker or advisory services if the services are available only

from one prospective proposer, or the prospective proposer has special skills uniquely required for the adequate performance of the services.

(1) Contract. The single source provider must promptly execute the contract after the award is final. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

(2) An amendment for additional services that are reasonably related to the scope of work under the original benefits plan or other services contract, including extra work or a change that increases the original contract price or length of time, may be made with the contractor or consultant without re-entering the formal procurement process provided that the cumulative amendment does not materially alter the contract.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0048

Emergency Contract Process

The Board may select a contractor to provide benefit plan or consultant, broker, or advisory services without following any of the procedures under OAR 111-005-0040, 111-005-0042, 111-005-0044, or 111-005-0046 when required by emergency. The Board will determine if an emergency exists, declare the emergency and negotiate a contract with the contractor or consultant based on the following criteria: contractor or consultant availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references. The Board will place emphasis on employee choice among high-quality plans, plan performance and information, a competitive marketplace, employer flexibility in plan design and contracting, quality customer service, creativity and innovation and the improvement of employee health.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0050

Mistakes

(1) Treatment of mistakes. If the OEBB discovers certain mistakes in a proposal after opening, but before award of the contract, and the mistakes are not identified as those qualifying as non-responsive to the specifications of the procurement, the OEBB may take the following action:

(a) Waive or permit a proposer to correct a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the proposal, or an insignificant mistake that can be waived or corrected without prejudice to other proposers. Mistakes including, but not limited to, signatures not affixed to the proposal document, proposals sent to the incorrect address, insufficient number of proposals submitted, or incorrect format will not be considered minor.

(b) Correct a clerical error if the intended proposal and the error are evident on the face of the proposal, or other documents submitted with the proposal, and the proposer confirms the correction in writing. A clerical error is a proposer's error in transcribing its proposal.

(2) Rejection for mistakes. OEBB may reject any proposal in which a mistake is evident on the face of the proposal and the intended correct proposal is not evident or cannot be substantiated from documents accompanying the proposal. In order to ensure integrity of the competitive procurement process and to assure fair treatment of proposers, mistakes discovered that are contrary to the specifications of the procurement will be carefully reviewed and will be determined, under sole authority of the OEBB, to be waived or not be waived.

(3) If the OEBB discovers mistakes in the proposal after award, and the mistakes are not considered minor, the Board reserves the right to determine if the award will be revoked. The Board will then re-evaluate proposals deemed to be in second, third, fourth, etc., in the standings.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

111-005-0060

Records Maintenance

OEBB will maintain all files pertaining to the selection process for all benefits and other service contracts entered on behalf of the state for six years. Files include, but are not limited to:

(1) The method and copy of announcement.

(2) The names of firms or individuals and cost estimates considered.

(3) The basis for selection.

(4) A copy of the resulting contract and any subsequent amendments.

Stat. Auth.: Ch. 7 OL 2007

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Stats. Implemented: Sec. 19, Ch. 7 OL 2007
Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

Department of Agriculture, Oregon Dairy Products Commission Chapter 617

111-005-0070

Renewal process for Contractor or Consultant Contracts

(1) Renewal procedure. If the Board does not issue a procurement to solicit formal proposals for benefit plans and other services, the Board may invite renewal proposals, directly negotiate and enter into renewal contracts with renewal contractors or consultants to provide benefit plans and consultant, broker, or advisory services without following the procedures set forth in OAR 111-005-0040.

(2) The Board may renew contracts with renewal contractors or consultants for as many years as the Board determines is in the best interest of the state, Districts, and employees.

(3) The Board will negotiate with renewal contractors or consultants and enter into contracts with them after giving full consideration to factors which include, but are not limited to, contractor or consultant capability, experience, approach, compensation requirements and references.

Stat. Auth.: Ch. 7 OL 2007
Stats. Implemented: Sec. 19, Ch. 7 OL 2007
Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08

**Department of Agriculture,
Oregon Albacore Commission
Chapter 972**

Rule Caption: Increases the number of producers from three to five, and the commission total to nine.

Adm. Order No.: AC 1-2007

Filed with Sec. of State: 7-31-2007

Certified to be Effective: 7-31-07

Notice Publication Date: 6-1-07

Rules Amended: 972-030-0010, 972-030-0020

Subject: Increases the number of producers from three to five, bringing the Commission into compliance with ORS 576.206(4) "A majority of the commissioners must be producers of the commodity." The total number of commissioners increases from seven to nine.

Rules Coordinator: Shirley D. Valazquez—(541) 994-2647

972-030-0010

Number of Commissioners, Terms

The Oregon Albacore Commission will consist of nine commissioners appointed by the Director of the Oregon Department of Agriculture for a term of three years or, if for a term following a prior term for that person, ending three years from the date of expiration of any prior term.

Stat. Auth.: 2003 OL ch. 604 & ORS 576
Stats. Implemented: 2003 OL ch. 604 & ORS 576
Hist.: AC 1-2004, f. 1-15-04 cert. ef. 1-16-04; AC 1-2007, f. & cert. ef. 7-31-07

972-030-0020

Qualifications of Commissioners

(1) For purposes of this rule:

(a) A "producer" is a person growing or producing within this state or procuring within the state, its rivers or the offshore waters, but not the Columbia River, for commercial handling within the state, a commodity for market, or receiving a share thereof as landowner, landlord, tenant, sharecropper, boat skipper or otherwise. A producer must have paid the commission assessment on the commodity in each of the preceding three calendar years.

(b) A "handler" is any producer, processor, distributor or other person engaged in handling or marketing of or dealing in the commodity, whether as owner, agent, employee, broker or otherwise. A handler must have collected the commission assessment, if any, each of the preceding three calendar years.

(2) Members of the Oregon Albacore Commission will have the following qualifications, which will continue during the term of office of the member:

(a) One member of the commission will be a member of the public with an active interest in the positive economic development, production and/or marketing of the commodity, but who is not associated with the production or handling of Albacore tuna;

(b) Five members will be producers;

(c) Three members will be handlers;

(d) All members who are not a handler or the public member will be producers.

Stat. Auth.: 2003 OL ch. 604 & ORS 576
Stats. Implemented: 2003 OL ch. 604 & ORS 576
Hist.: AC 1-2004, f. 1-15-04 cert. ef. 1-16-04; AC 1-2007, f. & cert. ef. 7-31-07

Rule Caption: Sets per diem rates and reimbursement for substitute labor for commissioners that correspond with ORS 292.495.

Adm. Order No.: ODDC 1-2007

Filed with Sec. of State: 8-7-2007

Certified to be Effective: 8-7-07

Notice Publication Date: 6-1-07

Rules Adopted: 617-040-0010, 617-040-0020, 617-040-0030

Subject: Sets per diem stipend, reimbursement for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limit set in ORS 292.495.

Rules Coordinator: Sheldon Pratt—(503) 229-5033

617-040-0010

PerDiem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Dairy Products Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to \$30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Dairy Products Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206 & 576.416
Hist.: ODDC 1-2007, f. & cert. ef. 8-7-07

617-040-0020

Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Dairy Products Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Dairy Products Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar month following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds \$500.00 dollars must be authorized by the Oregon Dairy Products Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals;

(b) Overnight lodging;

(c) Transportation;

(d) Internet access;

(e) Cost of attending an event associated with promotion of a commodity, such as a trade show, festival, stock show, county fair or state fair.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) Attendance at a concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show;

(b) In-room movie rental;

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- (c) Snacks and beverages offered for sale by a place of lodging;
 - (d) Use of a gym or health club;
 - (e) Cost of a gift for a host, business associate, commission member or employee, or family member;
 - (f) Alcoholic beverages.
- Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206 & 576.416
Hist.: ODDC 1-2007, f. & cert. ef. 8-7-07

617-040-0030

Reimbursement for Hiring a Substitute

(1) As used in OAR 617-040-0020, "other expenses" includes expenses incurred by a member of the Oregon Dairy Products Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed \$25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206 & 576.416
Hist.: ODDC 1-2007, f. & cert. ef. 8-7-07

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Department of Agriculture, Oregon Potato Commission Chapter 658

Rule Caption: Sets per diem and reimbursement for a substitute rates for commissioners that correspond with ORS 292.495.

Adm. Order No.: OPC 1-2007

Filed with Sec. of State: 7-17-2007

Certified to be Effective: 7-17-07

Notice Publication Date: 6-1-07

Rules Adopted: 658-040-0005, 658-040-0010, 658-040-0020

Subject: Sets per diem stipend, reimbursement for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limit set in ORS 292.495

Rules Coordinator: Jennifer Fletcher—(503) 731-3300

658-040-0005

Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Potato Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to \$30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Potato Commission a written claim for compensation by the 20th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206 & 576.416.
Stats. Implemented: ORS 292.495, 576.206(7), 576.265
Hist.: OPC 1-2007, f. & cert. ef. 7-17-07

658-040-0010

Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Potato Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Potato Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 20th day of the calendar month following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

- (a) Date on which the member incurred the expense; and
- (b) Nature of the expense; and

- (c) Amount of the expense.
- (3) An expense that exceeds 1,000 dollars must be authorized by the Oregon Potato Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

- (a) Meals;
- (b) Overnight lodging;
- (c) Transportation;
- (d) Postage;
- (e) Cost of attending an event associated with promotion of a commodity, such as a festival, stock show, county fair or state fair
- (f) Cost of attending Commission supported training presentations and special sub-committee meetings.

(6) For the purposes of this rule, "travel and other expenses" does not include:

- (a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show;
- (b) In-room movie rental;
- (c) Snacks and beverages offered for sale by a place of lodging;
- (d) Long distance telephone charges at a place of lodging;
- (e) Use of a gym or health club;
- (f) Alcoholic beverages.

Stat. Auth.: ORS 292.495, 576.206 & 576.416.
Stats. Implemented: ORS 292.495, 576.206(7), 576.265
Hist.: OPC 1-2007, f. & cert. ef. 7-17-07

658-040-0020

Reimbursement for Hiring a Substitute

(1) As used in OAR 658-040-0010, "other expenses" includes expenses incurred by a member of the Oregon Potato Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed \$25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 292.495, 576.206 & 576.416.
Stats. Implemented: ORS 292.495, 576.206(7), 576.265
Hist.: OPC 1-2007, f. & cert. ef. 7-17-07

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Rule Caption: Creates additional rules related to assessments and to implement an assessment increase.

Adm. Order No.: OPC 2-2007

Filed with Sec. of State: 7-17-2007

Certified to be Effective: 7-17-07

Notice Publication Date: 6-1-07

Rules Adopted: 658-010-0015, 658-010-0020, 658-010-0030, 658-010-0040, 658-010-0050

Rules Repealed: 658-010-0005, 658-010-0006, 658-010-0007

Subject: Due to the repeal of ORS 579 and the inclusion of the Oregon Potato Commission in ORS 576, the Oregon Potato Commission needed to adopt additional rules on the collection of assessments. In addition, during the 2006–2007 Third Quarterly Meeting of the Oregon Potato Commission, the commissioners approved a motion to increase the Producer's assessment from 4 cents to 5 cents per hundredweight of potatoes sold and to change the Process Potato Producers' assessment from 80% to 90% of the net payable weigh.

Rules Coordinator: Jennifer Fletcher—(503) 731-3300

658-010-0015

Definitions

(1) "Person" means any individual, corporation, association, partnership or joint stock company.

(2) "Commission" means the Oregon Potato Commission.

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(3) "First Purchaser" means any person who buys potatoes from the producer in the first instance, or handler who receives the potatoes in the first instance from the producer for resale or processing.

(4) "Producer" means a person or other legal entity engaged in the business of growing or producing potatoes in Oregon, for market, whether as a landowner, landlord, tenant, sharecropper or otherwise.

(5) "Handler" means any producer, processor, distributor or other person engaged in handling or marketing of or dealing in potatoes, whether as owner, agent, employee, broker or otherwise.

(6) "Potatoes" means potatoes that belong to the genus *Solanum Tuberosum* L. grown commercially in the State of Oregon. All potato cultivars sold commercially for whatever purpose are subject to these rules.

(7) "Reporting Year" means a calendar year beginning July 1 and ending June 30.

(8) "Assessment Period" means the current reporting year, plus the previous two reporting years.

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.304 & 576.325
Hist.: OPC 2-2007, f. & cert. ef. 7-17-07

658-010-0020 Assessments

(1) Any first purchaser or handler will deduct and withhold an assessment of \$.05 per hundredweight from the price paid to the producer at the time of sale for potatoes grown in Oregon and sold through commercial channels, whether the potatoes are stored in this state or in another state or country:

(a) In all cases where a first purchaser lives or has the office of the first purchaser in another state, it is the duty of the producer to report all sales made to such first purchaser on forms approved by, and pay the assessment moneys directly to the Oregon Potato Commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to the commission;

(b) Where the first purchaser is a federal or governmental agency, the producer shall likewise report to, and pay the assessment moneys directly to the commission.

(2) Notwithstanding subsection (1), potatoes utilized entirely for chipping or processing will be assessed at 90% of the net payable weight.

(3) Notwithstanding subsection (1) of this rule, no assessment will be due, deducted or withheld for any producer growing less than 1,000 hundredweight of potatoes in Oregon during the proceeding 12 month period.

(4) Notwithstanding subsection (1) of this rule, no assessment will be deducted for any sale or sales of potatoes made by the producer direct to the consumer.

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.325-576.351
Hist.: OPC 2-2007, f. & cert. ef. 7-17-07

658-010-0030 Reports and Payments of Assessment Moneys

(1) The first purchaser or handler shall make reports to the Oregon Potato Commission on forms approved by the commission. No purchaser shall fail to make any such report, or shall falsely make any such report.

(2) The first purchaser will complete and forward reports on forms approved by the Oregon Potato Commission to such commission and will forward such assessments to the Oregon Potato Commission, on or before the 20th of each month covering all potatoes purchased or sold during the prior month. The Oregon Potato Commission shall issue receipts and make suitable records thereof.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.325-576.351
Hist.: OPC 2-2007, f. & cert. ef. 7-17-07

658-010-0040 Penalties

(1) In addition to the penalties prescribed in ORS 576.991, any person who delays transmittal of funds beyond the time set by a commodity commission shall pay a penalty of 10 percent of the amount due and shall also pay one and one-half percent interest per month on the unpaid balance of the assessment. A commission may waive the penalty and interest upon showing of good cause.

(2) If any person responsible for the transmittal of assessment moneys to a commodity commission fails to relinquish assessment moneys collected, the person shall pay a penalty equal to twice the amount of the unrelinquished assessment moneys.

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576.355 and ORS576.365
Hist.: OPC 2-2007, f. & cert. ef. 7-17-07

658-010-0050

Records of person required to pay assessment

(1) Pursuant to ORS 576.351, the first purchaser or handler shall keep accurate records sufficient to enable the Oregon Potato Commission to determine by inspection and audit the accuracy of assessments paid or due to the commission and of reports made or due to the commission.

(2) The commission or a person authorized by the commission may inspect and audit the records referred to in subsection (1) of this section for the purpose of determining the accuracy of assessments paid or due to the commission.

(3) Notwithstanding subsection (1) of this section, the commission or a person authorized by the commission may also inspect and audit the records of a producer who sells potatoes to a first purchaser if such inspection and audit are necessary for the purpose referred to in subsection (1) of this section. No person shall refuse to permit an inspection and audit under subsection (2) of this section during business hours.

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.351
Hist.: OPC 2-2007, f. & cert. ef. 7-17-07

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

Rule Caption: Remove limit on use of debit authorization for borrower payments by conventional consumer finance lenders.

Adm. Order No.: FCS 3-2007(Temp)

Filed with Sec. of State: 8-10-2007

Certified to be Effective: 8-10-07 thru 12-27-07

Notice Publication Date:

Rules Amended: 441-730-0015

Subject: The rule being amended prohibits a consumer finance licensee, as a condition of making a loan under its consumer finance license, from requiring a borrow to provide a postdated check or debit authorization for one or more future payments. The rule creates a "safe harbor" for the licensee when the postdated check or debit authorization is provided solely at the discretion of the borrower, described as when the postdated check or debit authorization is used by no more than 10% of the licensee's borrowers. This amendment deletes "solely" and removes now unneeded language that created a presumptive safe harbor to establish that the postdated instrument was "solely" at the borrower's discretion.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-730-0015

Consumer Finance and Short-Term Personal Loan Licenses

(1) The license issued pursuant to ORS 725.140 to a lender who makes loans secured by personal property, real property or unsecured loans which typically have periodic payments with terms longer than 60 days shall be a Consumer Finance License. Of the total number of loans made by a consumer finance licensee under its consumer finance license during each calendar year commencing January 1, 2007:

(a) 90% or more of the loans must have a term of at least six months;

(b) Loan underwriting must be documented in the borrower's file for 90% or more of the loans. The documented loan underwriting remains valid, at the option of the licensee, for any loan made within 12 months of the initial date of a previous consumer finance loan to that borrower; and

(c) Other than loans made pursuant to ORS 725.345 or 725.347 or that are secured by real estate or interests in farming implements or future farm crops, 90% or more of the loans must be structured to be repaid in fully amortized and substantially equal periodic payments. For purposes of this subsection, a loan will be considered to have substantially equal periodic payments:

(A) Notwithstanding that the first regularly scheduled periodic payment is larger due to any additional interest that accrues because the first regularly scheduled periodic payment is more than 30 days after the date of the loan;

(B) Notwithstanding that the final regularly scheduled periodic payment is larger, as long as the final payment is not more than one and one-half times the amount of the regularly scheduled periodic payment immediately preceding the final payment; and

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(C) In the case of adjustable rate loans, as long as the periodic payments resulting from each interest rate adjustment meet the requirements of this subsection (c).

(2) A consumer finance licensee shall not disguise any loan as an open-ended loan authorized under ORS 725.345 or 725.347 as a device or subterfuge to evade the requirements and prohibitions of this rule.

(3)(a) If a consumer finance licensee makes a loan under the consumer finance license secured by an interest in a borrower's vehicle, the licensee may not retain possession of the title to the vehicle unless the licensee is recorded as a lien-holder on the title or has made application or taken other commercially reasonable steps to be added as a security interest holder of a vehicle.

(b) A consumer finance licensee may not require a borrower, as a condition of making a loan under its consumer finance license, to provide a postdated check or debit authorization for one or more future payments. However, if permitted by the lender and at the discretion of the borrower, one or more postdated checks or debit authorizations may be delivered to a consumer finance licensee to facilitate timely future payments.

(4) The license issued pursuant to ORS 725.140 to a lender who makes Payday loans or Title loans shall be a Short-Term Personal Loan license. A Short-Term Personal Loan lender is limited to making payday loans or title loans or both under the short-term personal loan license, as stated on the license.

(5) A person is permitted to apply for, hold, and make appropriate loans under either a consumer finance license or a short-term personal loan license, or both licenses.

(6) No license shall be issued or renewed unless the applicant or licensee is legally qualified to conduct business in this state by making appropriate filings with the secretary of state.

Stat. Auth.: ORS 725.505
Stats. Implemented: ORS 725.110, 725.140(1), 725.330, 725
Hist.: FCS 2-2000, f. & cert. ef. 2-15-00; Renumbered from 441-730-0005, FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2007(Temp), f. & cert. ef. 8-10-07 thru 12-27-07

Department of Consumer and Business Services, Oregon Medical Insurance Pool Board Chapter 443

Rule Caption: Update effective date of Benefits, Benefit Limitations, Exclusions and Claims Administration.

Adm. Order No.: OMIPB 1-2007(Temp)

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07 thru 1-5-08

Notice Publication Date:

Rules Amended: 443-002-0070

Subject: Amended rule updates; Benefits, Benefit Limitations, Exclusions and Claims Administration to applicable effective dates.

Rules Coordinator: Linnea Saris—(503) 378-5672

443-002-0070

Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration

Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration for the OMIP program are set forth in the OMIP individual benefit plan contracts as of January 1, 2007, the OMIP application as of March 1, 2007, the OMIP handbook as of January 1, 2007, the OMIP Premium Rates and Instructions pamphlet as of May 11, 2007, the OMIP Benefit Summary pamphlet as of January 1, 2007 and any applicable endorsements. These documents are hereby incorporated into this rule by reference.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 735.610(6) & 735.625
Stats. Implemented: ORS 735.600 - 735.650
Hist.: OMIPB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPB 2-2005, f. 12-30-05, cert. ef. 1-1-06; OMIPB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-5-08

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

Rule Caption: Adoption of clarifications, corrections of typographical errors and incorrect references in Agriculture/Respiratory Protection.

Adm. Order No.: OSHA 3-2007

Filed with Sec. of State: 8-13-2007

Certified to be Effective: 8-13-07

Notice Publication Date: 3-1-07

Rules Amended: 437-004-1041

Subject: Oregon OSHA is correcting typographical errors and incorrect references, which will add clarity to the Respiratory Protection Standard in Division 4, Agriculture.

Please visit OR-OSHA's web site at www.orosha.org.

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-004-1041

Respiratory Protection

(1) Permissible practice.

(a) To control occupational diseases caused by contaminated air, the best method is to prevent contamination with engineering controls. When this approach is not feasible, employers must comply with this standard.

(b) You must provide respirators to all employees when it is necessary to protect their health. Respirators must be appropriate for the hazard. You must also have an effective respirator program that includes at least the requirements of this standard. (See paragraph (3)).

(2) Definitions. The following definitions apply to this standard.

(a) Air-purifying respirator is a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

(b) Assigned protection factor (APF) means the workplace level of respiratory protection that a respirator or class of respirators is expected to provide to employees when the employer implements a continuing, effective respiratory protection program as specified by this section.

(c) Atmosphere-supplying respirator is a respirator that supplies the user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

(d) Canister or cartridge is a container with a filter, sorbent, or catalyst, or combination of these items, that removes specific contaminants from the air passed through the container.

(e) Demand respirator is an atmosphere-supplying respirator that admits breathing air to the face piece only when inhalation creates a negative pressure inside the face piece.

(f) Elastomer (elastomeric) is an elastic substance like rubber or neoprene.

(g) Emergency situation is any event such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of an airborne contaminant.

(h) Employee exposure is exposure to a concentration of an airborne contaminant that would occur if the employee were not using respiratory protection.

(i) End-of-service-life indicator (ESLI) is a device, on the cartridge, that warns respirator users when their respirator is near the end of its ability to protect them. For example, an indicator on the cartridge will change to warn the user that the cartridge sorbent material is nearing saturation and is no longer effective.

(j) Engineering control measures are methods to eliminate or control employee exposure to the hazard; e.g., substitution of a less toxic material, general or local ventilation and enclosing the operation.

(k) Escape-only respirator is a respirator only for use during emergency exit.

(l) Filter or air purifying element is a respirator component (e.g., canister or cartridge) that removes solid or liquid aerosols from the inspired air.

(m) Filtering face piece (dust mask) is a tight fitting negative pressure particulate respirator with a filter as an integral part of the face piece or with the entire face piece made of the filtering medium.

(n) Fit factor is a quantitative estimate of the fit of a particular respirator to a specific person, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn. Instrumentation is used with ambient air as the "test agent" to quantify the respirator fit. See appendix A.

(o) Fit test is the use of procedures in Appendix A to qualitatively or quantitatively evaluate the fit of a respirator on a person. (See also Qualitative fit test QLFT and Quantitative fit test QNFT.)

(p) Helmet is a rigid respirator covering that also provides head protection against impact and penetration.

(q) High efficiency particulate air (HEPA) filter is a filter that is at least 99.97 percent efficient in removing monodisperse particles of 0.3 micrometers in diameter. The equivalent NIOSH 42 CFR 84 particulate filters are the N100, R100, and P100 filters.

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(r) Hood is a respirator covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

(s) Immediately dangerous to life or health (IDLH) is an atmosphere that poses an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.

(t) Interior structural firefighting is the physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage.

(u) Loose-fitting face piece is a respiratory covering that forms a partial seal with the face, e.g., hood.

(v) Maximum use concentration (MUC) means the maximum atmospheric concentration of a hazardous substance from which an employee can be expected to be protected when wearing a respirator, and is determined by the assigned protection factor of the respirator or class of respirators and the exposure limit of the hazardous substance. The MUC can be determined mathematically by multiplying the assigned protection factor specified for a respirator by the required OSHA permissible exposure limit, short-term exposure limit, or ceiling limit. When no OSHA exposure limit is available for a hazardous substance, an employer must determine an MUC on the basis of relevant available information and informed professional judgment.

(w) Negative pressure respirator (tight fitting) is a respirator in which the air pressure inside the face piece is negative during inhalation with respect to the ambient air pressure outside the respirator.

(x) Oxygen deficient atmosphere is an atmosphere with an oxygen content less than 19.5 percent by volume.

(y) Physician or other licensed health care professional (PLHCP) is a person whose legally permitted scope of practice (i.e., license, registration, or certification) allows them to independently provide, or be delegated to provide, some or all of the health care services required by this standard.

(z) Positive pressure respirator is a respirator in which the pressure inside the respiratory covering is higher than the air pressure outside the respirator.

(aa) Powered air-purifying respirator (PAPR) is an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

(bb) Pressure demand respirator is a positive pressure atmosphere-supplying respirator that admits breathing air to the face piece when inhalation reduces the positive pressure inside the face piece.

(cc) Qualitative fit test (QLFT) is a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent. See Appendix A.

(dd) Quantitative fit test (QNFT) is an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator. See Appendix A.

(ee) Respirator covering is that part of a respirator that forms the protective barrier between the user's respiratory tract and an air-purifying device or breathing air source, or both. It may be a face piece, helmet, hood, suit, or a mouthpiece respirator with nose clamp.

(ff) Self-contained breathing apparatus (SCBA) is an atmosphere-supplying respirator for which user carries the breathing air source.

(gg) Service life is the period of time that a respirator, filter or sorbent, or other respiratory equipment adequately protects the wearer.

(hh) Supplied-air respirator (SAR) or airline respirator is an atmosphere-supplying respirator for which the source of breathing air is not carried by the user.

(ii) Tight-fitting face piece is a respirator covering that forms a complete seal with the face, e.g., half mask or full-face piece.

(jj) User seal check is an action by the respirator user to determine if the respirator is properly seated to the face. See appendix B-1.

(3) Respiratory protection program.

(a) When respirators are necessary to protect the health of workers or when you require workers to wear them, you must have an effective, written respiratory protection program, managed by a knowledgeable person, with procedures specific to your work site. Keep the program updated to reflect changes in conditions that require the use of respirators. You must include at least these points:

(A) Procedures for selecting respirators for use in the workplace;

(B) Medical evaluations of employees require to use respirators;

(C) Fit testing procedures for tight-fitting respirators;

(D) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;

(E) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;

(F) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;

(G) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations;

(H) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and

(I) Procedures for regularly evaluating the effectiveness of the program.

(b) The employer must provide respirators, training, and medical evaluations at no cost to the employee.

(c) Where respirator use is voluntary:

(A) You may provide respirators to employees who request them or they may use their own respirators. If you allow this voluntary use, you must determine that it will not create a hazard to the user. You must provide the voluntary user with the information in Appendix D, and;

(B) You must have a limited written respiratory program for voluntary users. It must include those parts of the standard necessary to ensure that:

(i) The user is medically able to use it without creating a hazard to themselves. Use of respirators other than dust masks require medical evaluations.

(ii) The program includes proper cleaning, storing and maintenance.

EXCEPTION: No program is necessary for voluntary users who only use dust masks (filtering face pieces).

(4) Selection of respirators. Identify and evaluate the respiratory hazard(s) including a reasonable estimate of employee exposures and an identification of the contaminant's chemical state and physical form. You must treat atmospheres with the potential for IDLH conditions as an IDLH hazard and provide appropriate respiratory protection.

(a) General requirements.

(A) You must evaluate respiratory hazards, conditions in the workplace and user factors, then select and provide the appropriate respirators.

(B) All respirators must have NIOSH certification and all use must conform to that certification.

(C) Respirators must correctly fit and be acceptable to the user.

(b) Respirators for IDLH atmospheres.

(A) Provide the following respirators for employee use in IDLH atmospheres:

(i) A full face piece pressure demand SCBA certified by NIOSH for a minimum service life of 30 minutes, or

(ii) A combination full-face piece pressure demand supplied-air respirator (SAR) with auxiliary self-contained air supply.

(B) Respirators only for escape from IDLH atmospheres must have NIOSH certification for escape from the atmosphere of use.

(C) Treat all oxygen-deficient atmospheres as IDLH.

EXCEPTION: If you can demonstrate that, under all foreseeable conditions, the oxygen concentration will stay within the ranges in Table II (i.e., for the altitudes set out in the table), then use any atmosphere-supplying respirator.

(c) Respirators for atmospheres that are not IDLH.

(A) Provide respirators adequate to protect the health of workers and ensure compliance with all other OR-OSHA requirements, under routine and reasonably foreseeable emergency situations.

(i) Assigned Protection Factors (APFs). Employers must use the assigned protection factors listed in Table I to select a respirator that meets or exceeds the required level of employee protection. When using a combination respirator (e.g., airline respirators with an air-purifying filter), employers must ensure that the assigned protection factor is appropriate to the mode of operation in which the respirator is being used.

(ii) Maximum Use Concentration (MUC).

(I) The employer must select a respirator for employee use that maintains the employee's exposure to the hazardous substance, when measured outside the respirator, at or below the MUC.

(II) Employers must not apply MUCs to conditions that are immediately dangerous to life or health (IDLH); instead, they must use respirators listed for IDLH conditions in paragraph (4)(b) of this standard.

(III) When the calculated MUC exceeds the IDLH level for a hazardous substance, or the performance limits of the cartridge or canister, then employers must set the maximum MUC at that lower limit.

(B) The respirator must be appropriate for the chemical state and physical form of the contaminant.

(C) For protection against gases and vapors, provide:

(i) An atmosphere-supplying respirator, or

(ii) An air-purifying respirator, if:

(I) It has an end-of-service-life indicator (ESLI) certified by NIOSH for the contaminant; or

(II) If there is no ESLI appropriate for your conditions, implement a change schedule for canisters and cartridges that is based on objective

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information or data that will ensure that canisters and cartridges are changed before the end of their service life. Describe in the respirator program the information and data relied on and the basis for the canister and cartridge change schedule and the basis for reliance on the data.

(NOTE: The Worker Protection Standard contains criteria for specific change out schedules for respirator canisters and cartridges. See OAR 437-002-170.240.)

(D) For protection against particulates, provide:

(i) An atmosphere-supplying respirator; or

(ii) An air-purifying respirator with a filter certified by NIOSH under 30 CFR part 11 as a high efficiency particulate air (HEPA) filter, or an air-purifying respirator with a filter certified for particulates by NIOSH under 42 CFR part 84; or

(iii) For contaminants consisting primarily of particles with mass median aerodynamic diameters (MMAD) of at least 2 micrometers, an air-purifying respirator with any filter certified for particulates by NIOSH. [Tables not included. See ED. NOTE.]

(5) Medical evaluation.

(a) General. You must provide medical evaluations to determine workers' ability to use a respirator safely. Do this before the worker's fit test and before any work requiring respirator use. The employer may discontinue an employee's medical evaluations when the employee no longer uses a respirator.

(b) Medical evaluation procedures.

(A) Use a physician or other licensed health care professional (PLHCP) to do the evaluations using either a medical questionnaire or an initial examination that produces the same information as in Appendix C.

(c) Follow-up medical examination.

(A) If the PLHCP reports that the employee needs a follow-up examination because of a positive response to any of questions 1 through 8 of the questionnaire in Appendix C or if their initial exam caused the need for a follow-up, you must ensure that they get the opportunity for the examination.

(NOTE: If the employee refuses the examination, they may not work in jobs that require a respirator.)

(d) Administration of the medical questionnaire and examinations.

(A) You must allow the employee to complete the questionnaire in a way that protects the confidentiality of the information. Employers are not to see the answers or review the completed form. You must allow employees to complete the form during normal working hours or at a time and place convenient to them. If employees need help, allow them to ask your PLHCP or anybody other than their employer or representatives of their employer.

(B) The employer must provide the employee with an opportunity to discuss the questionnaire and examination results with the PLHCP.

(e) Supplemental information for the PLHCP.

(A) You must give the PLHCP the following information before they make any recommendation about a worker's ability to use a respirator.

(i) The type and weight of the respirator the employee will use;

(ii) How long and how often the employee will use the respirator (including use for rescue and escape);

(iii) The expected physical work effort;

(iv) Additional protective clothing and equipment to be worn; and

(v) Temperature and humidity extremes that may exist during use.

(B) You need not provide information more than once if it is unchanged.

(C) You must provide a copy of your written respiratory program and this standard to the PLHCP.

Note to Paragraph (5)(e)(C): When the employer replaces a PLHCP, the employer must ensure that the new PLHCP has this information, either by providing the documents directly to the PLHCP or having the documents transferred from the former PLHCP to the new PLHCP. However, OR-OSHA does not expect employers to have employees medically reevaluated solely because there is a new PLHCP.

(f) Medical determination. In determining the employee's ability to use a respirator, the employer must:

(A) Obtain a written recommendation about the employee's ability to use the respirator from the PLHCP. The recommendation must provide only the following information:

(i) Any limitations on respirator use relating to the medical condition of the employee, or relating to the workplace conditions, including whether or not the employee is medically able to use the respirator;

(ii) The need, if any, for follow-up medical evaluations; and

(iii) A statement that the PLHCP gave a copy of the recommendation to the worker.

(B) If the respirator is a negative pressure respirator and the PLHCP finds that using it would increase the employee's health risk, the employer

must provide a PAPR until a subsequent evaluation clears the employee for another type.

(g) Additional medical evaluations. At a minimum, the employer must provide additional medical evaluations that comply with this standard if:

(A) An employee reports medical signs or symptoms related to ability to use a respirator;

(B) A PLHCP, supervisor, or the knowledgeable person informs the employer that an employee needs a reevaluation; or

(C) Information from the respiratory protection program, including observations made during fit testing and program evaluation, indicates a need for employee reevaluation; or

(D) A change occurs in work conditions (e.g., physical work effort, protective clothing, temperature) that may result in a substantial increase in the physiological burden to the employee.

(6) Fit testing.

(a) You must be certain that employees using a tight-fitting face piece respirator pass a qualitative fit test (QLFT) or quantitative fit test (QNFT), using the same make, model, style and size respirator. The fit test must comply with this standard.

(b) Workers using a tight-fitting face piece respirator must renew their fit test annually, before initial use and when they change to another type, style, model or make.

(c) You must do a new fit test on any worker when they or a PLHCP report or you observe any change in the worker's physical condition that could affect the respirator fit.

(d) If after passing a QLFT or QNFT, the employee notifies the employer, supervisor, or PLHCP that the fit of the respirator is unacceptable, you must give them a reasonable opportunity to select a different respirator face piece and redo the fit test.

(e) All fit tests must comply with the Appendix A to this standard.

(f) Do not use qualitative fit tests (QLFT) for negative pressure air purifying respirators for use in atmospheres where the contaminant could be more than 10 times the permissible exposure limit (PEL).

(g) A QNFT fit factor of 100 or more for tight fitting half face piece or a fit factor of 500 for tight fitting full face piece respirators is necessary to pass a quantitative fit test.

(h) For both negative and positive pressure respirators that are tight-fitting, atmosphere-supplying types or powered air-purifying, use only negative pressure quantitative or qualitative fit tests, testing only in the negative pressure mode.

(A) Do qualitative fit testing of these respirators by temporarily converting the respirator user's actual face piece into a negative pressure respirator with appropriate filters, or by using an identical negative pressure air-purifying respirator face piece with the same sealing surfaces as a surrogate for the atmosphere-supplying or powered air-purifying respirator face piece.

(B) Do quantitative fit testing of these respirators by modifying the face piece to allow sampling inside the face piece in the breathing zone of the user, midway between the nose and mouth. Do this by installing a permanent sampling probe onto a surrogate face piece, or by using a sampling adapter designed to temporarily provide a way to sample air from inside the face piece.

(C) Before returning a face piece to normal use, completely remove any modifications done for fit testing, and restore the face piece to NIOSH-approved.

(7) Use of respirators.

(a) Face piece seal protection.

(A) Workers who must wear tight-fitting face pieces may not have either of the following:

(i) Facial hair between the sealing surface and face or anything that interferes with the valve function; or

(ii) Any other condition that interferes with the face-to-face piece seal or valve function.

(B) If an employee wears glasses or goggles or other personal protective equipment, the employer must ensure that it does not interfere with the seal of the face piece to the face of the user.

(C) Employers must train workers who wear respirators on the need for and technique of doing a user seal check before every use. This training must include the procedures in Appendix B-1 or the recommendations of the respirator manufacturer.

(b) Continuing respirator effectiveness.

(A) You must evaluate the effectiveness of a respirator when there is a change in work area conditions or degree of employee exposure or stress that may affect respirator effectiveness.

(B) You must ensure that employees leave the respirator use area:

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(i) To wash their faces and respirator face pieces as necessary to prevent eye or skin irritation associated with respirator use; or

(ii) If they detect vapor or gas breakthrough, changes in breathing resistance, or leakage of the face piece; or

(iii) To replace the respirator or the filter, cartridge, or canister elements.

(C) If the employee detects vapor or gas breakthrough, changes in breathing resistance, or leakage of the face piece, the employer must replace or repair the respirator before allowing the employee to return to the work area.

(c) Procedures for IDLH atmospheres. For all IDLH atmospheres, the employer must ensure that:

(A) One employee or, when needed, more than one employee is outside the IDLH atmosphere;

(B) Visual, voice, or line communication is continuous between the employee(s) in the IDLH atmosphere and the employee(s) outside the IDLH atmosphere;

(C) The employee(s) outside the IDLH atmosphere have the training and equipment to provide effective emergency rescue;

(D) The employer or designee is notified before the employee(s) outside the IDLH atmosphere enter the IDLH atmosphere to provide emergency rescue;

(E) The employer or designee authorized to do so by the employer, once notified, provides necessary assistance appropriate to the situation;

(F) Employee(s) outside the IDLH atmospheres have:

(i) Pressure demand or other positive pressure SCBAs, or a pressure demand or other positive pressure supplied-air respirator with auxiliary SCBA; and either

(ii) Appropriate retrieval equipment for removing the employee(s) who enter(s) these hazardous atmospheres where retrieval equipment would contribute to the rescue of the employee(s) and would not increase the overall risk resulting from entry; or

(iii) Equivalent means for rescue when there is no requirement for retrieval equipment under paragraph (7)(c)(F)(ii).

(d) Procedures for interior structural firefighting. If you require your workers to fight interior structural fires, paragraph (7)(c) applies. You must do the following:

(A) At least two employees enter the IDLH atmosphere and remain in visual or voice contact with one another at all times; and

(B) At least two employees are located outside the IDLH atmosphere; and

(C) All employees engaged in interior structural firefighting use SCBA's.

Note 1 to paragraph (7): One of the two individuals located outside the IDLH atmosphere may be assigned to an additional role, such as incident commander in charge of the emergency or safety officer, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety of health of any firefighter working at the incident.

Note 2 to paragraph (7): Nothing in this section is meant to preclude firefighters from performing emergency rescue activities before an entire team has assembled.

(8) Maintenance and care of respirators.

(a) Cleaning and disinfecting. You must provide each respirator user with a respirator that is clean, sanitary, and in good working order. You also must ensure that respirators are clean and disinfected using the procedures in Appendix B-2, or procedures recommended by the respirator manufacturer, if they are of equivalent effectiveness. Clean and disinfect the respirators at the following intervals:

(A) Clean and disinfect respirators for exclusive use of one worker as often as necessary to keep them sanitary;

(B) Clean and disinfect respirators for use by more than one worker after each use;

(C) Clean and disinfect emergency use respirators after each use; and

(D) Clean and disinfect fit test and training respirators after each use.

(b) Storage. Store all respirators as follows:

(A) Store all respirators to protect them from damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, damaging chemicals, and to prevent deformation of the face piece and exhalation valve.

(B) In addition to the requirements of paragraph (8)(b)(A), keep emergency respirators:

(i) Accessible to the work area;

(ii) In compartments or in covers clearly marked as containing emergency respirators; and

(iii) In accordance with any applicable manufacturer instructions.

(c) Inspection.

(A) The employer must require respirator inspections as follows:

(i) Inspect all routine use respirators before each use and during cleaning;

(ii) Inspect emergency use respirators at least monthly and according to the manufacturer's recommendations. Check for proper function before and after each use; and

(iii) Inspect escape respirators before taking them into the area for possible use.

(B) The employer must ensure that respirator inspections include the following:

(i) A check of respirator function, tightness of connections, and the condition of the various parts including, but not limited to, the face piece, head straps, valves, connecting tube, and cartridges, canisters or filters; and

(ii) A check of elastomeric parts for pliability and signs of deterioration.

(C) In addition to the requirements of paragraphs (8)(c)(A) and (B), inspect self-contained breathing apparatus monthly. Keep air and oxygen fully charged and recharge them when the pressure falls to 90 percent of the manufacturer's recommended pressure level. Be certain the regulator and warning devices work properly.

(D) For emergency use respirators, the employer must:

(i) Certify the respirator by documenting the date of inspection, the name (or signature) of the inspector, the findings, required remedial action, and a serial number or other means of identifying the respirator; and

(ii) Provide this information on a tag or label attached to the respirator storage compartment, or keep it with the respirator, or include it in paper or electronic inspection reports. Keep this information until the next report replaces it.

(d) Repairs. Do not use respirators that fail an inspection or are otherwise defective. Discard or repair them according to these procedures:

(A) Only people with appropriate training may repair or adjust respirators. They must use only the manufacturer's NIOSH-approved parts for the particular respirator;

(B) Repairs must conform to the manufacturer's recommendations;

(C) Only the manufacturer or a technician trained by the manufacturer may repair or adjust the reducing and admission valves, regulators and alarms.

(9) Breathing air quality and use.

(a) The employer must ensure or have their supplier certify that compressed air, compressed oxygen, liquid air, and liquid oxygen used for respiration meets the following specifications:

(A) Compressed and liquid oxygen must meet the United States Pharmacopoeia requirements for medical or breathing oxygen; and

(B) Compressed breathing air must meet at least the requirements for Grade D breathing air described in ANSI/Compressed Gas Association Commodity Specification for Air, G-7.1-1989, to include:

(i) Oxygen content (v/v) of 19.5 – 23.5 percent;

(ii) Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;

(iii) Carbon monoxide (CO) content of 10 ppm or less;

(iv) Carbon dioxide content of 1,000 ppm or less; and

(v) Lack of noticeable odor.

NOTE: Do not fill your own air vessels unless they and the contents meet all the requirements of this standard

(b) Do not use compressed oxygen in respirators that previously held compressed air.

(c) The employer must ensure that the oxygen concentrations more than 23.5 percent are used only in equipment designed for oxygen service or distribution.

(d) The employer must ensure that cylinders to supply breathing air to respirators meet the following requirements:

(A) Cylinders must comply with the Shipping Container Specification Regulations of the Department of Transportation (49 CFR part 173 and part 178);

(B) Cylinders of purchased breathing air have a certificate of analysis from the supplier that the breathing air meets the requirements for Grade D breathing air; and

(C) The moisture content in the cylinder does not exceed a dew point of –50 degrees F. (–45.6 degrees C.) at 1 atmosphere pressure.

(e) The employer must ensure that compressors supplying breathing air to respirators:

(A) Prevent entry of contaminated air into the air-supply system;

(B) Minimize moisture content so that the dew point at 1 atmosphere pressure is 10 degrees F. (5.56 degrees C.) below the ambient temperature;

(C) Have suitable in-line air-purifying sorbent beds and filters to further ensure breathing air quality. Maintain and replace sorbent beds and filters according to the manufacturer's instructions.

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(D) Have a tag at the compressor showing the most recent change date and the signature of the authorized person who did the change.

(f) For compressors that are not oil-lubricated, ensure that carbon monoxide levels in the breathing air do not exceed 10 ppm.

(g) For oil-lubricated compressors, use only a high-temperature or carbon monoxide alarm, or both, to monitor carbon monoxide levels. If you use only high-temperature alarms, monitor the air supply often enough to prevent carbon monoxide in the breathing air from exceeding 10 ppm.

(h) The employer must ensure that breathing air couplings are incompatible with outlets for nonrespirable worksite air or other gas systems. Do not allow any asphyxiating substance to get into breathing airlines.

(i) Use only breathing gas containers with marking that comply with the NIOSH respirator certification standard, 42 CFR part 84.

(10) Identification of filters, cartridges, and canisters. The employer must ensure that all filters, cartridges and canisters have labels and color codes that comply with the NIOSH standards and that the label remains in place and legible.

(11) Training and information.

(a) The employer must ensure that each employee can demonstrate knowledge of at least the following:

(A) Why the respirator is necessary and how improper fit, use, or maintenance can compromise the protective effect of the respirator;

(B) What the limitations and capabilities of the respirator are;

(C) How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;

(D) How to inspect, put on and remove, use, and check the seals of the respirator;

(E) What the procedures are for maintenance and storage of the respirator;

(F) How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and

(G) The general requirements of this rule.

(b) Training must be in a language or form that workers understand.

(c) Training must be complete before workers use respirators.

(d) Retrain respirator users annually and when these situations happen:

(A) Changes in the work or the type of respirator make previous training obsolete;

(B) Inadequacies in the employee's knowledge or use of the respirator indicate that they no longer have the basic understanding or skill; or

(C) Any other situation arises in which retraining appears necessary to ensure safe respirator use.

(e) An employer who can demonstrate that a new employee has training within the last 12 months that addresses the elements in paragraph (11)(a)(A) through (G) does not have to repeat that training if, the employee can demonstrate knowledge of those element(s). Previous training not repeated initially by the employer must be provided no later than 12 months from the date of the previous training.

(f) Provide every voluntary respirator user with the basic advisory information in Appendix D. Any written or oral format is acceptable.

(12) Program evaluation.

(a) Evaluate the workplace as necessary to ensure effective use of the current written program.

(b) Regularly consult your users to get their views on your program's effectiveness and to identify problems. Correct the problem. Things to assess include at least:

(A) Respirator fit (including the ability to use the respirator without interfering with effective workplace performance);

(B) Users have and use the correct respirator for their exposure hazards;

(C) Proper respirator use; and

(D) Proper respirator maintenance.

(13) Recordkeeping.

(a) Medical evaluation. Retain and make available, according to 437-002-1910.1020, all medical evaluations required by this standard.

(b) Fit testing.

(A) You must keep a record of qualitative and quantitative fit tests for each user including:

(i) The name or identification of the employee;

(ii) Type of fit test;

(iii) Specific make, model, style, and size of respirator tested;

(iv) Date of test; and

(v) The pass/fail results for QLFTs or the fit factor and strip chart recording or other recording of the test results for QNFTs.

(B) Keep fit test records until records of a new test replace them.

(c) You must keep a written copy of your current respirator program.

(d) On request, you must make written records required by this standard, available to the OR-OSHA Administrator or their designee for examination or copying.

(14) Appendices.

(a) Compliance with Appendix A, Appendix B-1, Appendix B-2, and Appendix C of this rule is mandatory.

(b) Appendix D of this rule is mandatory and does not create any additional obligations or detract from any existing obligations.

(15) Effective Date. OAR 437-004-1041, Respiratory Protection, is effective March 1, 2007.

[ED. NOTE: Tables & Appendices referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - 654.295.

Hist.: OSHA 3-2006, f. 6-7-06, cert. ef. 3-1-07; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 3-2007, f. & cert. ef. 8-13-07

Rule Caption: Adoption of changes to Division 2/S, General Industry/Electrical.

Adm. Order No.: OSHA 4-2007

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07

Notice Publication Date: 4-1-07

Rules Adopted: 437-002-0047

Rules Amended: 437-002-0005, 437-002-0060, 437-002-0320

Rules Repealed: 437-002-0321, 437-002-0322, 437-002-0323, 437-002-0324, 437-002-0325

Subject: Oregon OSHA adopted the Federal OSHA changes as they appear in the February 14, 2007 Federal Register, into Division 2/S, Electrical. The changes focus on safety in the design and installation of electrical equipment in the workplace. The changes provide the first update since 1981 for the design and installation requirements which were drawn heavily from the 2000 edition of the National Fire Protection Agency (NFPA), Standard for Electrical Safety in the Workplace (NFPA 70E), and the 2002 edition of the National Electrical Code (NEC).

In addition to the Federal OSHA changes, Oregon OSHA repealed OAR 437-002-0321, 437-002-0322, 437-002-0323, 437-002-0324; and adopted a new rule OAR 437-002-0047 which is identical language to the recently amended OAR 437-003-0047 Working Near Overhead High Voltage Lines and Equipment, in Division 3/K, Construction/Electrical, that restricts all unqualified employees from coming within 10 feet of overhead high voltage power lines. With these aforementioned changes and to avoid redundancy within this subdivision, OR-OSHA repealed 29 CFR 1910.333(c)(3) introductory text and 1910.333(c)(3)(i).

OR-OSHA also repealed OAR 437-002-0325 because of redundant language within Division 2 General Industry and rules administered by the Oregon Public Utility Commission relating to underground utility locates. We will place a note directing the reader to use the national telephone number 811, Call Before You Dig.

Please visit OR-OSHA's web site at www.orsha.org

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0005

Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following Federal rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/98, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.1, Purpose and scope; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

(2) 29 CFR 1910.2, Definitions; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

(3) 29 CFR 1910.3, Petitions for the issuance, amendment, or repeal of a standard; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

(4) 29 CFR 1910.4, Amendments to this part; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23503.

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(5) 29 CFR 1910.5, Applicability of standards; published 6/27/74, Federal Register, vol. 39, no. 125, pp. 23503–23504; amended 6/30/93, FR vol. 58, no. 124, p. 35308.

(6) 29 CFR 1910.6, Incorporation by reference; published 6/27/74, Federal Register, vol. 39, no. 125, p. 23504; amended 2/10/84, FR vol. 49, no. 29, p. 5321; 3/7/96, FR vol. 61, no. 46, p. 9230; 3/23/99, FR vol. 64, no. 55, p. 13908; 9/13/05, FR vol. 70, no. 176, p. 53925; 2/14/07, FR vol. 72, no. 30, p. 7136.

(7) 29 CFR 1910.7, Definition and requirements for a Nationally Recognized Testing Laboratory; published 4/12/88, Federal Register, vol. 53, no. 70, pp. 12120–12125; and amended 5/11/88, FR vol. 53, no. 91, p. 16838.

These standards are on file at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 17-1988, f. & ef. 11-10-88; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 8-1999, f. & cert. ef. 8-6-99; OSHA 4-2005, f. & cert. ef. 12-14-05; OSHA 4-2007, f. & cert. ef. 8-15-07

437-002-0047

Working Near Overhead High Voltage Lines and Equipment

(1) Definitions.

(a) Insulating Barrier or Guard. A structure, installation, barrier, or guard (such as a wall, fence, pole, shield, or something similar) that stops movement and prevents all possible contact with the lines or equipment. Its design, material composition, and installation prevents possible conduction of electricity up to the maximum voltage of the system.

(b) Restricted Space.

(A) For lines rated more than 600 V to 50 kV, restricted space extends 10 feet in all directions from the surface of the line or equipment.

(B) For lines rated over 50 kV, restricted space extends 10 feet plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the insulator (but never less than 10 feet) in all directions from the surface of the line or equipment.

(C) For equipment or structures in transit, on level surfaces, restricted space extends 4 feet in all directions from lines or equipment rated 50 kV or less, 10 feet in all directions for lines or equipment rated over 50 kV, and 16 feet in all directions for lines or equipment rated over 345 kV up to and including 750 kV.

(c) Proper Notification. The person(s) responsible for the (planned) activity must notify the owner/operator of the line or equipment, at their business office, at least 2 business days prior to the anticipated beginning of work (business days are Monday through Friday, excluding federal and state holidays). The notification must include: (1) the proposed date to start activity within restricted space; (2) the location of the planned activity; (3) a description of the planned activity; and (4) name and contact information of the contact person.

(2) General requirement. Do not enter, perform any function or activity (such as handling, erecting, operating, transporting, or storing any tools, equipment or materials, moving a building or structure) within the restricted space surrounding an overhead high voltage line or equipment unless:

(a) Proper notification is provided; and

(A) The line and/or equipment is de-energized and visibly grounded by the owner of the high voltage system or their authorized agent; or

(B) Accidental contact is effectively prevented by use of insulating barriers or guards. Barriers or guards must:

(i) Be erected or installed by the owner of the high voltage system or their authorized agent;

(ii) Not be attached to, or be part of the lines, equipment, or machinery;

NOTE: Overhead line covers are only for visual reference, and their use does not allow entry into restricted space. If used, they must be installed by the owner of the high voltage system or their authorized agent.

(iii) Prevent all possible contact with the lines or equipment; and

(iv) Insulate against the system's maximum voltage; or

(b) You are the owner, an authorized employee, or authorized (in writing) agent of the overhead high voltage system: or

(c) Insulated lines (not tree wire) and equipment (designed and engineered to allow only incidental contact) are erected or installed by the owner of the high voltage system or their authorized agent.

NOTE: Nothing in this standard shifts the responsibility for safe and healthy working conditions from the person(s) responsible for the activity to the owner of the lines or their agent.

NOTE: Nothing in this standard mandates that the owner of the lines or equipment, or their authorized agent must agree to de-energize, move, barricade, guard, or insulate lines or equipment, or take other action to allow entry into restricted space.

(3) Do not move, reposition, or reduce restricted space in any direction by applying stress or force to a line, equipment, or supporting structure.

(4) Operation of machinery or equipment.

(a) Do not enter restricted space when using insulating links or proximity warning devices on equipment.

(b) Post a warning sign on each piece of equipment which is capable of vertical, lateral, or swinging motion, such as a crane, derrick, power shovel, drilling rig, or pile driver.

(A) The sign must be made of durable material.

(B) It must be in clear view of the operator.

(C) The message must be legible to the operator when at the controls.

(D) The message must be understood by the operator.

(E) The message must clearly convey that it is "Unlawful to operate the piece of equipment within 10 feet of high voltage lines".

(c) Use an observer to provide audible warning (able to be clearly heard over surrounding noise) when it becomes difficult for an operator to identify restricted space by using visual means. The observer's only task is to watch the clearance and warn the operator if it appears that restricted space will be breached.

(d) Restrict, barricade, or otherwise make it impossible for a machine or piece of equipment to reach into restricted space if it is reasonable to anticipate that the operator's attention may be focused on the work process rather than the location of an overhead high voltage line or equipment (such as during excavating, or other fast-paced, repetitive work).

(5) Railway and commuter systems.

(a) Standard rail equipment used to transport freight and/or passengers, and relief trains or other equipment used in emergencies, may enter restricted space surrounding high voltage lines or equipment.

(b) Qualified employees, authorized and supervised by a person familiar with the hazards of the railway high voltage system, may perform normal repair or construction work within restricted space prior to compliance with the clearance and safeguard requirements in sections (1) through (4).

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

Stats. Implemented: ORS 654.001 - 654.295.

Hist.: OSHA 4-2007, f. & cert. ef. 8-15-07

437-002-0060

Adoption by Reference

In addition to and not in lieu of any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/96, and any subsequent amendments published in the Federal Register as listed below:

(1) 29 CFR 1910.66 Powered Platforms for Building Maintenance, published 6/27/74, Federal Register, vol. 39, no. 125, pp. 23533-23537; amended 10/24/78, FR vol. 43, p. 49746; amended 2/10/84, FR vol. 49, p. 5322; amended 7/28/89, FR vol. 54, no. 144, pp. 31456-31477; 3/7/96, FR vol. 61, no. 46, p. 9235; 2/14/07, FR vol. 72, no. 30, p. 7136.

(2) 29 CFR 1910.67 Vehicle-Mounted Elevating and Rotating Work Platforms, published 6/27/74, FR vol. 39, no. 125, p. 23537; amended 3/26/75, FR vol. 40, p. 13439; amended 8/6/90, FR vol. 55, no. 151, pp. 32016-32020; 3/7/96, FR vol. 61, no. 46, p. 9235.

(3) 29 CFR 1910.68 Manlifts, published 6/27/74, FR vol. 39, no. 125, pp. 23537-23540; amended 10/24/78, FR vol. 43, p. 49746; amended 9/29/86, FR vol. 51, p. 34560; 3/7/96, FR vol. 61, no. 46, p. 9235.

These rules are on file with Oregon Occupational Safety and Health Division, Department of Consumer and Business Services and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(3)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 4-1990, f. & cert. ef. 1-23-90; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 4-2007, f. & cert. ef. 8-15-07

437-002-0320

Adoption by Reference

In addition to, and not in lieu of, any other health and safety codes contained in OAR Chapter 437, the Department adopts by reference the following rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/93:

(1) 29 CFR 1910.301 Introduction; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185.

Design Safety Standards for Electrical Systems

(2) 29 CFR 1910.302 Electrical utilization systems; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

ADMINISTRATIVE RULES

(3) 29 CFR 1910.303 General requirements; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

OAR 437-002-0321 through 0325, Additional Oregon General Requirements.

(4) 29 CFR 1910.304 Wiring design and protection; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; amended 8/6/90, FR vol. 55, no. 151, pp. 32016–32020; 2/14/07, FR vol. 72, no. 30, p. 7136.

(5) 29 CFR 1910.305 Wiring methods, components and equipment for general use; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(6) 29 CFR 1910.306 Specific purpose equipment and installations; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(7) 29 CFR 1910.307 Hazardous (classified) locations; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(8) 29 CFR 1910.308 Special systems; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81 FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(9) (Reserved for 1910.309 - .330)

Safety-Related Work Practices

(10) 29 CFR 1910.331 Scope; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016–32020; amended 1/31/94, FR vol. 59, no. 20, pp. 4475-6.

(11) 29 CFR 1910.332 Training; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016–32020.

(12) 29 CFR 1910.333 Selection and use of work practices; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020; amended 11/1/90, FR vol. 55, no. 212, pp. 46052–46054; amended 1/31/94, FR vol. 59, no. 20, pp. 4475–6; amended with OR-OSHA AO 4-2007, filed and effective 8/15/07.

(13) 29 CFR 1910.334 Use of equipment; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020; amended 11/1/90, FR vol. 55, no. 212, pp. 46052–46054.

(14) 29 CFR 1910.335 Safeguards for personnel protection; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016–32020.

(15) (Reserved for 1910.336 - .360)

Safety-Related Maintenance Requirements

(16) (Reserved for 1910.361 - .380)

Safety Requirements for Special Equipment

(17) (Reserved for 1910.381 - .398)

Definitions

(18) 29 CFR 1910.399 Definitions Applicable to this Subdivision; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185, amended 4/12/88, FR vol. 53, p. 12123; amended 8/6/90 FR vol. 55, no. 151, pp. 32016–32020; 2/14/07, FR vol. 72, no. 30, p. 7136.

(19) Appendices

Appendix A – Reference Documents

These standards are available at the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295.

Hist.: OSHA 2-1991, f. 2-4-91, cert. ef. 4-1-91; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 4-2007, f. & cert. ef. 8-15-07

Department of Corrections

Chapter 291

Rule Caption: Procedural Rules Relating to Administrative Rulemaking and Confidential Mediation of Workplace Interpersonal Disputes.

Adm. Order No.: DOC 4-2007

Filed with Sec. of State: 7-20-2007

Certified to be Effective: 7-20-07

Notice Publication Date: 5-1-07

Rules Adopted: 291-001-0110

Rules Amended: 291-001-0020, 291-001-0025

Subject: OAR 291-001-0020 and 291-001-0025 modifications are necessary to adopt by reference the latest version of the Attorney General's Model Rules of Procedures for the Administrative Proce-

dures Act. Other minor housekeeping modifications have been made for clarification purposes.

OAR 291-001-0110 adoption is necessary to allow for the confidential mediation of workplace interpersonal disputes involving DOC employees. Without such a rule the department employees would have limited ability to participate in candid, confidential mediation. Mediation has the potential for resolving disputes less expensively, achieving more satisfactory outcomes, and improving workplace productivity. OAR 291-001-0110 contains the text of the Attorney General's model "Simplified Workplace Interpersonal Dispute Rule – Confidential and Inadmissibility of Mediation Communications."

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-001-0020

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of a permanent rule, the Department of Corrections shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule;

(2) By mailing a copy of the notice to persons on the department's mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule; and

(4) By furnishing or mailing a copy of the notice to the following at least 28 days prior to the effective date of the rule:

(a) Capitol Press Room;

(b) Associated Press (AP);

(c) American Federation of State-County and Municipal Employees (AFSCME);

(d) Oregon Public Employees Union (OPEU);

(e) American Civil Liberties Union (ACLU);

(f) Public Defender's Office, Marion County;

(g) Oregon State Bar Association;

(h) Crime Victims United;

(i) Department of Corrections — Institution Legal Libraries; and

(j) Department of Corrections — Inmate Newsletters.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: CD 34-1980, f. & ef. 11-7-80; CD 3-1985(Temp), f. & ef. 4-26-85; CD 9-1985, f. & ef. 7-26-85; CD 2-1986(Temp), f. & ef. 1-31-86; CD 9-1986, f. & ef. 4-18-86; CD 1-1991, f. & cert. ef. 1-9-91; CD 5-1995, f. 2-22-95, cert. ef. 3-1-95; DOC 18-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 9-2000, f. & cert. ef. 4-14-00; DOC 17-2003, f. & cert. ef. 12-12-03; DOC 4-2007, f. & cert. ef. 7-20-07

291-001-0025

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341 the Department of Corrections adopts the Attorney General's Model Rules of Procedure Under the Administrative Procedures Act effective January 1, 2006.

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Hist.: CD 34-1980, f. & ef. 11-7-80; CD 3-1985(Temp), f. & ef. 4-26-85; CD 9-1985, f. & ef. 7-26-85; CD 2-1986(Temp), f. & ef. 1-31-86; CD 9-1986, f. & ef. 4-18-86; CD 1-1991, f. & cert. ef. 1-9-91; CD 5-1995, f. 2-22-95, cert. ef. 3-1-95; DOC 18-1999(Temp), f. & cert. ef. 10-28-99 thru 4-25-00; DOC 9-2000, f. & cert. ef. 4-14-00; DOC 17-2003, f. & cert. ef. 12-12-03; DOC 4-2007, f. & cert. ef. 7-20-07

291-001-0110

Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

(1) This rule applies to workplace interpersonal disputes, which are disputes involving the interpersonal relationships between Department of Corrections' (department) employees, officials or employees and officials. This rule does not apply to disputes involving the negotiation of labor contracts or matters about which a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed.

(2) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(3) Nothing in this rule affects any confidentiality created by other law.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

ADMINISTRATIVE RULES

(5) Disclosures by Mediator: A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) or (h)–(j) of section (7) of this rule.

(6) Confidentiality and Inadmissibility of Mediation Communications: Except as provided in section (7) of this rule, mediation communications in mediations involving workplace interpersonal disputes are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced into evidence by the parties or the mediator in any subsequent proceeding so long as:

(a) The parties to the mediation and the department have agreed in writing to the confidentiality of the mediation; and

(b) The person agreeing to the confidentiality of the mediation on behalf of the department:

(A) Is neither a party to the dispute nor the mediator, and

(B) Is designated by the department to authorize confidentiality of the mediation; and

(C) Is at the same or higher level in the department than any of the parties to the mediation or who is a person with responsibility for human resources or personnel matters in the department, unless the Director or Deputy Director is one of the persons involved in the interpersonal dispute, in which case the Governor or the Governor's designee.

(7) Exceptions to confidentiality and inadmissibility:

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records; as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law;

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person;

(d) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law;

(e) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree;

(f) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure;

(g) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement;

(h) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communica-

tions are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements;

(i) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute;

(j) The mediator may report the disposition of a mediation to the department at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The department or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(8) The terms of any agreement arising out of the mediation of a workplace interpersonal dispute are confidential so long as the parties and the agency so agree in writing. Any term of an agreement that requires an expenditure of public funds, other than expenditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that remain the property of the agency, may not be made confidential.

(9) When a mediation is subject to section (6) of this rule, the department will provide to all parties to the mediation and to the mediator a copy of this rule or an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.224, 36.230(4)

Hist.: DOC 4-2007, f. & cert. ef. 7-20-07

Rule Caption: Electronic Messaging Services for Inmates to Communicate with Family and Friends.

Adm. Order No.: DOC 5-2007(Temp)

Filed with Sec. of State: 8-1-2007

Certified to be Effective: 8-1-07 thru 1-27-08

Notice Publication Date:

Rules Amended: 291-131-0010, 291-131-0015, 291-131-0020, 291-131-0025

Subject: These temporary rule amendments are necessary in order to immediately implement a change in department policy to permit eligible inmates confined in a limited number of department correctional facilities to send, receive and possess electronic messages as part of a pilot demonstration project.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-131-0010

Definitions

(1) Business Transaction: A transaction involving the purchase, sale or delivery of merchandise, commodities or services.

(2) Central Administration: The Director, Deputy Director, Assistant Directors, administrators, or other Department of Corrections officials whose offices or mail boxes are located in the central office at 2575 Center Street NE, Salem, OR 97301-4667.

(3) Confiscate: To remove the item or that portion of the item which violates these rules.

(4) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess, or which the inmate alters without authorization.

(5) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(6) Electronic Messages: Correspondence exchanged between inmates and subscribers through a department approved third-party electronic messaging vendor by means of computers equipped for internet access.

(7) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of program operations.

(8) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or coordination of program operations.

ADMINISTRATIVE RULES

(9) **Inflammatory Material:** Material whose presence in the facility is deemed by the department to constitute a direct and immediate threat to the security, safety, health, good order, or discipline of the facility because it incites or advocates physical violence against others. No publication shall be considered inflammatory solely on the basis of its appeal to a particular ethnic, racial or religious audience. No material shall be considered inflammatory solely because it criticizes the operation, programs or personnel of the Department of Corrections, the State Board of Parole and Post-Prison Supervision, or of any other government agency.

(10) **Inmate:** Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(11) **Inspection:** To examine or view, including reading and/or photocopying.

(12) **Inter-Agency Mail System:** A system of delivering mail between or among state agencies and other units of government.

(13) **Intradepartmental Mail System:** A system of delivering mail among functional units within the Department of Corrections.

(14) **Legal Mail:** Incoming or outgoing mail to or from an attorney, court, or court official which is clearly worded "legal mail" on the addressee side of the envelope. The legal mail designation should be set apart from the return address and mailing address for ease of recognition.

(15) **Mail:** Incoming or outgoing mail, including electronic messages, authorized by these rules to be sent or received by an inmate and delivered by the United States Postal Service or any other carrier approved by the department including, but not limited to, parcel service enterprises or electronic messaging services.

(16) **Money:** Cash, money orders, personal checks, warrants, certified checks, and other remittances.

(17) **Non-Inmate Sender:** The person who is not residing at a Department of Corrections facility who sends mail to an inmate who is residing in a Department of Corrections facility.

(18) **Official Mail:** Incoming and outgoing mail addressed to or from officials of the confining authority, the Governor, the Secretary of State, Oregon's state legislators, Oregon's United States Congressional delegation, administrators of grievance systems, foreign embassy consulate, and members of the paroling authority, which is clearly worded "official mail" on the addressee side of the envelope. The official mail designation should be set apart from the return address and mailing address for ease of recognition.

(19) **Package:** A completely wrapped parcel received that is more than 1/4 inch thick regardless of other dimensions, received directly from the source with authorized postage, and legal and official mail up to three inches.

(20) **Personal Photograph:** Any analog or digital photograph of a person, or any duplication thereof. Personal photographs include any photograph scanned and printed from the Internet or other photographs where the identity of the person is unknown to the department or cannot be reasonably ascertained by the department by examining the content of the accompanying material. Any graphic image sent with or attached to an electronic message will be considered a personal photograph.

(21) **Portrayal:** The act or process by which an idea or message is depicted or represented, usually by written words or images.

(22) **Publication:** A book or single issue of a magazine or newspaper, plus such other materials addressed to a specific inmate as flyers, and catalogs, received directly from the publisher.

(23) **Publisher:** A business, organization, or firm that issues and makes available to the public (generally for sale and wide distribution) magazines, newspapers, books and other publications. For purposes of these rules, "publisher" includes approved publications suppliers or distributors not open for the public.

(24) **Security Threat Group (STG):** Any group of two or more individuals who:

(a) Have a common name, identifying symbol, or characteristic which serves to distinguish themselves from others.

(b) Have members, affiliates, and/or associates who individually or collectively engage, or have engaged, in a pattern of illicit activity or acts of misconduct that violates Oregon Department of Corrections rules.

(c) Have the potential to act in concert to present a threat, or potential threat, to staff, public, visitors, inmates, offenders or the secure and orderly operation of the institution.

(25) **Security Threat Group Paraphernalia:** Any material, document(s) or items evidencing security threat group involvement or activities (e.g., rosters, constitutions, structures, codes, pictures, training material, clothing, communications or other security threat group-related contraband).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 31-1981(Temp), f. & ef. 6-30-81; CD 43-1981, f. & ef. 10-30-81; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp) f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08

291-131-0015

General

(1) The functional unit manager or designee will ensure employees responsible for mail room operations are properly trained prior to assignment.

(2) Inmates shall not send, receive, transfer, or possess mail which violates the provisions of these rules.

(3) Inmates shall not send, receive, transfer, or possess mail to or from the victim(s) of their crime(s) of conviction (both past and present), except as authorized in writing by the functional unit manager or designee.

(4) Inmates shall not conduct business transactions by mail without the prior written consent of the functional unit manager or designee.

(5) Excluding weekends and holidays, incoming and outgoing correspondence should be processed within two days of receipt; publications and packages within four days of receipt, unless the mail is being reviewed for possible violations.

(6) All incoming and outgoing mail is subject to inspection or examination. Legal and official mail is subject to inspection or examination as provided in OAR 291-131-0030.

(7) All mail, excluding packages, shall be routed through the U.S. Postal Service, inter-agency or intra-departmental mail systems. Mail may also be sent by other approved mail service providers for packages and special circumstances, if authorized by the functional manager. Other mail service providers includes, but is not limited to, United Parcel Service, U.S. Airborne, Federal Express, approved newspaper delivery, and approved vendors offering electronic messaging services. Authorization may vary among Department of Corrections facilities depending upon security concerns, mail room operations and physical layout of the building and grounds.

(8) Inmates shall be permitted to send business mail to officials of the Department of Corrections in Central Administration through the intra-departmental mail system. Inmates shall not be permitted to send mail through the state inter-agency mail system. Inmates shall be permitted to receive mail from state agencies and officials through the inter-agency and intra-departmental mail systems.

(9) Each month an inmate, who in the previous month has not accumulated the cost of five postage paid envelopes (for less than one ounce) in his/her trust account, will be issued five postage paid envelopes by the facility if he/she requests.

(10) **Inmate to Inmate Mail Restriction:**

(a) An inmate may be prohibited from corresponding with another inmate(s) when directed by the Department of Corrections facility functional unit manager or designee, and approved by the Assistant Director of Operations/designee, based on specific circumstances or information which in their judgment indicates that the inmate has or may use correspondence with the other inmate(s) in order to violate provisions of law, department administrative rules, or to otherwise engage in activity that threatens or impairs the security, good order, or discipline of the facility, inmate rehabilitation, or the health or safety of inmates, staff or the public, or to engage in other activity that threatens or is detrimental to other legitimate penological objectives.

(b) Affected inmate(s) will be notified of the restriction through written directive. A decision to order an inmate-to-inmate mail restriction under these rules shall be final and not subject to administrative review.

(11) **Electronic Messaging:**

(a) **Availability and Inmate Access:**

(A) The Department of Corrections may, in its sole discretion, authorize eligible inmates in certain Department of Corrections facilities to exchange electronic messages with friends and family as a non-monetary incentive, subject to the conditions and circumstances set forth in these and in the Performance Recognition Award System (PRAS) rules (OAR 291-77).

(B) When authorized by the department, electronic messaging will be available only to those inmates that are at the upper two incentive levels at their respective institutions (Levels 2 and 3 at minimum-security and above institutions or Levels 5 and 6 at minimum-security institutions).

ADMINISTRATIVE RULES

(C) In those Department of Corrections facilities in which electronic messaging is authorized, inmates that are otherwise eligible to access electronic messaging in those facilities may do so in accordance with these rules, contingent upon the payment of a fee to the third-party vendor for subscription purposes by the inmates' friends or family.

(b) Processing of Electronic Messages:

(A) Except as otherwise provided in these rules, electronic messages will be processed in the same manner and be subject to the same standards established in these rules for the sending, receipt, and processing of other inmate mail.

(B) Incoming electronic messages from subscribers will be processed by an approved third-party vendor and delivered electronically to department mail rooms for staff review, printing, and delivery to inmates. Outgoing electronic messages from inmates will be processed by department mail room staff and forwarded to the approved third-party vendor for review, scanning, and posting on the vendor's website for access by subscribers.

(C) All electronic messages will be subject to regular mail inspection and examination; no electronic message will be afforded special processing by department staff as legal mail or official mail.

(D) In the event that an inmate is transferred from a Department of Corrections facility where electronic messaging is authorized to a facility where it is not, departmental mail room staff will forward incoming electronic messages to the inmate through the regular mail system for the remainder of the calendar month.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0300, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. & cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 23-1998(Temp), f. & cert. ef. 12-23-98 thru 6-21-99; DOC 8-1999, f. 5-24-99, cert. ef. 6-1-99; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 16-2004(Temp), f. & cert. ef. 12-28-04 thru 6-26-05; DOC 7-2005, f. & cert. ef. 7-1-05; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08

291-131-0020 Outgoing Mail

(1) Outgoing mail must be written with lead or color pencil, pen, non-toxic markers or be typewritten or photocopied.

(2) Outgoing mail, except business mail to department officials in Central Administration sent through the intra-departmental mail system, shall be enclosed in an approved DOC envelope with U.S. postage. The outside of the envelope shall contain only the inmate's committed name, SID number, and return address, and the addressee's name and address, except official or legal mail labeled as such in accordance with OAR 291-131-0030. If the sender cannot be identified, the mail will be destroyed.

(3) Business mail to Department of Corrections officials in Central Administration shall require the inmate's complete name, SID number, housing assignment, and return address and the official's complete name and address.

(4) Outgoing electronic messages shall include the full name and address of the intended recipient and the name and SID number of the inmate sender.

(5) Inmates shall not send any item "prohibited from receipt by mail" as described under OAR 291-131-0035, except as authorized by the functional unit manager.

(6) Inmate-to-Inmate Correspondence:

(a) Inmates are authorized to correspond with other inmates if the correspondence is otherwise in compliance with department rules. Inmates shall not send newspaper or magazine clippings to another inmate.

(b) All inmate to inmate correspondence shall be routed through the U.S. Postal Service.

(c) Inmates shall not enclose correspondence other than from the inmate sender whose name and return address appears on the front of the envelope. Inmates shall not request another inmate to forward correspondence beyond the immediate addressee.

(d) Inmates shall not send a package to another inmate.

(7) Inmates shall not use electronic messaging to correspond with other inmates.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0305, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993,

f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08

291-131-0025 Incoming Mail

(1) Incoming mail shall require the sender's name and return address on the front of the envelope and shall be addressed to the inmate using only his/her committed name and SID number. Incoming electronic messages shall include the name and address of the sender as part of the message and the full name and SID number of the inmate recipient.

(a) Mail whose recipient cannot be identified because of incomplete name or number will be returned to the sender. A reasonable attempt will be made to identify the inmate recipient. If the inmate recipient cannot be positively identified, the mail will be returned to the sender.

(b) Mail with no return address or an incomplete name and return address shall be refused and returned to the U.S. Postal Service or other authorized mail service provider.

(c) The placement of the return address for international mail shall be in accordance with the sending country's postal regulations.

(2) Incoming mail must be in pen, lead or color pencil, non-toxic markers or be typewritten or photocopied.

(3) Transfers:

(a) Incoming mail to inmates not residing in the receiving facility will be forwarded to the inmate if he/she resides at another Department of Corrections facility.

(b) Incoming mail for inmates temporarily transferred to another criminal justice agency will be held at the facility for seven consecutive days. If the inmate does not return to the facility within seven days, the facility will forward to the agency all accumulated and subsequent mail received at the facility. If the criminal justice agency refuses the forwarded mail, it will be held at the department facility until the inmate has been returned.

(4) Mail received for an inmate who has been released, discharged, or has escaped shall be refused and returned to the U.S. Postal Service or other authorized mail service provider.

(5) New books, magazines, and newspapers shall only be received directly from the publisher.

(a) Multiple copies of the same publication to an inmate shall be prohibited.

(b) Publications that have been previously rejected by the department and altered (i.e., offending pages removed) shall be prohibited.

(6) Catalogs, advertisements, brochures, promotional materials, pamphlets, sweepstakes, contests and other materials where the primary purpose is to sell a product or service and when taken as a whole, lacks serious literary, artistic, religious, political, educational, or scientific value shall be prohibited.

(7) No notice or administrative review will be provided to the sender or intended inmate recipient for mail refused under subsections (5)(a) and (b) or (6) of this rule.

(8) Packages, except new books, magazines, and newspapers received directly from the publisher, shall require prior authorization from the functional unit manager or designee.

(9) Central Administration Review of Publications:

(a) Facility mailroom staff shall stamp approval of all accepted books, magazines and other publications (except newspapers) on the front or inside front cover of the publication, together with the inmate's name, SID number, date accepted, and the staff's authorization signature. Books and magazines without the completed stamp on the front or inside the front cover shall be unauthorized and considered contraband.

(b) Unauthorized attachments, enclosures, merchandise, or materials in publications may be removed and destroyed to allow the publication to be delivered to the intended inmate recipient, if the publication is otherwise in compliance with these rules, and doing so would not drastically alter/destroy the publication.

(c) If mailroom staff determine a publication contains material that is prohibited under these or other department administrative rules, the violation notice and prohibited material shall be reviewed by a designated Central Administration official, who will either affirm, reverse or otherwise modify the original rejection decision in writing. The reviewing official shall not take part in any subsequent administrative review of the rejected publication under OAR 291-131-0050.

(10) General correspondence shall be authorized up to 1/4 inch thickness. Legal and official mail received directly from the original source shall be authorized up to three inches thick. Legal and official mail in excess of

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three inches shall require prior approval from the functional unit manager or designee.

(11) Unauthorized Attachments and/or Enclosures:

(a) Only the canceled postage stamp, address label, and return address stamp (if used) attached to the front of an envelope or package shall be glued, taped or otherwise affixed to an envelope or package, or its contents.

(b) Only written correspondence, newspaper and magazine clippings, small pamphlets, photocopies, carbon copies, business cards, hand-made drawings, and photographs may be enclosed in the envelope. Inmates shall not receive newspaper or magazine clippings from another inmate. Unauthorized items with minimal monetary value (i.e., paper clip, rubber band, book mark, envelope, blank paper, may be removed and destroyed and the remaining mail sent to the inmate, if the mail is otherwise in compliance with department rules.

(A) Small pamphlets, photocopies, carbon copies and hand-made drawings shall be allowed provided the contents do not exceed the one fourth inch thickness limitation as specified in section (10) above.

(B) Newspaper and magazine clippings and photographs shall not exceed ten items for each category.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0310, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 41-1983(Temp), f. & ef. 10-14-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp) f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08

Department of Fish and Wildlife Chapter 635

Rule Caption: Special Northern Pikeminnow Sport Reward Fishery.

Adm. Order No.: DFW 57-2007(Temp)

Filed with Sec. of State: 7-17-2007

Certified to be Effective: 7-17-07 thru 1-12-08

Notice Publication Date:

Rules Amended: 635-011-0175

Subject: Amend rule to reflect regulations for the program as administered by the Pacific State Marine Fisheries Commission (PSMFC). These modifications update the Oregon administrative rule in concurrence with changes to program rules made by PSMFC.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-011-0175

Special Northern Pikeminnow Sport Reward Fishery

(1) During times and at registration stations to be specified by the Northern Pikeminnow Sport Reward Program administered by the Pacific States Marine Fisheries Commission (PSMFC), a voucher for payment of bounty in an amount to be specified by PSMFC may be issued for each northern pikeminnow (*Ptychocheilus oregonensis*) taken by legal angling methods from the mouth of the Columbia River to the boat restricted zone below the Priest Rapids Dam; from the mouth of the Snake River to the boat restricted zone below Hells Canyon Dam; and from backwaters and sloughs, and up tributaries 400 feet from tributary mouths of the reaches listed above on the Columbia and Snake rivers. In addition, the following requirements shall be met to qualify for payment:

(a) Anglers shall present a valid fishing license and picture identification upon request by any authorized program representative;

(b) Each angler shall adhere to all applicable state fishing regulations for the area in which they fish;

(c) Each angler shall register in person at one of the designated registration stations each day prior to fishing. Anglers may register during times when stations are unstaffed, by using the station's self-registration box. Anglers may not register at multiple stations during the same time period;

(d) Anglers shall comply with the directions of authorized program personnel related to the collection of sampling data and angler participation in the Sport Reward Fishery. Anglers shall provide true and accurate information to authorized program representatives regarding the taking, possession, delivery, transportation, sale, transfer, or any other use of fish caught while participating in the Northern Pikeminnow Sport Reward Fishery Program;

(e) Fish must be returned to the same registration station where the angler registered. They must be returned on the same calendar day stamped on the angler's registration form, before that station closes for that day, and they must have been caught subsequent to that day's registration time.

(f) All fish redeemed for reward payment must have been personally caught solely by the angler submitting them for reward payment.

(g) To be eligible for a voucher, each northern pikeminnow must be nine inches or longer in total length and must be presented in fresh condition or alive. Fish that are or were frozen, or that are in otherwise poor condition, will not be accepted for payment. Authorized program personnel have the authority to determine whether or not northern pikeminnow submitted for payment meet these standards;

(h) Mail in all reward vouchers within 30 days from the end of the year's fishery. To obtain payment, vouchers must be received no later than November 15, 2007. Any issues preventing payment (missing information, voiding of voucher for program violations, etc.) must be resolved by November 15, 2007 or the voucher becomes null and void.

(2) A bounty payment may be refused if in the judgment of authorized program personnel any of the above conditions have not been met.

(3) Violation of any of the above rules may result in disqualification from the Northern Pikeminnow Sport Reward Fishery Program.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 41-1990, f. & cert. ef. 5-23-90; FWC 51-1991(Temp), f. 5-22-91, cert. ef. 5-24-91; FWC 23-1993, f. 3-19-93, cert. ef. 3-22-93; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 38-2001(Temp) f. & cert. ef. 5-22-01 thru 11-18-01; DFW 57-2007(Temp), f. & cert. ef. 7-17-07 thru 1-12-08

Rule Caption: Adopt inseason actions implemented by the federal government for commercial groundfish fisheries.

Adm. Order No.: DFW 58-2007(Temp)

Filed with Sec. of State: 7-18-2007

Certified to be Effective: 8-1-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-004-0019

Subject: Amended rule to adopt in-season actions implemented by the federal government for commercial groundfish fisheries including: rockfish conservation area boundaries and trip limits.

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-07-04, announced inseason management measures, effective April 17, 2007, including but not limited to adjusted Rockfish Conservation Area (RCA) boundaries.

(4) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-07-05, announced inseason management measures, effective May 1, 2007, including but not limited to commercial trip limit tables.

(5) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS) by means of NMFS-SEA-07-06, announced inseason management measures, effective August 1, 2007, including but not limited to adjusted Rockfish Conservation Area (RCA) boundaries and adjustments to commercial groundfish trip limit tables.

[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; DFW 110-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; Administrative correction 1-16-07; DFW 29-

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2007(Temp), f. & cert. ef. 5-1-07 thru 10-27-07; DFW 58-2007(Temp), f. 7-18-07, cert. ef. 8-1-07 thru 12-31-07

Rule Caption: Sturgeon retention prohibition in the Columbia River between Bonneville Dam and The Dalles Dam.

Adm. Order No.: DFW 59-2007(Temp)

Filed with Sec. of State: 7-18-2007

Certified to be Effective: 7-29-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-023-0095

Subject: Amend rule to prohibit retention of sturgeon in the Columbia River and tributaries between Bonneville Dam and The Dalles Dam. Revision is consistent with Joint State Action taken by the states of Oregon and Washington on July 17, 2007.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0095

Sturgeon Season

(1) The 2007 Oregon Sport Fishing Regulations provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2007 Oregon Sport Fishing Regulations.

(2) The Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam is open to the retention of white sturgeon during the following periods:

(a) Monday, January 1, 2007 through Wednesday January 31, 2007 three days per week, Thursday, Friday, and Saturday; and

(b) Thursday February 1 through Tuesday July 31, 2007 and Monday, October 1, 2007 through Monday, December 31, 2007 four days per week, Thursday, Friday, Saturday and Sunday.

(3) The retention of white sturgeon in the area identified in subsection (2) of this rule is prohibited August 1, 2007 through September 30, 2007.

(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 white sturgeon seven days per week during the following periods:

(a) Monday, January 1, 2007 through Monday, April 30, 2007, and

(b) Saturday, May 12, 2007 through Wednesday, July 4, 2007.

(5) The retention of white sturgeon in the area identified in subsection (4) of this rule is prohibited May 1, 2007 through May 11, 2007 and from July 5, 2007 through December 31, 2007.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon between 42-60" in overall length may be retained.

(7) During the fishing period as identified in subsection (4)(b) of this rule, only white sturgeon between 45-60" in overall length may be retained.

(8) The Columbia River and tributaries between The Dalles Dam and John Day Dam are closed to the retention of sturgeon effective 12:00 Midnight, March 28, 2007.

(9) The Columbia River and tributaries between John Day Dam and McNary Dam are closed to the retention of sturgeon effective 12:00 Midnight, Sunday June 10, 2007.

(10) The Columbia River and tributaries between Bonneville Dam and The Dalles Dam are closed to the retention of sturgeon effective 12:00 Midnight, Sunday July 29, 2007.

(11) Angling for sturgeon is prohibited from Marker 85 upstream to Bonneville Dam, from Highway 395 Bridge upstream to McNary Dam, and from the west end of the grain silo at Rufus upstream to John Day Dam during May 1, 2007 through July 31, 2007.

(12) The retention of green sturgeon is prohibited effective January 1, 2007.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 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; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07

Rule Caption: Treaty Indian Fall Fisheries for Columbia River Above Bonneville Dam.

Adm. Order No.: DFW 60-2007(Temp)

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 8-1-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-041-0063, 635-041-0075

Subject: Amended rules allow the commercial sales of fish caught during the Treaty Indian sturgeon setline and the fall salmon platform and hook-and-line fisheries in the Columbia River above Bonneville Dam (Zone 6). The setline fishery begins at 12:01 a.m. August 1, 2007 and runs through 6:00 p.m. Saturday August 18, 2007 or until the guideline is reached. The platform and hook-and-line chinook and steelhead fishery begins at 12:01 a.m. August 1, 2007 and runs through Monday December 31, 2007. Implementation is consistent with action taken July 26 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0063

Sturgeon Setline Fishery

(1) White sturgeon may be taken by setline for commercial purposes from 6:00 a.m. Wednesday August 1 through 6:00 p.m. Saturday August 18, 2007 (or when guideline is met) in the John Day Pool.

(a) Sturgeon taken must be between 48-60 inches in length.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the sturgeon setline season it shall be unlawful to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

(5) Allowable sales: White sturgeon between 48-60 inches in length from John Day Pool may be sold or kept for subsistence use. Platform hook and line caught white sturgeon between 48-60 inches in length from John Day Pool may be sold during the open setline fishery.

Stat. Auth.: ORS 183.325, 506.119

Stats. Implemented: ORS 506.129, 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp), f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000(Temp), f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 69-2006(Temp), f. 7-28-06, cert. ef. 7-31-06 thru 12-31-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07

ADMINISTRATIVE RULES

635-041-0075

Fall Salmon Season

(1) Chinook and coho salmon, steelhead, carp, shad and walleye may be taken for commercial purposes in the Columbia River above Bonneville Dam (all of Zone 6) from 12:01 a.m. August 1 through December 31, 2007.

(2) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek which is the larger area described in OAR 635-041-0045 (11).

(3) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 12:01 a.m., Tuesday August 1 through December 31, 2007.

(a) Gear is restricted to: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) Allowable sales include chinook, coho, steelhead, walleye, carp, and shad. Sockeye may be kept for subsistence use but not sold.

(c) Sturgeon may only be sold during open sturgeon setline fishing periods in John Day Pool. However, sturgeon between 48 to 60 inches in length from The Dalles and John Day pools and sturgeon between 45 to 60 inches in length from Bonneville Pool, may be kept for subsistence use.

(d) Fish caught during Yakama Nation's scheduled open tributary fishing periods in the Klickitat and White Salmon rivers may be sold when the sale of platform and hook-and-line fish is allowed.

Stat. Auth.: ORS 183.325, 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90; FWC 85-1991, f. & cert. ef. 8-7-91; FWC 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92; FWC 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-25-95; FWC 82-1995; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95; FWC 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-23-98 thru 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. & cert. ef. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-

05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. & cert. ef. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. & cert. ef. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. & cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. & cert. ef. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. & cert. ef. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. & cert. ef. 8-1-07 thru 12-31-07

Rule Caption: Implementation of Fall Chinook Gill Net Seasons for Columbia River Mainstem and Select Areas Fisheries.

Adm. Order No.: DFW 61-2007(Temp)

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 8-1-07 thru 10-31-07

Notice Publication Date:

Rules Amended: 635-042-0031, 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Subject: Amended rules implement the commercial fall chinook salmon gill net season in the mainstem Columbia River (Zones 1 thru 5) and Select Areas beginning August 1, 2007. Implementation is consistent with action taken July 26, 2007 by the Columbia River Compact.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 1-5, as identified in OAR 635-042-0001. Retention of green sturgeon is prohibited.

(2) It is unlawful to use a gill net having a mesh size less than 9 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. Thursday August 2 to 7:00 a.m. Friday August 3, 2007 (12 hours);

(b) 7:00 p.m. Monday August 6 to 7:00 a.m. Tuesday August 7, 2007 (12 hours);

(c) 7:00 p.m. Thursday August 9 to 7:00 a.m. Friday August 10, 2007 (12 hours).

(4) A maximum of twelve white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. Sturgeon possession and sales limit includes mainstem fisheries only.

(5) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-A, Cowlitz River, Kalama-A, Lewis-A, Washougal River and Sandy River sanctuaries are in effect during open fishing periods identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. ef. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. ef. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. ef. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 8-1-07 thru 10-31-07

ADMINISTRATIVE RULES

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in four segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); the summer fishery, paragraph (C), and the fall fishery, paragraph (D), as follows:

(A) Winter Season:

(i) Entire Youngs Bay: 6:00 p.m. Wednesday February 14, 2007 to 12:00 noon Thursday February 15, 2007; 6:00 p.m. Sunday February 18, 2007 to 12:00 noon Monday February 19, 2007; 6:00 p.m. Wednesday February 21, 2007 to 12:00 noon Thursday February 22, 2007; 6:00 p.m. Sunday February 25, 2007 to 12:00 noon Monday February 26, 2007; 6:00 p.m. Wednesday February 28, 2007 to 12:00 noon Thursday March 1, 2007; 6:00 p.m. Sunday March 4, 2007 to 12:00 noon Monday March 5, 2007; 6:00 p.m. Wednesday March 7, 2007 to noon Thursday March 8, 2007; 6:00 p.m. Sunday March 11, 2007 to 12:00 noon Monday March 12, 2007.

(ii) Upstream of old Youngs Bay Bridge: 3:00 p.m. to 7:00 p.m. Wednesday March 14, 2007.

(iii) Walluski Area: 12:00 noon Sunday March 18, 2007 to 6:00 a.m. Monday March 19, 2007; 6:00 a.m. to 6:00 p.m. Tuesday March 20, 2007; 6:00 a.m. to 6:00 p.m. Thursday March 22, 2007; 12:00 noon Sunday March 25, 2007 to 6:00 a.m. Monday March 26, 2007; 6:00 a.m. to 6:00 p.m. Tuesday March 27, 2007; 6:00 a.m. to 6:00 p.m. Thursday March 29, 2007; 12:00 noon Sunday April 1, 2007 to 6:00 a.m. Monday April 2, 2007; 6:00 a.m. to 6:00 p.m. Tuesday April 3, 2007; 6:00 a.m. to 6:00 p.m. Thursday April 5, 2007; 12:00 noon Sunday April 8, 2007 to 6:00 a.m. Monday April 9, 2007; 6:00 a.m. to 6:00 p.m. Tuesday April 10, 2007.

(B) Spring Season:

(i) Entire Youngs Bay: 6:00 p.m. Thursday April 19, 2007 to 6:00 a.m. Friday April 20, 2007; 6:00 p.m. Monday April 23, 2007 to 6:00 a.m. Tuesday April 24, 2007; 6:00 p.m. Thursday April 26, 2007 to 6:00 a.m. Friday April 27, 2007; 6:00 p.m. Monday April 30, 2007 to 12:00 noon Tuesday May 1, 2007; 6:00 p.m. Thursday May 3, 2007 to 12:00 noon Friday May 4, 2007; 12:00 noon Monday May 7, 2007 to 12:00 noon Friday May 11, 2007; 12:00 noon Monday May 14, 2007 to 12:00 noon Friday May 18, 2007; 12:00 noon Monday May 21, 2007 to 12:00 noon Friday May 25, 2007; 12:00 noon Monday May 28, 2007 to 12:00 noon Friday June 1, 2007; 12:00 noon Monday June 4, 2007 to 12:00 noon Friday June 8, 2007; 12:00 noon Tuesday June 12, 2007 to 12:00 noon Friday June 15, 2007;

(C) Summer Season:

(i) 6:00 a.m. Wednesday June 20, 2007 to 6:00 a.m. Friday June 22, 2007; 6:00 a.m. Wednesday June 27, 2007 to 6:00 a.m. Friday June 29, 2007; 6:00 a.m. Wednesday July 4, 2007 to 12:00 noon Thursday July 5, 2007; 6:00 a.m. Wednesday July 11, 2007 to 12:00 noon Thursday July 12, 2007; 6:00 a.m. Wednesday July 18, 2007 to 12:00 noon Thursday July 19, 2007; 6:00 a.m. Wednesday July 25, 2007 to 12:00 noon Thursday July 26, 2007.

(D) Fall Season:

(i) 6:00 a.m. Wednesday August 1 to 6:00 p.m. Thursday August 2, 2007 (36 hours); 6:00 a.m. Wednesday August 8 to 6:00 p.m. Thursday August 9, 2007 (36 hours); 6:00 a.m. Wednesday August 15 to 12:00 noon Thursday August 16, 2007 (30 hours); 6:00 a.m. Wednesday August 22 to 12:00 noon Thursday August 23, 2007 (30 hours); 6:00 a.m. Tuesday August 28 to 6:00 a.m. Friday August 31, 2007 (3 days); 7:00 p.m. Tuesday September 4 to 12:00 noon Wednesday October 31, 2007 (57 days).

(b) The fishing areas for the winter, spring, summer and fall fisheries are:

(A) From February 14, 2007 through March 12, 2007 and from April 19, 2007 through July 26, 2007, the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(B) On March 14, 2007, the fishing area extends from old Youngs Bay Bridge upstream to the confluence of the Youngs and Klaskanine rivers.

(C) From March 18, 2007 through April 10, 2007 the fishing area extends from the first overhead powerlines downstream of the Walluski River upstream to the confluence of the Youngs and Klaskanine rivers.

(D) From August 1, 2007 through October 31, 2007 the Youngs Bay fishing area includes all waters from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough; 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.

(a) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter season from February 14, 2007 to April 10, 2007. It is unlawful to use a gill net having a mesh size that is more than 8-inches during the spring, summer and fall seasons from April 19, 2007 to August 23, 2007. It is unlawful to use a gill net having a mesh size that is more than 6-inches during the fall season from August 24 through October 31, 2007.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open during the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), and the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries. A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open during the fishing periods identified in (1)(a)(D) above and the weekly aggregate sturgeon limit applies to possessions and sales in the open Select Area fisheries only.

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; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & cert. ef. 2-14-07; FWC 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. 6-15-07,

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cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes during open fishing periods described as the fall fishery in paragraph (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the fall fishery in Blind Slough only in paragraph (A), and the fall fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons are open nightly as follows:

(A) Blind Slough Only: Tuesday, Wednesday, and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) during the period from September 4 through 14, 2007.

(B) Blind and Knappa Sloughs: Monday, Tuesday, Wednesday, and Thursday nights from 7:00 p.m. to 7:00 a.m. (12 hours) during the period from September 17 through 21, 2007 and from 6:00 p.m. to 8:00 a.m. (14 hours) during the period from September 24 through October 26, 2007.

(b) The fishing areas for the fall season are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the periods identified above in (1)(a)(B), the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. Markers define an area closure of about a 100 foot radius at the mouth of Big Creek.

(c) Gear restrictions are as follows:

(A) During the fall fishery, outlined above in sections (1)(a)(A) and (1)(a)(B) above, gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is greater than 6-inches.

(2) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (1)(a)(A) and (1)(a)(B) the weekly aggregate sturgeon limit applies to possessions and sales in the Select Area fisheries only.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-

1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07

635-042-0170

Tongue Point Basin and South Channel Select Area Salmon Season

(1) Tongue Point fishing area includes all waters bounded by a line from a yellow marker midway between the red US Coast Guard navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Job Corps facility, to the flashing green US Coast Guard navigation light #3 at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green US Coast Guard navigation buoy #7 thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red US Coast Guard navigation marker #10 thence northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3) Salmon and sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(a) Nightly from 7:00 p.m. until 7:00 a.m. (12 hours): Tuesday Sept. 4 thru Friday Sept. 7, 2007 (3 nights); Tuesday Sept. 11 thru Friday Sept. 14, 2007 (3 nights); and Monday Sept. 17 thru Friday Sept. 21, 2007 (4 nights); and

(b) Nightly from 4:00 p.m. until 8:00 a.m. (16 hours): Monday Sept. 24 thru Friday Sept. 28, 2007 (4 nights); Monday Oct. 1 thru Friday Oct. 5, 2007 (4 nights); Monday Oct. 8 thru Friday Oct. 12, 2007 (4 nights); Monday Oct. 15 thru Friday Oct. 19, 2007 (4 nights); Monday Oct. 22 thru Friday Oct. 26, 2007 (4 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored onboard boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored onboard boats.

(5) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. During the fishing periods identified in (3)(a) and (3)(b) above, the weekly sturgeon limit applies to possessions and sales in Select Area fisheries only. Retention of green sturgeon is prohibited.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative Correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07

ADMINISTRATIVE RULES

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16, southwest to a marker on the Washington shore, upstream to the Highway 4 Bridge.

(2) The fall fishing season is open:

(a) Nightly from 7:00 p.m. to 7:00 a.m. (12 hours), Mondays through Fridays (4 nights) during the following periods: September 3 to 7, 2007; September 10 to 14, 2007; and September 17 to 21, 2007; and

(b) Nightly from 4:00 p.m. to 8:00 a.m. (16 hours), Mondays through Fridays (4 nights) during the following periods: September 24 to 28, 2007; October 1 to 5, 2007; October 8 to 12, 2007; October 15 to 19, 2007; and October 22 to 26, 2007.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(a) During the fall season, outlined above in (2)(a) and (2)(b), it is unlawful to use a gill net having a mesh size that is greater than 6-inches.

(4) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly aggregate sturgeon limit applies to sessions and sales in the Select Area fisheries only.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 2-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 4-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07

Rule Caption: Thief Valley Reservoir Sport Game Fish Harvest Opportunity.

Adm. Order No.: DFW 62-2007(Temp)

Filed with Sec. of State: 7-31-2007

Certified to be Effective: 8-1-07 thru 9-30-07

Notice Publication Date:

Rules Amended: 635-021-0090

Subject: Amend rule to authorize modified catch limit and methods of take in the Thief Valley Reservoir. Failure to adopt this rule would result in serious prejudice to the sport fishing public as it would result in lost opportunity for harvest of this valuable resource.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-021-0090

Inclusions and Modifications

(1) **2007 Oregon Sport Fishing Regulations** provide requirements for the Southeast 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) Thief Valley Reservoir is open to angling for all game species from August 1 through September 30, 2007 with the following restrictions:

(a) Harvest is allowed by hand, dip net or angling.

(b) There is no daily catch or possession limit.

(c) There are no minimum length requirements.

(3) The Powder River upstream from Hughes Lane Bridge near Baker City to Mason Dam is open to angling for jack spring Chinook salmon from

July 14 to September 30, 2007: The jack spring Chinook bag limit is five per day.

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

Stat. Auth.: ORS 183.325, 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 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 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07

Rule Caption: Establishment of coho salmon seasons and bag limits for Tahkenitch and Siltcoos lakes.

Adm. Order No.: DFW 63-2007(Temp)

Filed with Sec. of State: 8-6-2007

Certified to be Effective: 8-11-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-014-0090

Subject: Amend rule to increase harvest opportunity, establish a coho salmon season and bag limits for Tahkenitch and Siltcoos lakes.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-014-0090

Inclusions and Modifications

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

(2) Big Creek downstream from the hatchery weir including the railroad trestle bridge near the mouth is closed to all angling from August 15, 2007 through September 30, 2007.

(3) Siltcoos Lake and Tahkenitch Lake is open to angling for coho salmon effective October 1 through December 31. The daily bag limit is one adult coho salmon and one jack coho salmon. The annual limit, in aggregate from both lakes, is five adult coho salmon.

(a) The waters of Siltcoos Lake is defined as that area upstream from the Highway 101 Bridge and downstream of the railroad trestle on the Maple Creek arm and the Fivemile Road crossing on the Fiddle Creek arm.

(b) The waters of Tahkenitch Lake is defined as that area upstream from the Highway 101 Bridge and downstream of the first road crossing on the Leitel Creek arm and the ODFW Marker at the bridge on the 059 Road just west of Douglas County Road 49.

(4) All other specifications and restrictions as specified in the current 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.

ADMINISTRATIVE RULES

ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07

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Rule Caption: Herman Creek closes to anglers not possessing a valid Oregon Disabilities Hunting and Fishing Permit.

Adm. Order No.: DFW 64-2007(Temp)

Filed with Sec. of State: 8-6-2007

Certified to be Effective: 8-11-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-023-0090

Subject: Amend rule closes a section of Herman Creek, west of the peninsula up to the Lower Herman Creek Pond structure, to all anglers except those in possession of a valid disabilities permit issued by the Department. Modifications allow a person to assist the permit holder in angling in this area provided conditions of the permit are followed as described on pages 4 and 5 of the 2007 Oregon Sport Fishing Regulations.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0090

Inclusions and Modifications

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

(2) Herman Creek, upstream to mainline railroad bridge (Hood River Co.) is open for Chinook, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead consistent with regulations for the Columbia River from Bonneville Dam upstream to Oregon/Washington border.

(3) The area west of the peninsula up to the Lower Herman Creek Pond structure is closed to all anglers, except that fishing is authorized the entire year for those individuals who possess one of the following Department issued permits: Blind Angler License; Wheelchair Angling License; Disabled War Veteran Angling License; or Oregon Disabilities Hunting and Fishing Permit.

(4) A person may assist the holder of one of the permits listed in section (3) of this rule, angling in the area described in section (3), provided conditions of the permit are followed as described on pages 4 and 5 of the **2007 Oregon Sport Fishing Regulations**.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 19-1994(Temp), f. 3-31-94, cert. ef. 4-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 46-1994(Temp), f. 7-29-94, cert. ef. 8-1-94; FWC 52-1994(Temp), f. 8-24-94, cert. ef. 8-27-94; FWC 62-1994(Temp), f. 9-12-94, cert. ef. 9-16-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 72-1994(Temp), f. 10-7-94, cert. ef. 10-8-94; FWC 8-1995, f. 2-1-95, cert. ef. 2-6-95; FWC 11-1995, f. & cert. ef. 2-9-95; FWC 14-1995(Temp), f. 2-15-95, cert. ef. 2-16-95; FWC 31-1995(Temp), f. 4-21-95, cert. ef. 4-24-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 61-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 67-1995(Temp), f. 8-25-95, cert. ef. 8-27-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 12-1996(Temp), f. 3-26-96, cert. ef. 4-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 49-1996(Temp), f. & cert. ef. 8-30-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 7-1997(Temp), f. 2-6-97, cert. ef. 3-11-97; FWC 10-1997, f. & cert. ef. 2-28-97; FWC 11-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; FWC 22-1997(Temp), f. 4-2-97, cert. ef. 4-5-97; FWC 28-1997(Temp), f. 5-2-97, cert. ef. 5-5-97; FWC 50-1997(Temp), f. 8-26-97, cert. ef. 9-2-97; 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 29-1998(Temp), f. 4-16-98, cert. ef. 4-20-98 thru 4-24-98; DFW 32-1998(Temp), f. & cert. ef. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 46-1998, f. & cert. ef. 6-9-98; DFW 78-1998(Temp), f. 9-18-98, cert. ef. 9-21-98 thru 9-25-98; DFW 81-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 85-1998(Temp), f. & cert. ef. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cert. ef. 11-23-98 thru 12-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 13-1999(Temp), f. 3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99;

DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999 f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-00, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp), f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64 2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03; DFW 52-2003(Temp), f. 6-13-03, cert. ef. 6-21-03 thru 12-15-03; DFW 54-2003(Temp), f. 6-23-03, cert. ef. 6-28-03 thru 12-24-03; DFW 55-2003(Temp), f. 6-27-03, cert. ef. 6-30-03 thru 12-26-03; DFW 72 2003(Temp), f. 7-25-03, cert. ef. 7-28-03 thru 12-31-03; DFW 99-2003(Temp), f. 9-24-03, cert. ef. 10-1-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 4-2004(Temp), f. 1-22-04, cert. ef. 2-1-04 thru 7-29-04; DFW 35-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 10-26-04; DFW 52-2004(Temp), f. 6-11-04, cert. ef. 6-25-04 thru 12-21-04; DFW 58-2004(Temp), f. 6-24-04, cert. ef. 6-27-04 thru 12-23-04; DFW 64-2004(Temp), f. 6-30-04, cert. ef. 7-3-04 thru 12-30-04; DFW 65-2004(Temp), f. 7-6-04, cert. ef. 7-11-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 118-2004(Temp), f. 12-13-04, cert. ef. 1-1-05 thru 5-31-05; DFW 128-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 5-31-05; Administrative correction 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 64-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07

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Rule Caption: Correction to sport coho angling opening dates in Willamette Zone tributaries and streams.

Adm. Order No.: DFW 65-2007(Temp)

Filed with Sec. of State: 8-6-2007

Certified to be Effective: 8-6-07 thru 10-31-07

Notice Publication Date:

Rules Amended: 635-017-0090

Subject: Amend rule to allow the sport harvest of coho salmon in Gales Creek and the north and south forks of the Yamhill River in the Willamette Zone. This modification allows anglers sport angling opportunities to harvest coho salmon earlier than the incorrectly published date of August 31, 2007. The original intent was to allow the sport fishing public access to this resource beginning on August 1, 2007.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-017-0090

Inclusions and Modifications

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2007 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

ADMINISTRATIVE RULES

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Effective August 1, through October 31, 2007 the following areas are open to angling for coho:

(a) Gales Creek (Tualatin River tributary, Washington Co.) from the mouth upstream to NW Clapshaw Hill Road in Gales Creek, Oregon. Angling is restricted to artificial flies and lures.

(b) Yamhill River (Yamhill Co.) from the mouth upstream to the confluence of the North and South forks.

(A) Open to angling for warmwater game fish March 1 through October 31.

(B) Use of bait is allowed.

(c) South Yamhill from confluence with North Yamhill upstream to Steel Bridge Road in Willamina. Angling is restricted to artificial flies and lures.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07

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Rule Caption: Prohibit retention of cabezon in the ocean and estuary boat fisheries.

Adm. Order No.: DFW 66-2007(Temp)

Filed with Sec. of State: 8-8-2007

Certified to be Effective: 8-11-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 635-039-0090

Subject: Amend rule to close sport harvest of cabezon in the ocean and estuary boat fisheries due to attainment of Oregon Fish and Wildlife Commission 2007 harvest cap.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

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 and canary rockfish that may be impacted (combined landings and other fishery related mortality) 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 Decisions or News documents dated June and November, 2006.

(b) Harvest targets for yelloweye rockfish and canary rockfish effective at the start of the Oregon sport fishery in 2007 are:

(A) Yelloweye rockfish, 3.3 metric tons.

(B) Canary rockfish, 6.6 metric tons.

(c) Harvest targets for yelloweye rockfish and canary rockfish 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, a “sport harvest cap” is defined as the amount that may be impacted (combined landings and other fishery related mortality) by the Oregon sport fishery in a single calendar year.

(a) For 2007, the sport harvest cap for black rockfish is 318 metric tons.

(4) For the purposes of this rule, “Other nearshore rockfish” means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).

(5) For the purposes of this rule a “sport landing cap” is defined as the total landings 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 landing caps are:

(a) Black rockfish and blue rockfish combined, 359 metric tons.

(b) Other nearshore rockfish, 11.3 metric tons.

(c) Cabezon, 15.8 metric tons.

(d) Greenling, 5.2 metric tons.

(6) Effective Saturday August 11, 2007 at 12:01 a.m. retention of cabezon, as identified in section (5)(c) above, is prohibited in the ocean and estuary boat fisheries. Angling for and retention of shore-based cabezon is permitted.

(7) 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 bag limit.

(b) All rockfish (“sea bass” “snapper”), greenling (“sea trout”), cabezon, skates, 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 bag limit in aggregate (total sum or number). Retention of yelloweye rockfish and canary rockfish is prohibited.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except sablefish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), 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 amended by Federal Regulations to determine all rules applicable to the taking of Pacific halibut.

ADMINISTRATIVE RULES

(e) Harvest methods and other specifications for marine fish in subsections (7)(a), (7)(b) and (7)(c) including the following:

(A) Minimum length for lingcod, 22 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.

(f) Sport fisheries for species in subsections (7)(a), (7)(b) and (7)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except that ocean waters are closed for these species during April 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 384 Vol. 71, No. 189, dated September 29, 2006. A 20-fathom, 25-fathom, or 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 Section 391 Vol. 71, No. 189, dated September 29, 2006 may be implemented as the management line as in-season modifications necessitate.

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in Title 50 Code of Federal Regulations Part 660 Section 390. Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (7)(a), (7)(b) and (7)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (7)(a), (7)(b) and (7)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (7)(a), (7)(b) and (7)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

(8) 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; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07

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Rule Caption: Ocean sport Pacific halibut closure North of Cape Falcon, Oregon.

Adm. Order No.: DFW 67-2007(Temp)

Filed with Sec. of State: 8-9-2007

Certified to be Effective: 8-12-07 thru 9-30-07

Notice Publication Date:

Rules Amended: 635-039-0085

Subject: Amended rule closes the sport fishery for Pacific halibut in the areas between Leadbetter Point, Washington and Cape Falcon, Oregon, at 11:59 p.m. on Sunday August 12, 2007 when the quota of 6,307 pounds is projected to have been taken. This rule is con-

sistent with regulations that have been implemented by the federal government and the International Pacific Halibut Commission for the 2007 Oregon recreational fishery for Pacific halibut.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference, modifications or additions to provisions determined by the IPHC and to the extent they are consistent with Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996) Volume 72, Number 49, dated March 14, 2007 and as amended by Federal Regulations.

(2) Effective 11:59 p.m., Sunday August 12, 2007 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) is closed to the retention of Pacific halibut.

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

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

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07

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

Adm. Order No.: DFW 68-2007

Filed with Sec. of State: 8-14-2007

Certified to be Effective: 8-14-07

Notice Publication Date: 7-1-07

Rules Amended: 635-010-0015, 635-045-0000, 635-045-0002, 635-047-0025, 635-051-0000, 635-051-0048, 635-052-0000, 635-053-0000, 635-053-0100, 635-053-0105, 635-053-0125, 635-054-0000, 635-060-0000

Subject: Rules where amended regarding the harvest of game birds, including the 2007–2008 season dates, open areas and bag limits.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-010-0015

Issuing Documents

(1) An agent must receive proper identification as defined in section (4) of this rule from each individual before issuing an Oregon resident license. Juvenile, youth, nonresident or landowner licenses, tags, Sauvie Island Parking Permits, raffle tickets, validations, daily angling licenses, and controlled hunt applications do not require identification.

(2) A resident 18 years or older must sign the document in person at the agent's place of business, except as provided in section (3) of this rule.

(3) Licensing documents may be obtained by mail or FAX by forwarding to the Oregon Department of Fish and Wildlife, Licensing Section, 3406 Cherry Avenue NE, Salem, OR, 97303, a legible copy of the mail order application form printed in the Oregon Big Game, Game Bird, and Sport Fishing Regulations or a copy of that form.

(a) Requests for mail-ordered documents must be postmarked on or before any deadlines established for issuing such documents;

(b) The Department may require additional information if necessary to complete the ordered documents;

(c) The Department will not issue any document until it receives the required fee by check, money order, or a valid debit or credit card authorization.

(4)(a) With the exceptions noted in paragraph (c) below, a resident is one who has physically dwelled in Oregon continuously for the six months prior to applying for a license. Temporary absences from Oregon during that time period do not defeat a person's residency so long as such absences were not for the purpose of establishing residency outside Oregon. This is the legal standard for purchasing a resident license. In addition to signing the certification, an in-person applicant 18 years of age or older must show the point-of-sale agent some "indicator of residence" to support the certification. These indicators are not conclusive legal proof the applicant qualifies for a resident license. Instead, they are simple indicators that can be easily checked by a point-of-sale agent. The required indicators are:

(1) An Oregon driver's license or an Oregon non-driver's license identification card; or

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(2) Three pieces of other identification or official documents, each of which show the applicant's name and current address and indicates six month's Oregon residency.

(b) To implement the legal standard, the applicant must sign this certification: "I, the undersigned, hereby certify and declare that the information I have provided to obtain this license is true. To acquire an Oregon resident license/tag I certify that I have resided continuously within Oregon no less than 6 months immediately prior to applying for this license/tag."

(c) The legislature has waived the six month requirement for certain classes of persons:

(1) Active members of the armed forces permanently assigned to active duty in Oregon (and their spouses and dependent children). This includes, but is not limited to, those who serve as crew members of ships that have an Oregon port or shore establishment as their home port or permanent station;

(2) Active members of the armed forces who reside outside Oregon but paid Oregon resident income taxes no later than 12 months before leaving active duty; and

(3) Aliens attending an Oregon school as foreign exchange students.

(5) Agents must supply all the information requested on the data screen. If the person applying for the licensing document fails to supply the necessary information, the agent may not issue the requested licensing document. All daily angling licenses must show the date they become valid.

(6) Agents must obtain social security numbers for any person who purchases a license. The Department will use this number to comply with collection of the social security numbers pursuant to the child support enforcement laws as required by Section 117, Chapter 746, Oregon Laws 1997. The Department will issue a system-generated number to persons who are not citizens of this country or who do not have a social security number. If the social security number provided by an applicant is in use by another individual, the agent will not issue the license until the applicant provides proof that the social security number is, in fact, the applicant's social security number. An official document such as a social security card, payroll document, or health insurance identification card with the social security number printed on it must be presented to the agent as proof. An individual's social security number is not subject to disclosure to members of the public under the Oregon Public Records Law.

(7) Any employee of the agent may issue documents, provided that the employee is instructed as to all applicable statutes and regulations. An agent is responsible for employee training and for any violation of applicable statutes and regulations committed by the employees.

Stat. Auth.: ORS 496, 497 & 498
Stats. Implemented: ORS 496, 497 & 498
Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-010-0021; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; FWC 122-1992, f. & cert. ef. 11-23-92; FWC 4-1994, f. & cert. ef. 1-25-94; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 30-2002, f. & cert. ef. 4-11-02; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 68-2007, f. & cert. ef. 8-14-07

635-045-0000

Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled "2007-2008 Oregon Game Bird Regulations", and "2007 Oregon Big Game Regulations", are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07

635-045-0002

Definitions

(1) "Adult hunting license" is a resident or nonresident hunter's license, resident combination angler's and hunter's license, disabled war veteran's license, pioneer's hunting license or senior citizen's hunting and fishing license.

(2) "Agricultural lands" are lands that are not less than ten acres in extent that have been cultivated and planted or irrigated to domestic crops that are currently in use. Isolated home gardens, abandoned farmsteads, logged lands, rangelands, and tree farms, are not included in this definition.

(3) "Antler Point" is a point at least one inch in length measured from tip of point to nearest edge of beam. This definition applies only to the three-point elk and spike only elk bag limits.

(4) "Antlerless deer" means doe or fawn deer.

(5) "Antlerless elk" means cow or calf elk.

(6) "Application" means the electronic form completed and purchased to apply for a hunt where the number or distribution of hunters is limited through a public drawing or other means. Mail order applications sent to the Department along with the proper remittance are used to generate the electronic form.

(7) "Baited Area" means an area where baiting has taken place.

(8) "Baiting" means the placing, exposing, depositing, distributing, or scattering of corn, wheat, salt or other feed to constitute a lure or enticement to, on, or over an area where hunters are attempting to take game birds.

(9) "Brace" is defined as an orthosis that is prescribed by a physician and fabricated by an orthotist certified by the American Board for Certification in Orthotics and Prosthetics, Inc.

(10) "Brace Height" is the distance from the back of the bow's riser at the handgrip to the string when the bow is at rest.

(11) "Buck Deer" means a male deer with at least one visible antler.

(12) "Buck Pronghorn" means a male pronghorn antelope with visible horns and a dark cheek patch below the ear.

(13) "Bull elk" for the purposes of a bag limit definition, means a male elk with at least one visible antler.

(14) "Calendar year" means from January 1 through December 31.

(15) "Carcass" is the skinned or unskinned body, with or without entrails, of a gamebird or game mammal.

(16) "Cascade elk" means any live elk occurring in the Dixon, Evans Creek, Indigo, Keno, McKenzie, Metolius, Rogue, Santiam and Upper Deschutes units and those parts of Fort Rock and Sprague units west of Highway 97, and that part of Grizzly Unit west of Hwy 97 and south of Hwy 26.

(17) "Cervid" means any member of the family cervidae (deer), including gametes or hybrids. Species included within the family, taxonomic nomenclature, and other matters pertaining to the identification of animals within the family shall be that of Walker's Mammals of the World, Sixth Edition, Johns Hopkins University Press, Baltimore, Maryland, 1999, by Ronald M. Nowak.

(18) "Cervid Propagation License — Type 1" means a license required to hold any live cervid species other than fallow deer and reindeer except as provided in OAR 635-049-0010(1)-(3).

(19) "Cervid Propagation License — Type 2" means a license required to hold live fallow deer and reindeer except as provided in OAR 635-049-0010(1)-(3).

(20) "Closed season" is any time and place when it is not authorized to take a specific species, sex or size of wildlife.

(21) "Coast elk" means any live elk occurring in the Alsea, Applegate, Chetco, Melrose, Powers, Saddle Mountain, Scappoose, Siuslaw, Sixes, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.

(22) "Commission" means the Oregon Fish and Wildlife Commission.

(23) "Controlled hunt" is a season where the number or distribution of hunters is limited through a public drawing or other means.

(24) "Department" means the Oregon Department of Fish and Wildlife.

(25) "Director" means the Oregon Fish and Wildlife Director.

(26) "Doe or fawn pronghorn" means a female pronghorn antelope without a dark cheek patch below the ear or a pronghorn fawns (young of the year) of either sex.

(27) "Domestic partner" as used in this rule means a person in a relationship with another person, each of whom:

(a) Is under no legal disability to marry the other person, but for the fact that each is of the same sex;

(b) Desires a relationship of marriage under Oregon law and would enter into marriage with the other person, and only with the other person, if Oregon law permitted it;

(c) Acknowledges and accepts financial obligations to the other person and to third parties equivalent to the financial obligation that arise within a marriage recognized under Oregon state law; and

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(d) Is not married and has no similar commitment and responsibility to any other person.

(e) Has continuously lived for 6 months with the other person

(28) "Eastern Oregon" means all counties east of the summit of the Cascade Range including all of Klamath and Hood River counties.

(29) "Eastern Oregon deer" means any live deer occurring east of the east boundaries of the Santiam, McKenzie, Dixon, Indigo and Rogue units.

(30) "Eligible Hunter" means someone who will be 12 years of age by the time they hunt.

(31) "Entry permit" means a permit issued by the Department to be in an area where entry is restricted by regulation.

(32) "Established airport" is one that the Aeronautics Division has licensed as a public-use airport, registered as a personal-use airport, or specifically exempted from either licensing or registration.

(33) "Evidence of lawful possession" means any license or permit allowing possession of the specified live cervid; or other documentation establishing lawful possession, including but not limited to a statement of no requirement for a license or permit for the specified live cervid granted by the country or state of origin.

(34) "Facility" means the location where animals are held, including the exterior perimeter fence and all pastures, paddocks, runways, buildings, and pens therein.

(35) "Feral Swine" means animals of the genus *Sus* as defined by the Oregon Department of Agriculture in OAR 603-010-0055.

(36) "Fiscal year" means from July 1 through June 30.

(37) "Furbearers" are beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.

(38) "Game Birds" are any waterfowl, snipe, band-tailed pigeon, dove, pheasant, quail, partridge, grouse, or wild turkey.

(39) "Game mammals" are pronghorn antelope, black bear, cougar, deer, elk, moose, Rocky Mountain goat, bighorn sheep, and western gray squirrel.

(40) "General season" is any season open to the holder of a valid hunting license and appropriate game mammal tag without restriction as to the number of participants.

(41) "Hold" means any form of possession or control of an animal, gamete, hybrid, or part thereof.

(42) "Hunter certification" means to have met educational, safety or other requirements designated by administrative rule for participation in a hunt.

(43) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.

(44) "Husbandry" means the care given animals directly by their owners and managers, including but not limited to:

- (a) Nutrition;
- (b) Breeding program;
- (c) Veterinary medical care;
- (d) Environmental cleanliness; and
- (e) Humane handling.

(45) "Immediate family" for the purpose of Landowner Preference, means a landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.; for all other purposes, it means spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren.

(46) "Inedible" means unfit for human consumption.

(47) "Landowner", as used in OAR chapter 635, division 075, means:

(a) A person who holds title in trust or in fee simple to 40 or more contiguous acres of land; provided however that a recorded deed or contract of ownership shall be on file in the county in which the land is located; and/or

(b) A corporation holding title in fee simple to 40 or more contiguous acres of land; provided however that the corporation shall be registered with the State of Oregon; and/or

(c) A partnership holding title in fee simple to 40 or more contiguous acres of land; and/or

(d) Persons who hold title as part of a time share are not eligible for landowner preference.

(48) "Low Income" means a person who is "economically disadvantaged" as defined in Section 4(8) of the Federal Job Training Partnership Act of 1982.

(49) "Mounted Wildlife" means any hide, head or whole body of wildlife prepared by a licensed taxidermist for display.

(50) "Muzzleloader" is any single-barreled (shotguns may be double barreled) long gun meant to be fired from the shoulder and loaded from the muzzle with an open ignition system and open or peep sights.

(51) "Native cervid" means mule deer, black-tailed deer, white-tailed deer, Roosevelt elk, Rocky Mountain elk and moose, including gamete or hybrid.

(52) "Nonindigenous cervid" means any member of a cervid species, including gamete or hybrid, not classified as a native cervid species.

(53) "On or within" means a straight line distance measured on a map.

(54) "One deer" means a buck, doe, or fawn deer.

(55) "One elk" means a bull, cow, or calf elk.

(56) "Open Ignition" is an ignition system where the percussion cap, or frizzen, or flint is visible and exposed to the weather at all times and is not capable of being closed or covered by any permanent piece of the weapon.

(57) "Partner" means a person in an association of two or more persons formed to carry on as co-owners for

(58) "Point-of-Sale" (POS) is a computerized licensing system available at locations that sell Oregon's hunting and angling licenses. Licenses and tags are generated and issued directly to customers from a POS machine at the time of sale.

(59) "Possession" means to have physical possession or to otherwise exercise dominion or control over any wildlife or parts thereof, and any person who counsels, aids or assists another person holding such wildlife is deemed equally in possession.

(60) "Postmark" means the date of mailing as stated in a mark applied by the U.S. Postal Service to a piece of mail. Office postal machine meter marks are not valid application deadline postmarks.

(61) "Predatory animals" means coyotes, rabbits, rodents, and feral swine which are or may be destructive to agricultural crops, products and activities.

(62) "Protected wildlife" means "game mammals" as defined in OAR 635-045-0002(39), "game birds" as defined in OAR 635-045-0002(38), "furbearers" as defined in OAR 635-045-0002(37), "threatened and endangered species" as defined in OAR 635-100-0125, and "nongame wildlife protected" as defined in OAR 635-044-0130.

(63) "Pursue" means the act of trailing, tracking, or chasing wildlife in an attempt to locate, capture, catch, tree, or kill any game mammal or furbearer.

(64) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.

(65) "Red deer" means any species, subspecies, or race of the elk-red deer-wapiti complex *Cervus elaphus* not indigenous to the state of Oregon.

(66) "Release" is permitting any domestically-raised or imported wildlife currently or previously in possession to exist alive outside an approved holding or propagation facility. For the purposes of OAR chapter 635, division 049, release means permitting a cervid currently or previously in possession to exist alive outside an approved holding or propagating facility, except animals that are in transit pursuant to OAR 635-049-0075

(67) "Resident" is any person who has resided in Oregon for a period of at least six months immediately prior to the date of making application for a license or tag. Members of the armed forces assigned to permanent duty status in Oregon including spouses and dependent children, and foreign exchange students attending school in Oregon under a foreign student exchange program may purchase a resident license and tags. All other persons are nonresidents.

(68) "Resident juvenile" is any "Resident" of Oregon 14 through 17 years of age.

(69) "River" is that portion of a natural water body lying below the level of bankfull stage. Bankfull stage is the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.

(70) "Rocky Mountain elk" is any live elk occurring east of the following described line: Beginning at the California line on Highway 97; north on Highway 97 to State Highway 26 at Madras; northwest on Highway 26 to east boundary of Santiam Unit; north along east boundary of Santiam Unit to the Columbia River.

(71) "Shotgun" is a smoothbore firearm, designed for firing birdshot, and intended to be fired from the shoulder, with a barrel length of 18 inches or more, and with an overall length of 26 inches or more. Exception: Shotguns equipped with rifled slug barrels are considered shotguns when used for hunting pronghorn antelope, black bear, cougar, deer, or elk when centerfire rifles or shotguns are legal weapons.

(72) "Sight bait" is exposed flesh bait within 15 feet of any leghold trap set for carnivores.

(73) "Spike deer" is a deer with spike (unbranched) antlers.

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(74) "Spike-only bull elk" means a bull elk with at least one visible unbranched antler (brow tines are not considered an antler branch under spike-only regulations).

(75) "Stockholder" is a person who owns stock within a corporation as defined in OAR 635-045-0002(47)(b).

(76) "Tag" is a document authorizing the taking of a designated kind of mammal at a specified time and place.

(77) "Take" means to kill or obtain possession or control of any wildlife.

(78) "Three point plus elk" for the purposes of a bag limit definition, means a bull elk having 3 points or more on one antler including the brow tine.

(79) "Unbarbed broadhead" is a fixed position arrowhead where the rear edge of the blade(s) forms an angle with the arrow shaft to which it is attached of 90o or greater.

(80) "Unprotected Mammals and Birds" are European starling, house sparrow, rock pigeon and any mammal species for which there are no closed seasons or bag limits.

(81) "Valid certification permit" is a permit for the current season that has not become invalid after taking a season limit or illegal game bird.

(82) "Visible Antler" means a velvet or hardened antler that is visible above the hairline on the skullcap and is capable of being shed.

(83) "Wait period" means the length of time a successful controlled hunt applicant must wait before reapplying for the species for which he was successful in drawing.

(84) "Waste" means to allow any edible portion of any game mammal (except cougar) or game bird to be rendered unfit for human consumption, or, to fail to retrieve edible portions, except internal organs, of such game mammals or game birds from the field. Entrails, including the heart and liver, are not considered edible.

(85) "Waterfowl" means ducks, geese, mergansers and coots.

(86) "Weapon" is any device used to take or attempt to take wildlife.

(87) "Western Oregon" means all counties west of the summit of the Cascade Range except Klamath and Hood River counties.

(88) "Western Oregon deer" is any live deer except the Columbian white-tailed deer occurring west of the east boundaries of the Santiam, McKenzie, Dixon, Indigo, and Rogue units.

(89) "Wildlife" means fish, wild birds, amphibians, reptiles, wild mammals, and feral swine.

(90) "Wildlife" means for the purposes of harassment to relieve damage described in OAR 635-043-0096 through 635-043-0115, game mammals, game birds except migratory birds protected by Federal law, furbearing mammals and wildlife declared protected by the commission.

(91) "Wildlife" means for the purposes of scientific taking described in OAR 635-043-0023 through 635-043-0045, wild birds, wild mammals, amphibians and reptiles, including nests, eggs, or young of same.

(92) "Wildlife unit" is a geographic area described in OAR 635-080-0000 through 635-080-0077.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 47-1989, f. & cert. ef. 7-25-89; FWC 104-1989, f. & cert. ef. 9-29-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 22-1990, f. & cert. ef. 3-21-90; FWC 17-1991, f. & cert. ef. 3-12-91; FWC 33-1991, f. & cert. ef. 3-25-91; FWC 50-1991, f. & cert. ef. 5-13-91; FWC 57-1991, f. & cert. ef. 6-24-91; FWC 9-1993, f. & cert. ef. 2-8-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 20-1995, f. & cert. ef. 3-6-95; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 50-1996, f. & cert. ef. 8-30-96; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 53-1997, f. & cert. ef. 9-3-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 142-2005, f. & cert. ef. 12-16-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07

635-047-0025

Marking of Birds

All privately owned game birds to be released must be premarked in a manner prescribed by the department:

(1) All game birds reared for release upon hunting preserves shall be identified by a healed toe mark or be marked with a plastic poultry band or marked by a nasal scar. A nasal scar is a permanent deformity caused by an anti pecking device. For a healed toe mark, the terminal joint, including the entire toenail, shall be clipped from the outside of the right foot of each chick.

(2) In the event that an operator acquires birds that have not been marked, they shall be banded prior to release by the operator with plastic poultry bands or other bands approved by the department.

(3) Any wild game bird incidentally taken upon a hunting preserve at any time other than the general open season therefore shall be immediately marked with a wild bird seal that has been issued by the department. The fee for such seals shall be \$10.00 each. Any unused wild bird seals may be submitted for refund not later than 30 days after the close of business if a preserve discontinues operation.

(4) Operators shall pay for in advance and have on hand not less than 10 wild bird seals at all times.

(5) A wild bird seal shall be securely affixed to any wild bird taken outside the general season or any wild hen pheasant before it leaves the premises of the hunting preserve.

(6) A record of the date of issue and the names and address of persons receiving wild bird seals must be maintained by the operator and available to department personnel or enforcement officers at all times.

Stat. Auth.: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 497.248

Stats. Implemented: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & .248

Hist.: GC 101, f. 7-9-59, Renumbered from 630-023-0025, Renumbered from 635-007-0025; FWC 115-1992, f. & cert. ef. 10-28-92; DFW 86-1999, f. & cert. ef. 11-1-99; DFW 7-2002, f. & cert. ef. 1-17-02; DFW 66-2006(Temp), f. & cert. ef. 7-25-06 thru 1-15-07; Administrative correction 1-16-07; DFW 5-2007, f. & cert. ef. 1-18-07; DFW 21-2007, f. & cert. ef. 3-30-07; DFW 68-2007, f. & cert. ef. 8-14-07

635-051-0000

Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS Chapter 496.

(2) The document entitled "2007-2008 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07

635-051-0048

Other Restrictions

Except as provided in section (1) (a), (b), (c), (2) (3)-(5) of this rule, it is unlawful: To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(1) Migratory game bird hunting is permitted within the city limits of Warrenton in the following described areas:

(a) Beginning at a point located at the west end of the Lewis and Clark Bridge (Alternate Highway 101) at the southern boundary of the Warrenton city limits and west bank of the Lewis and Clark River, then westerly along the common southern boundary of the Port of Astoria airport and the Warrenton City limits to the west bank of Adams Slough (formerly Adair's Slough), then northerly along the west tracks, then westerly along said railroad tracks to its intersection with Northeast King Avenue, then northerly along Northeast King Avenue to the mouth of the Skipanon River, then generally northwesterly following a contour line 100 yards inland from the shoreline at mean high water of the Columbia River, and on the Columbia River side of the Burlington Northern Railroad tracks to its intersection with the Warrenton/Hammond city limits at Tansy Point, then in a generally southeasterly direction upstream along the Columbia River, Youngs Bay and Lewis and Clark River to the point of beginning.

(b) Beginning at a point of intersection with the low tide of the Pacific Ocean and the westerly extension of Delaura Beach Road (County Road #34), then easterly along Delaura Beach Road and Oceanview Cemetery Road (County Road #321) to the junction with Wild Ace Lake Drive to the Warrenton School Dump Road (County Road #286), then easterly along the Warrenton School Dump Road to the junction of Southwest Juniper Avenue, then northerly along Southwest Juniper Avenue to the road's end, then continuing northerly along the common boundary of Section 16 and 17 to the Warrenton/Hammond city limits, then westerly along the Warrenton/Hammond city limits to the low tide of the Pacific Ocean, then southerly to the point of beginning.

(c) Beginning at a point of intersection with the most southerly boundary of the Warrenton city limits and Oregon Coast Highway 101 and the west bank of the Skipanon River, then northerly along the west bank of the Skipanon River to the bridge on (Crab Pot Way) Alternate Highway 101 (Fort Stevens Highway #104), then in a generally easterly direction along Alternate Highway 101 to Southeast 14th Place, then in a generally south-

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easterly direction along Southeast 14th Place and its easterly extension, crossing the Oregon Coast Highway 101 to its intersection with the Warrenton city limits, then southerly and westerly along the line of the Warrenton city limits to the point of beginning.

(2) Game bird hunting is permitted within the city limits of Dunes City.

(3) Game bird hunting is permitted within the boundary limits of the Klamath Falls Airport.

(4) Waterfowl hunting is permitted in the following portion of Miami Cove lying within the city limits of Garibaldi: That land in the east one-half of the northwest quarter of Section 22, Township 1 North, Range 10 West, Willamette Meridian, lying south of Coast Highway 101, and in the east one-half of the southwest quarter of Section 22, Township 1 North, Range 10 West, lying north and west of Coast Highway 101, provided that no hunting be permitted within 100 yards of any residence or commercial structure.

(5) Waterfowl hunting is allowed within a portion of Coos Bay City limits as described in Coos Bay City Ordinance number 100, section 3 (2)(a) as of August 3, 2007.

(6) No person shall hold any wild bird in captivity or destroy the eggs or nests of birds. However, the department may authorize destruction of eggs of resident Canada geese to the extent consistent with federal law and where necessary to address depredation by geese; provided, however, that no such destruction of goose eggs shall be authorized until specific policy guidelines are adopted by the Commission.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 46-1983, f. & cert. ef. 9-19-83; FWC 65-1983(Temp), f. & cert. ef. 11-22-83; FWC 9-1984, f. & cert. ef. 3-12-84; FWC 51-1984, f. & cert. ef. 9-5-84; FWC 64-1985, f. & cert. ef. 10-2-85; FWC 58-1986, f. & cert. ef. 9-17-86; FWC 80-1988, f. & cert. ef. 9-2-88; FWC 105-1989, f. & cert. ef. 9-29-89; FWC 92-1990, f. & cert. ef. 9-4-90; FWC 80-1992, f. & cert. ef. 8-26-92; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 116-2006(Temp), f. & cert. ef. 10-12-06 thru 4-10-07; DFW 68-2007, f. & cert. ef. 8-14-07

635-052-0000

Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS Chapter 496.

(2) The document entitled “2007-2008 Oregon Game Bird Regulations,” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07

635-053-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS Chapter 496.

(2) The document entitled “2007-2008 Oregon Game Bird Regulations,” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 2-2004(Temp), f. & cert. ef. 1-13-04, cert. ef. 1-16-04 thru 1-31-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07

635-053-0100

Purpose

The purpose of these rules is to describe the procedures and necessary accompanying information for submitting artwork for the 2008–2013 upland bird stamps, the criteria for selection of the winning designs, and the obligation of winning artists pursuant to ORS Chapter 496.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 40-2003, f. & cert. ef. 5-13-03; DFW 68-2007, f. & cert. ef. 8-14-07

635-053-0105

Submission of Artwork: Requirements

(1) Applicants shall submit artwork for the upland bird stamp to the Department headquarters office by 5:00 p.m. on the following deadline dates:

- 2008 upland game bird stamp deadline is December 31, 2007;
- 2009 upland game bird stamp deadline is December 31, 2008;
- 2010 upland game bird stamp deadline is December 31, 2009;
- 2011 upland game bird stamp deadline is December 31, 2010
- 2012 upland game bird stamp deadline is December 30, 2011; and
- 2013 upland game bird stamp deadline is December 31, 2012.

(2) The 2008 through 2013 upland game bird stamp artwork shall feature the following species in their natural setting:

- 2008 — Blue grouse (*Dendragapus obscurus*);
- 2009 — Ruffed grouse (*Bonasa umbellus*);
- 2010 — Greater Sage-grouse (*Centrocercus urophasianus*);
- 2011 — Spruce grouse (*Falcipennis canadensis franklinii*);
- 2012 — Sharp-tailed grouse (*Tympanuchus phasianellus columbianus*); and
- 2013 — Chukar (*Alectoris chukar*).

(3) Each entry shall measure 13 inches by 18 inches (horizontal or vertical) and shall be in any full color medium except any photographic process.

(4) The artwork shall be original and unsigned by the artist, and shall not have been used in production or entered into any other state upland bird stamp competition. Any artwork signed by the artist will not be accepted and will be returned to the artist without being judged.

(5) The entry may be mounted and/or matted, but it shall not be framed or under glass.

(6) Artists may submit more than one entry meeting the requirements herein.

(7) Each artist shall submit with his or her entry or entries a brief biographical description that includes the artist's background, experience, and previous artistic accomplishments. The Department reserves the right to use this information for publicity should the work be selected.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 10-1990(Temp), f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 40-2003, f. & cert. ef. 5-13-03; DFW 68-2007, f. & cert. ef. 8-14-07

635-053-0125

Other Provisions

(1) Sale of 2008–2013 upland bird stamps by the department shall end at the close of business on June 30, of the following year. Excess stamps at that time shall be shredded after auditing of sales takes place.

(2) The Department shall award three thousand dollars (\$3,000) to the artist whose entry is selected for the upland game bird stamp.

(3) The winning entry shall become the exclusive property of the Department.

(4) The Department shall retain all reproduction rights and may review proposals for limited edition prints, posters, or other related art products.

(5) The artist shall sign, at no charge, up to two hundred (200) upland game bird stamps for sale by the Department.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 40-2003, f. & cert. ef. 5-13-03; DFW 68-2007, f. & cert. ef. 8-14-07

635-054-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting ducks, geese, coots, common snipe and crow pursuant to ORS Chapter 496.

(2) The document entitled “2007-2008 Oregon Game Bird Regulations,” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 82-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 95-1998(Temp), f. & cert. ef. 12-1-98 thru 12-18-98; DFW 98-1998(Temp) f.

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& cert. ef. 12-18-98 thru 2-28-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 99-2001(Temp), f. & cert. ef. 10-12-01 thru 4-10-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 87-2004(Temp), f. & cert. ef. 8-18-04 thru 9-16-04; Administrative correction 10-25-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07

635-060-0000

Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS 496.162.

(2) The documents entitled “2007-2008 Oregon Game Bird Regulations,” and “2007 Oregon Big Game Regulations,” are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 118, f. & ef. 6-3-77; FWC 25-1978, f. & ef. 5-26-78; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 16-1985, f. & ef. 4-11-85; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07

Rule Caption: ODFW mentored youth hunting program.

Adm. Order No.: DFW 69-2007

Filed with Sec. of State: 8-14-2007

Certified to be Effective: 8-14-07

Notice Publication Date: 7-1-07

Rules Adopted: 635-074-0000, 635-074-0005, 635-074-0010, 635-074-0015, 635-074-0020, 635-074-0025

Subject: Rules were adopted relating to the Mentored Youth Hunt Program.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-074-0000

Purpose

The purpose of these rules is to establish the process and requirements for participation in a mentored youth hunter program pursuant to ORS 497.360. The program is intended to introduce youth to hunting by deferring the requirement for hunter education for youth hunters under certain circumstances.

Stat Auth: ORS: 497.360

Stats Implemented: 497.360

Hist.: DFW 69-2007, f. & cert. ef. 8-14-07

635-074-0005

Youth Participation

A youth may participate in the mentored youth hunter program, without first passing an approved hunter education program, provided the youth:

(1) Is between nine and 14 years of age. At age 14, a youth is no longer eligible to participate in the mentored youth hunting program. From age 14 through 17, a youth must pass an approved hunter education program and possess his or her own license and/or tags.

(2) Hunts while accompanied by a supervising hunter who is 21 years of age or older and who has a valid license and tag(s) for the dates, area and species being hunted.

(3) Registers for the mentored youth hunter program in a manner described by the department. Annual registration is required.

(4) Has in possession proof of registration as required by the department.

(5) Reviews and acknowledges understanding of material on safe hunting practices provided by the department.

(6) Follows all regulations regarding hunting in the given wildlife management unit, management area or location.

(7) Remains under the immediate control of the supervising hunter at all times while the youth is in possession of any legal weapon for the hunt.

Stat Auth: ORS: 497.360

Stats Implemented: 497.360

Hist.: DFW 69-2007, f. & cert. ef. 8-14-07

635-074-0010

Supervising Hunter

The supervising hunter shall:

(1) Have a valid hunting license and tag(s) valid for the dates, area and species being hunted.

(2) Maintain immediate control of the mentored youth hunter at all times while the youth is in possession of any legal weapon for the hunt.

(3) Ensure that all Oregon hunting regulations are followed. The supervising hunter shall be responsible and accountable for all actions of the mentored youth hunter while engaged in hunting.

(4) Supervise only one mentored youth hunter at any given time while engaged in hunting.

(5) Review and acknowledge understanding of information on safe hunting practices provided by the department.

Stat Auth: ORS: 497.360

Stats Implemented: 497.360

Hist.: DFW 69-2007, f. & cert. ef. 8-14-07

635-074-0015

Safety

While engaged in mentored youth hunting activities:

(1) The supervising hunter shall maintain immediate control of the mentored youth hunter at all times while the mentored youth hunter is in possession of any legal weapon for the hunt.

(2) The supervising hunter shall not accompany more than one mentored youth hunter at any given time while engaged in hunting.

(3) The supervising hunter and the mentored youth hunter shall not collectively possess more than one weapon legal for the hunt at any given time while engaged in hunting.

Stat Auth: ORS: 497.360

Stats Implemented: 497.360

Hist.: DFW 69-2007, f. & cert. ef. 8-14-07

635-074-0020

Seasons and Bag Limits

(1) Any wildlife harvested by the mentored youth hunter shall be counted towards the supervising hunter's bag limit.

(2) A youth is not eligible to participate in the mentored youth hunting program if the youth possesses their own valid hunting license and/or tag(s) valid for the dates, area and species being hunted.

(3) The mentored youth hunting program is not applicable to designated youth only seasons and hunts.

Stat Auth: ORS: 497.360

Stats Implemented: 497.360

Hist.: DFW 69-2007, f. & cert. ef. 8-14-07

635-074-0025

Mentored Youth Preference Point Program

Youth participating in the mentored youth hunting program will receive one mentored youth preference point for each year the youth registers for the program. The mentored youth preference points will be “banked” and held in the licensing system with no expiration date. To redeem banked points, the mentored youth will be required to fill out a form supplied by the department's License Services Section that clearly states what species the mentored youth wants their mentored youth preference points moved to. Points must be used at one time and may not be split among species. Once Mentored Youth Preference Points are redeemed, they are converted to the Preference Point System and are subject to the Oregon Administrative Rules that govern preference points.

Stat Auth: ORS: 497.360

Stats Implemented: 497.360

Hist.: DFW 69-2007, f. & cert. ef. 8-14-07

Rule Caption: Deadline for Purchase of Controlled Hunt and General Season Tags.

Adm. Order No.: DFW 70-2007(Temp)

Filed with Sec. of State: 8-13-2007

Certified to be Effective: 8-13-07 thru 2-9-08

Notice Publication Date:

Rules Amended: 635-060-0009, 635-065-0401

ADMINISTRATIVE RULES

Subject: Amend rules relating to Controlled Hunt and General Season tag sale deadlines

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-060-0009

Successful Applicants

Successful controlled hunt applicants must purchase the controlled hunt tag or permit for the hunt in which they were successful from a department license agent connected to the computerized licensing system within the following dates:

(1) Spring black bear controlled hunts tag sales begin February 20, each year and end at 12 midnight Pacific Time, the day before the season start date.

(2) Pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk controlled hunts tag sales begin June 20 each year and end at 12 midnight Pacific Time, the day before the season start date for which the tag is valid.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 44-1996(Temp), f. & cert. ef. 8-12-96, cert. ef. 8-14-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 6-1999(Temp), f. & cert. ef. 2-9-99 thru 2-19-99; DFW 12-1999(Temp), f. & cert. ef. 2-25-99 thru 6-30-99; Administrative correction 11-17-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 4-2002(Temp), f. & cert. ef. 1-3-02 thru 2-1-02; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; Administrative correction, 2-18-05; DFW 70-2007(Temp), f. & cert. ef. 8-13-07 thru 2-9-08

635-065-0401

Deadline for Purchase of General Season Tags

(1) No western Oregon deer rifle tag shall be issued after 12 midnight Pacific Time, September 28, 2007.

(2) No deer bow tag shall be issued after 12 midnight Pacific Time, August 24, 2007.

(3) No bear tag shall be issued after 12 midnight Pacific Time, September 28, 2007

(4) No cougar (mountain lion) tag shall be issued after 12 midnight Pacific Time, September 28, 2007

(5) No Rocky Mountain Elk Rifle First Season Tag shall be issued after 12 midnight Pacific Time, October 23, 2007.

(6) No Rocky Mountain Elk Rifle Second Season Tag shall be issued after 12 midnight Pacific Time, November 2, 2007.

(7) No Coast First Season Elk Tag shall be issued after 12 midnight Pacific Time, November 9, 2007.

(8) No Coast Second Season Elk Tag shall be issued after 12 midnight Pacific Time, November 6, 2007.

(9) No Cascade Elk Rifle Tag shall be issued after 12 midnight Pacific Time, October 19, 2007.

(10) No elk bow tag shall be issued after 12 midnight Pacific Time, August 24, 2007.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; Renumbered from 635-065-0010; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. & cert. ef. 5-1-94; FWC 4-1995, f. & cert. ef. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. & cert. ef. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. & cert. ef. 1-1-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 108-2002(Temp), f. & cert. ef. 9-26-02 thru 12-31-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. & cert. ef. 1-1-04; DFW 122-2004, f. & cert. ef. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. & cert. ef. 1-1-06; DFW 127-2006, f. & cert. ef. 12-7-06, cert. ef. 1-1-07; DFW 70-2007(Temp), f. & cert. ef. 8-13-07 thru 2-9-08

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Rule Caption: Close the commercial ocean troll salmon season from Humbug Mountain to the Oregon/California border.

Adm. Order No.: DFW 71-2007(Temp)

Filed with Sec. of State: 8-14-2007

Certified to be Effective: 8-14-07 thru 8-31-07

Notice Publication Date:

Rules Amended: 635-003-0078

Subject: Amend rule to close the commercial ocean troll Chinook salmon season in the Oregon ocean from Humbug Mountain to the

Oregon/California border effective at 12:00 noon on Tuesday, August 14, 2007.

Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-003-0078

Humbug Mountain to the Oregon/California Border

(1) All vessels participating in the commercial ocean salmon fishery must land their fish in Gold Beach, Port Orford, or Brookings, Oregon, and within 24 hours of any closure. Fishers intending to transport and deliver their catch to other locations after first landing in one of these ports must notify ODFW 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 fishery season, as described in section (1) above, is closed effective 12:00 noon, Tuesday, August 14, 2007.

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 71-2007(Temp), f. & cert. ef. 8-14-07 thru 8-31-07

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Department of Human Services, Addictions and Mental Health Division: Addiction Services Chapter 415

Rule Caption: Repeal of the OAR 415-051-0120 "Intensive Outpatient Programs" rules.

Adm. Order No.: ADS 4-2007

Filed with Sec. of State: 7-24-2007

Certified to be Effective: 7-24-07

Notice Publication Date: 6-1-07

Rules Repealed: 415-051-0120

Subject: The Addictions and Mental Health Division is repealing: OAR 415-051-0120 "Intensive Outpatient Programs" rules, as they are no longer needed or used by the Division.

Rules Coordinator: Richard Luthe—(503) 947-1186

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Department of Human Services, Addictions and Mental Health Division: Mental Health Services Chapter 309

Rule Caption: Repeal of Obsolete Mental Health Rules in OAR chapter 309.

Adm. Order No.: MHS 10-2007

Filed with Sec. of State: 7-27-2007

Certified to be Effective: 7-27-07

Notice Publication Date: 6-1-07

Rules Repealed: 309-034-0060, 309-034-0070, 309-034-0080, 309-034-0090, 309-034-0100, 309-034-0110, 309-034-0120, 309-034-0130, 309-034-0140

Subject: The Addictions & Mental Health Division is repealing OARs 309-034-0060, 309-034-0070, 309-034-0080, 309-034-0090, 309-034-0100, 309-034-0110, 309-034-0120, 309-034-0130 & 309-034-0140 as these rules are no longer needed or used by the Division.

Rules Coordinator: Richard Luthe—(503) 947-1186

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Department of Human Services, Children, Adults and Families Division: Child Welfare Programs Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 13-2007

Filed with Sec. of State: 8-1-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Amended: 413-120-0000, 413-120-0010, 413-120-0020, 413-120-0030, 413-120-0033, 413-120-0035, 413-120-0040, 413-120-0045, 413-120-0060, 413-120-0075, 413-120-0080

ADMINISTRATIVE RULES

Rules Repealed: 413-120-0020(T), 413-120-0040(T), 413-120-0075(T)

Subject: These Adoption Placement Selection rules are being amended to clarify Department practice when selecting an adoptive placement for a child for whom the Indian Child Welfare Act (ICWA) placement preferences apply. The Department practice was developed to follow the placement preference requirements of ICWA. The amendments to these rules make it clear that the Department will follow the tribe's placement preference (i.e. member of the child's extended family, other members of the Indian child's tribe, other Indian families) as required by federal law. These amendments clarify that when an Indian child is determined to be appropriate for a legal risk placement or is legally free for adoption, the child's worker is not required to refer the child to an adoption committee. The rules outline the procedure that the caseworker will follow in order to select the adoptive placement for these cases. An approved adoption home study recommending the placement would still be needed. Rights, such as the right to request a review of certain adoption committee decisions, would not apply when no adoption committee is held. These rules are also being amended to update terminology, add cross-references, and follow stylistic conventions similar to other recently amended and adopted rules in Chapter 413.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-120-0000

Purpose

These administrative rules (OAR 413-120-0000 to 413-120-0080) outline the process and decision-making authority for selecting either an adoptive placement for a child who is in the permanent custody of the Department or a legal risk adoptive placement.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0010

Definitions

The following definitions apply to OAR 413-120-0000 to 413-120-0080:

(1) "Approved family" means a family that has been selected for a child by a Department adoption committee and has not been subject to an administrative review, or if subject to a review, has been sustained by that review.

(2) "CAF" means the Children, Adults and Families Division of the Department of Human Services.

(3) "Central Adoption Committee" means an adoption committee established by the central Adoptions Services Unit using staff selected from the Department, licensed adoption agencies or knowledgeable community partners. Central adoption committees are responsible for decisions regarding adoptive placement selections as specified in these rules that are neither the responsibility of the local nor the District Permanency Adoption Committee.

(4) "Department" means the Department of Human Services.

(5) "District Permanency/Adoption Committee" means the Permanency/Adoption Council which is responsible for decisions regarding adoptive placement selections as specified by these rules that are neither the responsibility of the local office nor the central office. One type of District Permanency/Adoption Committee is set by the worker using a pool of qualified permanency, adoption, or legal assistance staff designated by the Permanency/Adoption Council. Another type, the Standing District Permanency/Adoption Committee, is either a predetermined Council appointed committee of three people, or a committee established by the Permanency/Adoption Council chair. Sibling planning issues are always the responsibility of the Standing Permanency/Adoption Committee.

(6) "General applicant" means an individual who is not a current caretaker or a relative.

(7) "Legal risk adoptive placement" means that the Department believes an adoption is in the best interest of the child; has made a formal decision to free the child for adoption; the child is placed in an approved adoptive home; and the agency intends to approve this placement for adoption if the child becomes legally free for adoption. (Refer to Child Welfare

Policy I-F.5, "Legal Risk Placements", OAR 413-110-0000 to 413-110-0060)

(8) "Local Permanency/Adoption Committee" means the local committee responsible for certain permanency and adoptions decisions, as specified in these rules. Members of the Local Permanency/Adoption Committee are determined by the District and are local staff or staff from other offices in the District. Local Permanency/Adoption Committee members shall be individuals not involved in the case.

(9) "Permanency/Adoption Council" means a Council which consists of Department management, Permanency/Adoption Council staff (which may include legal assistance workers), and community partners. The Permanency/Adoption Council through District Permanency/Adoption Committees makes decisions about the appropriateness of adoption as a permanency plan, sibling planning, recruitment issues, adoption disruptions, and adoption selections referred by the local office. It also holds permanency staffings to decide whether to move a child out of state. The Adoptions Services Unit Manager has delegated decision-making in these areas to the Councils. The Permanency/Adoption Council is also responsible to facilitate information sharing, peer consultation, and support among staff.

(10) "Transition" means any activities related to the move of a child or children from one home to another for the purpose of adoption.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0020

Multilateral Decision-Making Required

(1) Except as provided in section (2) of this rule, when a child is determined to be appropriate for a legal risk adoptive placement (see Child Welfare Policy I-F.5, "Legal Risk Placements", OAR 413-110-0000 to 413-110-0060) or a child is legally free for adoption, the child's worker shall refer the child to the appropriate adoption committee for review. After having been provided information about the child and potential adoptive families, an adoption committee composed of three individuals shall carefully review potential adoptive homes for the child. The majority of the designated adoption committee shall select by vote one adoptive family when an appropriate "match" appears to exist. In some instances, the adoption committee may identify a back-up family. If the adoption committee does not select an adoptive family, the adoption committee will make a recommendation on how to proceed.

(2) When an Indian child is determined to be appropriate for a legal risk placement or is legally free for adoption, the child's worker is not required to refer the child to an adoption committee. Instead, after review of an approved adoption home study, collaboration with the Indian child's tribe, and consultation with the worker's supervisor, the child's worker may select the adoption placement for an Indian child if:

(a) The selected placement complies with the Indian Child Welfare Act placement preferences or the placement preferences established by resolution by the Indian child's tribe; and

(b) There is written documentation that the Indian child's tribe agrees with the selected placement.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280, 418.285, 419B.090

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0030

Adoption Committees

(1) Two types of adoption committees review cases and identify placement selections:

(a) Local or District Permanency/Adoption Committees.

(A) Local offices or Permanency/Adoption Councils shall be responsible for establishing adoption committees. Department staff shall follow any written procedures established by Permanency/Adoption Councils or central office Adoption Services Unit regarding the composition and operation of the Local or District Permanency/Adoption Committees.

(B) If the Local office does not have established procedures for the Local Permanency/Adoption Committee, the Child Welfare program manager or designee shall designate three committee members not involved in the cases to act as the adoption committee. If the Permanency/Adoption Council does not have established procedures for the District

ADMINISTRATIVE RULES

Permanency/Adoption Committee, the chair of the Council shall designate three committee members not involved in the cases to act as the District Permanency/Adoption Committee.

(C) The chairperson of the adoption committee shall assure that committee meetings are promptly scheduled and that committee concerns and recommendations are recorded on the CF 0250, "Adoption Selection Report," and sent to the central office Adoption Services Unit within three working days of the committee date.

(b) Central Adoption Committees. The central office Adoption Services Unit shall select staff from the Department, licensed adoption agencies, or knowledgeable community partners to serve on central adoption committees. The central office Adoption Services Unit is responsible for the staff work associated with the operation of central adoption committees. The chairperson will communicate in writing on the CF 250, "Adoption Selection Report," any committee concerns or recommendations to the central office Adoption Services Unit within three working days of the committee date.

(2) The child's worker shall refer the child and potential adoptive homes to the appropriate adoption committee based on the following criteria:

(a) The Department shall refer children who are being considered for placement with a relative family or families as defined in OAR 413-070-0069 to the appropriate adoption committee as required in Child Welfare Policy I-E.1.1, "Working with Relatives Toward Placement of Children", OAR 413-070-0093(2).

(b) Children under six with minimum special needs being placed without siblings will be referred to the Local Permanency/Adoption Council or a District Permanency/Adoption Council committee.

(c) Children six years of age or older, children part of a sibling group, and children with significant special needs will be referred to a central adoption committee.

(d) When a current caretaker is being considered along with other resources for a child, the case will be staffed per Child Welfare Policy I-G.1.1, "Current Caretaker Adoption Planning", OAR 413-120-0540.

(e) Per Employee Home Study rules (Child Welfare Policy I-G.1.3.1, "CAF and Partner Agency Employee Adoption Home Studies", OAR 413-120-0250 to OAR 413-120-0290, employees who are being considered as general applicants or current caretakers shall be referred to the Central Adoption Committee.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0033

Confidentiality

All persons attending adoption committee are bound by Oregon statutes about confidentiality and Child Welfare Policies I-A.3.2, "Confidentiality of Client Information", OAR 413-010-0000 to 413-010-0075 and I-A.3.3, "Release of Adoption Home Study Reports", OAR 413-010-0081 to 413-010-0086..

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0035

Attendance at Committee

(1) Individuals to Attend Full Committee. The child's worker and adoption workers presenting specific families shall participate in the adoption committee. If these workers are unavailable, their supervisor or designated co-worker shall represent the child or family. When an out-of-state relative is being presented, the local office shall determine who presents.

(2) Individuals to Attend Child Presentation Only: (The child's worker shall inform the committee chairperson of individuals planning to attend.)

(a) The child's worker may ask a child's current or previous caretaker or caretakers to attend committee to assist in the presentation of the child. This is especially important for a child with serious behavior or emotional issues, serious physical or medical issues, or other special circumstances.

(b) The child's worker may invite other professionals involved with the child, such as therapists, child's attorney, contracted caretakers, evaluators, or the Court Appointed Special Advocate (CASA) to assist in the presentation of the child. The child's caseworker shall notify the child's attorney and CASA, if any, of the committee.

(A) The attorney and CASA shall inform the caseworker as to whether each would like to present at the committee, and if so, the child's caseworker shall invite them to attend or provide information by telephone or in writing.

(B) The caseworker shall request the child's attorney and CASA to provide the caseworker with the names of other individuals who may have significant information regarding the child's needs. The worker shall give these persons the opportunity to provide information in writing or in person to the committee.

(c) Either the child's worker or the chairperson may invite consultants with regard to a child, such as a child development specialist, or a medical expert.

(d) On a case-by-case basis, the child's worker may ask that the child attend a portion of the presentation on the child.

(3) Individuals Who May Attend the Presentation of a Particular Family at Committee. The adoption worker, with prior knowledge of the committee chairperson, may invite a consultant, such as a medical expert, to present specific information with regard to a particular family. The adoptive family must sign a DHS 2099, "Authorization for Use and Disclosure of Information", authorizing the consultant's attendance at this portion of the committee. After the consultant presents information regarding the family, the chairperson shall excuse the consultant from the remainder of the family's presentation.

(4) Limitations on Committee Attendance. The following may not attend committee:

(a) Each prospective adoptive parent and legal or personal advocates for a family under consideration. These individuals may give their input to the committee through written communication; and

(b) A current caretaker who is being considered as an adoptive resource along with other resources may not assist in the presentation of the child.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0040

Potential Families

(1) Refer to Child Welfare Policies I-G.1.1 "Current Caretaker Adoption Planning", OAR 413-120-0500 to 413-120-0540, I-E.1.1 "Working With Relatives Toward Placement of Children", OAR 413-070-0060 to 413-070-0093, and I-E.2.1 "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260 for guidelines when considering relatives, current caretakers, or Indian Child Welfare Act placement preferences. In all other situations, the child's worker shall select appropriate families for committee from completed home studies.

(2) When selecting families from completed home studies for committee, the child's worker shall review and select for presentation a sufficient number of appropriate families in the order the home studies have been date stamped by the Central Office Adoption Services Unit; earliest dates first. The caseworker shall respond to all workers submitting home studies. The caseworker may use form CF 409, "Adoption Home Study Response Checklist" or send an e-mail providing the same information.

(3) On a case-by-case basis, where there has been a voluntary relinquishment of parental rights, the child's worker, in consultation with his or her supervisor, may involve birth parent or parents in the selection of potential adoptive families to be presented to adoption committee through discussion of non-identifying information from home studies.

(4) The child's attorney or Court Appointed Special Advocate (CASA) may provide information to the child's worker regarding the type of adoptive family which the attorney or CASA thinks might be the most suitable for the child, but it is the Department's responsibility to select the most appropriate adoptive family for the child, and the information in the home study is confidential.

(5) It is the responsibility of the adoption worker to inform potential adoptive families of the entire adoption placement selection process.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280, 418.285, 419B.090

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07

ADMINISTRATIVE RULES

413-120-0045

Efforts toward Adoption; No Delay in Placement

(1) In the case of any child for whom the permanency plan is adoption, the worker shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan. The worker shall document in the permanency plan the steps the Department is taking to find an adoptive family for the child, place the child with an adoptive family, and finalize adoption. At a minimum, such documentation shall include child specific recruitment efforts such as the use of state, Region X, and national adoption exchanges, including electronic exchange systems.

(2) The Department may not delay or deny placement of a child for adoption when an approved family is available outside the State of Oregon.

(3) An individual who alleges denial of adoption approval as a result of residing outside the State of Oregon has the right to a contested case hearing before the Office of Administrative Hearings (see Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500). The purpose of such a hearing is to determine Oregon's compliance or noncompliance with the geographic provisions in section (2) of this rule. There is no right to a contested case hearing for individuals who live outside the jurisdiction with respect to placement decisions made by the state on behalf of the individual child.

(4) The Department may not delay or deny placement of a child for adoption on the basis of the race, color, or national origin of the child or adoptive parent involved. Cultural heritage may not be used as a proxy for race, except Indian children under the Indian Child Welfare Act. If the child is an Indian child, Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260 applies.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0060

Review of Adoption Committee Decision

(1) Committee Decisions are Final. All decisions of Department adoption committees are final and do not qualify for a contested case hearing. Adoption committee decisions, including the current caretaker decision making process (i.e., preliminary and final recommendations), may be reviewed as provided in this rule.

(2) At Assistant Director's Discretion. The Assistant Director of CAF or the Assistant Director's designee may, on his or her initiative, review an adoption committee's decision. If there is no request for review, and if the Assistant Director or Assistant Director's designee decides to review the decision of an adoption committee he or she must decide within 7 calendar days after the decision of the adoption committee. In calculating this time period, the first day of the 7 days is the day after the date of the committee. After deciding to review the committee decision, the Assistant Director or Assistant Director's designee shall give notice to the child's worker, with copies to the supervisor, the Child Welfare program manager, adoption workers, and committee chair.

(3) Scope of Review. The scope of the review when requested by someone other than the Assistant Director of CAF is limited to the selection process and the decisions made by the adoption committee.

(4) Who may request a review under this rule:

(a) The child's caseworker;

(b) The child;

(c) The child's attorney;

(d) The Court Appointed Special Advocate (CASA) for the child;

(e) A relative who was considered by but not selected at an Adoption Committee per subsections (6)(b) or (c) of this rule;

(f) A current caretaker who was considered but not selected at an adoption committee per subsections (6)(b), (c), (d), or (e) of this rule; or

(g) An individual who was considered but not selected by an Adoption Committee and who alleges that placement of the child was denied or delayed because of the geographic location of the individual.

(5) Who may not request a review under this rule:

(a) A general applicant who is considered but not selected by an adoption committee; and

(b) Any person other than those listed in section (4) of this rule.

(6) Cases on which a review may be requested:

(a) The worker requests a review based on the worker's assessment that placement in the selected home will not meet the individual needs of the child;

(b) The adoption committee's choice was between a relative and an unrelated current caretaker as defined in Child Welfare Policy I-G.1.1,

"Current Caretaker Adoption Planning", OAR 413-120-0500 to 413-120-0540;

(c) The adoption committee's choice was between two non-current caretaker relatives;

(d) The adoption committee's choice was between a current caretaker and a general applicant; or

(e) The adoption committee considered the current caretaker alone but did not select the current caretaker.

(7) If an adoption committee reaches a decision with which the child's worker does not agree, the child's worker shall staff the case with his or her supervisor and the Child Welfare program manager or designee. The child's worker, with the approval of the supervisor and the Child Welfare program manager or designee, is the only Department staff person who may request a review. If the Child Welfare program manager or designee agrees that further review should occur, she or he shall request a review of the decision by the Assistant Director of CAF or the Assistant Director's designee.

(8) Time Lines. A child's caseworker or person eligible under subsections (4)(a) to (4)(f) of this rule who wishes to request a review of an adoption committee's decision must submit the request to the Adoption Services Unit Manager or designee. In order for the request to be considered, the Adoption Services Unit Manager or designee must receive the request within 7 calendar days after the decision of an adoption committee. In calculating this time period, the first day of the 7 days is the day after the date of the committee.

(9) Decision and Notice of Intent to Review. If the Assistant Director of CAF receives a request for a review, the Assistant Director or the Assistant Director's designee must decide whether to review the decision of the committee within 7 calendar days after the full time line allowed in section (8) of this rule for the Adoption Services Manager's receipt of the request. After deciding whether to review or not to review the committee decision, the Assistant Director shall give notice to the requestor, with copies to the child's worker, supervisor, Child Welfare program manager, or their designees, other adoption workers, and committee chair.

(10) Assistant Director's Actions. If the Assistant Director of CAF or the Assistant Director's designee gives Notice of Intent to Review, then the Assistant Director or the Assistant Director's designee may:

(a) Remand the decision to a current caretaker, adoption relative placement, or other committee which may be but is not limited to the committee which participated in making the permanency decision on behalf of the child, with instructions to gather or review information or consider additional issues, and to issue a new decision;

(b) Conduct a review of all relevant files and information, and issue a decision affirming or changing the committee's decision, and where appropriate, directing a legal risk placement or adoptive placement; or

(c) Appoint someone to conduct a review of all relevant files and information, and make a recommendation to the Assistant Director or the Assistant Director's designee to affirm or change the committee's decision and where appropriate, recommend a legal risk placement or adoptive placement.

(11) Assistant Director's Decision is Final. The decision upon review by the Assistant Director of CAF or the Assistant Director's designee made as a result of the review is final, and does not qualify for a contested case hearing.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0075

Transition to Adoptive Home

(1) Scheduling Transition. The transition into an adoptive placement, including sharing of family information with the child, may not begin until the time period for the Notice of Intent to Review has passed or, in the event that the Administrator gives Notice of Intent to Review, until the Review is completed.

(2) Requesting Earlier Transition. The worker may initiate the waiver approval process in section (4) of this rule and request permission to begin transition into the adoptive placement under the following circumstances:

(a) The worker has supervisory approval to do so;

(b) The Child Welfare program manager or designee has given written approval; and

(c) Due to exceptional circumstances, the waiting period would adversely affect the child. Exceptional circumstances may include but are not limited to the following:

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(A) The current caretaker requests early transition due to a compelling reason such as illness, or needs to be relieved of caretaking responsibilities for the child; or

(B) It is in the best interest of the child, for example, the child needs to be in the adoptive home prior to the start of a new academic year or semester; or

(C) The selected adoptive family is a relative with whom the child has a pre-existing close relationship and the relative has requested that transition begin earlier than the required waiting period.

(3) Documentation Required. In addition to the exceptional circumstances which may warrant a waiver of the required waiting period, the following conditions must be in place and demonstrated by written documentation:

(a) Diligent search for potential relative resources has been conducted according to the requirements of OAR 413-070-0072, and suitability assessments of identified relative resources have been completed according to OAR 413-070-0081;

(b) The current caretaker is in agreement with the request for waiver or reduction of the waiting period;

(c) No information has been presented at adoption committee that would indicate anyone is likely to contest the committee's decision and it is unlikely a review will be requested;

(d) In the case of an out-of-state placement, all Interstate Compact on the Placement of Children (ICPC) requirements have been satisfactorily completed, and ICPC has approved the placement; and

(e) In the case of placement through an in-state or out-of-state private agency, all contract requirements have been satisfactorily completed, and a contract is in place.

(4) Waiver Approval Process: If the Child Welfare program manager or designee approves, he or she shall submit the written request to the Adoptions Services Manager or designee who shall verify with Central Office records that all the requirements of sections (2) and (3) of this rule have been met. If the waiver is approved, the Assistant Director of CAF or designee shall provide written authorization waiving his or her right to review the adoption committee's decision in the case, and stating why the Department is not waiting the required waiting period.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280, 418.285, 419B.090

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07

413-120-0080

Legal Consent

The Assistant Director of CAF or the Assistant Director's designee is the person responsible for providing legal consent for the adoption of a child in Department permanent custody.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.280 - 418.285

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07

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Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 14-2007

Filed with Sec. of State: 8-1-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Amended: 413-100-0000, 413-100-0010, 413-100-0020, 413-100-0030, 413-100-0040, 413-100-0060, 413-100-0070, 413-100-0080, 413-100-0090, 413-100-0110, 413-100-0120, 413-100-0130, 413-100-0135, 413-100-0150, 413-100-0160, 413-100-0170, 413-100-0180, 413-100-0190, 413-100-0200, 413-100-0210, 413-100-0220, 413-100-0230, 413-100-0240, 413-100-0250, 413-100-0260, 413-100-0270, 413-100-0280, 413-100-0300, 413-100-0310, 413-100-0320

Rules Repealed: 413-100-0020(T), 413-100-0050, 413-100-0100, 413-100-0130(T), 413-100-0135(T), 413-100-0272, 413-100-0274, 413-100-0276, 413-100-0290, 413-100-0330, 413-100-0340, 413-100-0350, 413-100-0360

Subject: The Department is amending OAR 413-100-0000, 413-100-0010, 413-100-0020, 413-100-0030, 413-100-0040, 413-100-0060, 413-100-0070, 413-100-0080, 413-100-0090, 413-100-0110, 413-100-0120, 413-100-0130, 413-100-0135, 413-100-0150, 413-

100-0160, 413-100-0170, 413-100-0180, 413-100-0190, 413-100-0200, 413-100-0210, 413-100-0220, 413-100-0230, 413-100-0240, 413-100-0250, 413-100-0260, 413-100-0270, 413-100-0280, 413-100-0300, 413-100-0310, and 413-100-0320 about Title IV-E Foster Care eligibility determinations for children in substitute care for whom the Department has placement and care responsibility. OAR 413-100-0020 is being amended to make permanent temporary rule changes, with some further revisions, ensuring the definitions used are consistent with federal and state Child Welfare definitions. Definitions were changed to conform with other state rules where possible. Some definitions continue to be slightly different due to the federal definitions found in the 45 CFR-1355.20. OAR 413-100-0135 and 413-100-0150 are being amended to make permanent, with some further revisions, temporary rule changes adopted because the Deficit Reduction Act (DRA) of 2005 effectively eliminated the use of the 9th Circuit Court decision in *Rosales v. Thompson* that allowed states in the 9th Circuit more latitude on certain Title IV-E eligibility criteria. The DRA made legislative changes to the Social Security Act which negated the effect of the court's decision by requiring the financial need criteria be based on the home of the specified relative from which the child was removed. States may no longer link the financial need to any specified relative the child had lived within the six months prior to removal. The DRA requires at the annual re-determination of Title IV-E Foster Care eligibility that if the child is not otherwise eligible for Title IV-E Foster Care the child's eligibility will cease at the end of the month of re-determination. All of these rules are being amended to follow federal and state law and clarify the rules. OAR 413-100-0050, 413-100-0100, 413-100-0272, 413-100-0274, 413-100-0276, 413-100-0290 413-100-0330, 413-100-0340, 413-100-0350, and 413-100-0360 are being repealed and included in the Title IV-E procedure manual because these rules were procedural in nature. OAR 461-100-0020, 461-100-0130 and 461-100-0135 are being amended to make permanent temporary rule changes, with some further revisions

Rules Coordinator: Annette Tesch—(503) 945-6067

413-100-0000

Purpose

The purpose of these rules (OAR 413-100-0000 to 413-100-0320) is to set forth the Department's process and criteria for making Title IV-E Foster Care eligibility determinations for children in substitute care for whom the Department has placement and care responsibility.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0010

Eligibility Requirements

(1) The Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, took effect on June 17, 1980. It amended Title IV-E of the Social Security Act, which provides federal payments to the states for foster care maintenance and adoption assistance payments made on behalf of certain eligible children. The Adoption and Safe Families Act (ASFA) took effect on November 18, 1997, and enacted further federal requirements for claiming these funds and enhancing permanency for children. The Deficit Reduction Act of 2005 took effect on February 8, 2006, and further clarified the federal requirements for Title IV-E Foster Care maintenance, adoption assistance, medical coverage, and administrative funds.

(2) The Administration for Children and Families is the federal agency that adopts regulations and monitors the States' Title IV-E foster care and adoption assistance programs. Oregon's Title IV-E program is administered by the Department of Human Services (the Department). The Department acts as the applicant for the child and provides Title IV-E foster care payments to foster parents on behalf of eligible children, consistent with:

(a) The standards established by state and federal legislation and regulations, federal policy, and the State plan for the Title IV-E program; and

(b) The established financial and parental deprivation standards for the Aid to Families with Dependent Children (AFDC) program, which was in effect on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

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[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97;
SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru
2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02;
CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0020

Definitions

The following definitions apply to OAR 413-100-0000 to 413-100-0320:

(1) "AFDC No-Adult Standard": The standard applicable to AFDC households that do not include an adult in the grant.

(2) "AFDC": The Aid to Families with Dependent Children Program as it existed on July 16, 1996, excluding changes implemented by the Oregon Options Waiver.

(3) "Amnesty Alien": Any person with proper INS documentation who, because of a well-founded fear of persecution due to race, religion, or political opinion, fled his or her homeland. The term "refugee" applies to all refugees and asylees with proper INS documentation, served by the Department under the Refugee Resettlement Program.

(4) "Assistance Unit": A group of individuals whose needs, income, and resources are considered together to determine their public assistance eligibility and the grant amount.

(5) "Certified Foster Home": For Title IV-E purposes under these rules (OAR 413-100-0000 to 413-100-0320), a foster home that the Department has certified and includes a relative foster home.

(6) "Child Support": Any voluntary or court-ordered contribution by an absent parent. Support includes, but is not limited to, money payments, education, and necessary and proper shelter, food, clothing, and medical attention.

(7) "Citizen or Alien Status": The status of being a U.S. citizen or alien who is a qualified alien or unqualified alien, as defined by section 431 of The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), as amended by The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and The Balanced Budget Act of 1997.

(8) "Constructive Removal": The non-physical, paper, or legal removal of a child who is not living with a "specified relative" when the voluntary custody or voluntary placement agreement is signed or the judicial order is entered. Constructive removal is described further in OAR 413-100-0135(3)(b).

(9) "Countable Income": The amount of available income, including earned and unearned income not specifically excluded by OAR 461-140-0040, used to determine eligibility for public assistance.

(10) "Court Order Date": The date a court of competent jurisdiction issues a court order that gives the Department responsibility for the child's placement and care.

(11) "Date a Child is Considered to have Entered Foster Care": The earlier of the following:

(a) The date that the court found the child to be within the jurisdiction of the court under ORS 419B.100; or

(b) 60 days from the date of removal.

(12) "Department": The Department of Human Services.

(13) "Earned Income": All legal, reportable income resulting from an individual's employment or self-employment.

(14) "Eligibility Month":

(a) The month in which the court was petitioned or court action was initiated that resulted in the child's "constructive" or "physical" removal from the home of his or her specified relative; or

(b) The month a voluntary custody or voluntary placement agreement is signed.

(15) "Entitlement": Any benefit to which an individual has a valid claim, or would have a valid claim upon application, including one related to past employment or service, pension, compensation payment, allotment allowance insurance payment, interest in an estate or fund, or of a similar nature.

(16) "Family": For purposes of determining Title IV-E Foster Care eligibility under these rules, the parent or parents, stepparent, or relative or relatives from whom the child is removed.

(17) "First cousin once-removed": A child of a first cousin.

(18) "Foster Home": As defined in ORS 418.625(3), any home maintained by a person who has under the care of the person in such home any child under the age of 21 not related by blood or marriage and unattended by its parent or guardian, for the purpose of providing such child with care, food, and lodging, but does not include any foster home under the direct

supervision of a private child-caring agency or institution certified by the Department, any home under the direct supervision of a custodial parent for the purpose of providing respite care, or any developmental disability child foster home.

(19) "Foster Care": 24 hour substitute care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the Department or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of the adoption, or whether there is Federal matching of any payments that are made.

(20) "Incapacity": A physical or mental defect, illness, or impairment that reduces substantially or eliminates the individual's ability to support or care for the child and may be expected to last a period of at least 30 days.

(21) "Indian Child": A child verified by a Tribal enrollment committee as enrolled or eligible for enrollment as a member of a federally recognized tribe.

(22) "Initiation of Court Action": The date that the court was petitioned or legal action was taken that resulted in the removal of the child from the specified relative.

(23) "Minor Child": Any person under the age of 18 who has not been emancipated by a court of law, married, or a member of the Armed Forces of the United States.

(24) "Need": Using the Department AFDC standards, the monetary amount by which an individual or family's requirements exceeds all of the income and resources available to the individual or family.

(25) "Non-Indian Child": Any child not verified by a Tribal enrollment committee as enrolled or eligible for enrollment as a member of a federally recognized tribe.

(26) "Nunc Pro Tunc Orders": Under Oregon law, a nunc pro tunc order is an order that restores to the record an action that actually occurred, but was inadvertently or mistakenly omitted from the record.

(27) "Parent": Under the AFDC rules in effect on July 16, 1996, "parent" means the biological or legal (step or adoptive) mother or father of a person.

(a) If the mother lives with a male, who either she or he claims is the father of the child, and no one else claims to be the father, he shall be treated as the father even if paternity has not been legally established.

(b) The Voluntary Acknowledgment Form (HS 45-21) jointly signed by the mother and putative father, is a legal document that establishes paternity and allows the father's name to be added to the birth certificate.

(c) 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.

(d) 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.

(28) "Payment Standard or Needs Standard": The amount set by the Department as the AFDC net income limit. It is used to determine the actual grant amount. This amount refers to the "Payment or Need Standard" in effect on July 16, 1996.

(29) "Personal Property": Everything that a person owns that is not real property, including liquid assets.

(30) "Physical Removal": The removal of a child that occurs when a child is placed in substitute care, who was living with the "specified relative" when the voluntary custody or voluntary placement agreement was signed or court proceedings were initiated.

(31) "Real Property": Land, buildings, and whatever is erected on or affixed to the land or buildings and taxed as real property.

(32) "Relieved of Temporary Commitment": The court ends the Department's responsibility for the child's placement and care.

(33) "Removal Home": The home from which the child was removed as a result of a judicial finding, voluntary custody agreement, or voluntary placement agreement. This term is further described at OAR 413-100-0135(3).

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(34) "Resource": Any personal or real property that is or can be made available to meet the need of the assistance unit the Department does not specifically exclude from consideration.

(35) "Shelter In-Kind": Payment by an agency, other than the Department, or someone other than the client, for the client's rent and utility bills at no cost to the client and the client provides no service in exchange for the payment.

(36) "Specified Relative":

(a) A "parent" as defined in this rule;

(b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives);

(c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed;

(d) A person who legally adopts a child or the child's parent, other legally adopted children of such persons, and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section;

(e) A stepmother, stepfather, stepbrother, or stepsister; or

(f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.

(37) "Standards of Assistance": The consolidated standards for payment specified in OAR 461-155-0030 that were in effect on July 16, 1996. These standards are used to determine income eligibility for AFDC.

(38) "Temporarily Unreimbursable": The status of a child who would otherwise be Title IV-E eligible but for the child's being temporarily placed out of a foster care setting.

(39) "Unearned Income": All income that does not directly result from an individual's employment or self-employment.

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

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0030

Certification Documentation Requirements for Title IV-E Foster Care

(1) Documentation of certification is required in the case file or certification file.

(2) The following documentation is required for an out-of-state foster home placement:

(a) Verification that the out-of-state foster home or child caring agency is certified, licensed or approved by the agency in that state which is responsible for licensing or approval of such facilities; or

(b) In states where relative homes are not certified, a statement in writing that the home would meet the state's standards for certification or licensure, including a statement of the period of time for which a formal license or certificate would be issued for that home and a copy of the verification that a Criminal History check was completed and approved.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0040

Placement in Relative Homes

(1) Relative Payments for an Indian Child. Under ORS 418.627(2), a person providing a foster home to an American Indian child shall be eligible for payments under ORS 418.625 to 418.645 regardless of the relationship by blood or marriage that the person has to the child where the child's placement in the foster home is pursuant to the Indian Child Welfare Act (25 U.S.C. 1901 et seq.).

(2) Relative Foster Care Placements. With the exception of an Indian child, a child in the following homes must be found Title IV-E eligible for the relative to receive foster care payments:

(a) The home of any blood or half blood relative or adoptive relative, including a person of a preceding generation denoted by the prefix grand, great, or great-great. Individuals with one common birth parent are half-blood relatives.

(b) The home of any sibling, aunt, uncle, first cousin, first cousin once-removed, nephew, niece, and grandparent.

(3) Rights of Relative Foster Parents. Relative foster parents have a right to:

(a) Information about the Title IV-E foster care program administered by the Department, including the program's eligibility requirements and required verification methods.

(b) Receive these benefits without discrimination when the related child in their care meets the eligibility requirement of the Title IV-E foster care program and the home of the relative foster parents meets foster care certification requirements.

(4) Eligibility Determination Time Lines. Title IV-E eligibility will be determined within 45 days from the date of the FACIS eligibility notice. The limit may be extended for any of the following reasons:

(a) Information needed to determine eligibility is expected to be received after the 45 day limit; or

(b) The eligibility decision is delayed beyond the 45-day limit due to other circumstances which are not within the control of the client or the Department.

(5) Notice of Closing of Relative Payment. The Title IV-E Eligibility Specialist will send written notification to the relative foster parents when a child is no longer Title IV-E eligible.

(6) Notice of Denial of Relative Payment. The Title IV-E Eligibility Specialist will send written notification of denial of benefits to the relatives requesting foster care payments if a child placed in their home is not Title IV-E eligible.

(7) Any relative foster parents that disagree with the closure or denial of Title IV-E foster care payments and medical coverage may request a conference with local Department staff. At the conference, the relatives' legal counsel or other representative may be present and local Department staff will:

(a) Discuss the decision;

(b) Explain the specific reasons for the decision; and

(c) Allow the relatives to explain why they think the decision is erroneous.

(8) Contested case hearing. Relative foster parents may ask for a contested case hearing, as provided in ORS Chapter 183, before an Administrative Law Judge of the Office of Administrative Hearings.

(a) The relative foster parents or their authorized representative must provide a written request for a contested case hearing to DHS — Children, Adults and Families, Federal Compliance Specialist, 500 Summer Street NE, E-69, Salem, OR 97301-1067 within 30 days of the date that the Department mailed the notice of the closure or denial of Title IV-E foster care payments and medical coverage.

(b) The purpose of the hearing is to determine whether the Department's denial of Title IV-E eligibility is consistent with state and federal law governing the program.

(c) If the relative foster parents request a contested case hearing, they may be represented by legal counsel and may present witnesses. The Department will not pay the expenses of an attorney or witnesses for the relative foster parents.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0060

Title IV-E Reimbursable Placements and Payments

(1) To be Title IV-E eligible, a child must be placed in a Title IV-E reimbursable placement.

(2) Reimbursable Placements. There are five types of out-of-home placements which meet the Title IV-E Foster Care definition of a reimbursable placement. They are:

(a) A certified unrelated foster family home;

(b) A certified relative foster home;

(c) A private, non-medical group home or crisis residential center licensed by the state;

(d) A public non-medical group home or child-care facility with a licensed capacity of less than 26 beds; or

(e) A certified pre-adoptive home.

(3) Foster care maintenance payments are made only on behalf of an eligible child who is:

(a) In the foster family home of an individual, whether the payments are made to such individual, a public or private child placement, or a child-care agency; or

(b) In a child care institution, whether the payments are made to such institution, a public or private child placement, or a child-care agency.

(4) Reimbursable Payments. Title IV-E foster care maintenance payments for a child in foster care may cover:

ADMINISTRATIVE RULES

(a) The cost of food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to the child, and reasonable travel to the child's home for visitation; and,

(b) In the case of institutional care, the reasonable costs of administration and operation of such institution as are necessarily required to provide the items noted above.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0070

Application for Title IV-E Foster Care

(1) A child in substitute care for whom the Department has responsibility for placement and care will be referred for a Title IV-E eligibility determination.

(2) Under no circumstances may Title IV-E Foster Care be authorized on behalf of any child prior to the establishment of eligibility by the Department's Title IV-E Eligibility Specialist. A child may not be Title IV-E eligible based on presumed eligibility.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0080

Effective Eligibility Date

Eligibility for Title IV-E can be established if all other eligibility criteria, as outlined in OAR 413-100-0020 through 413-100-0360, including the following, is met:

(1) No earlier than the date of placement when the child is in the agency's legal care and custody;

(2) The date of placement in a Relative certified home when the Relative has received a TANF non-needy grant and repayment is authorized to the TANF agency;

(3) The first of the month in which the "Reasonable Efforts" ruling is made when the court delays making the finding, as long as Reasonable Efforts to Prevent the Placement was obtained within 60 days of placement;

(4) The effective certification date of the relative provider's home when a TANF (NNR) grant has not been received;

(5) The effective certification date when DHS Financial Services has reimbursed DHS the relative provider's TANF (NNR) grant retroactive to the certification date;

(6) Effective the date the child is no longer in receipt of SSI (if applicable);

(7) The first of the month in which the court makes a judicial finding of "best interests" and "reasonable efforts" when a child in their parental home under DHS custody is returned to care;

(8) The first of the month in which DHS obtains custody when a child is placed in a substitute care placement prior to DHS obtaining custody.

(9) The first of the month in which the voluntary placement/custody agreement is signed, when placement occurs prior to the signing of the agreement; or

(10) The first of the month in which a non-certified home becomes certified as long as the child was placed in the home at that time.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0090

Retroactive Eligibility

(1) Title IV-E eligibility may be opened and claimed retroactively for up to two years when the requirements of one of the following subsections are met:

(a) An otherwise eligible child's application was held while awaiting financial information.

(b) A nunc pro tunc order is issued that gives retroactive effect to the judicial finding or findings included in the order, but only if a court transcript of the court hearing is provided that documents that the judicial finding was made in the original court hearing.

(c) A referral for a Title IV-E foster care eligibility determination was not timely.

(d) Information becomes available which proves that the denial of the child's Title IV-E eligibility, the determination that the placement was not Title IV-E reimbursable, or the determination that the cost of the child's care was temporarily non-reimbursable by the Title IV-E specialist was incorrect.

(2) The effective date of eligibility for cases pending for judicial finding requirements under subsections (1)(a) and (1)(b) of this rule is:

(a) The first of the month in which the judicial finding is made; or

(b) The first of the month in which an existing order is modified to reflect that a Reasonable Efforts to Prevent removal finding was previously made as long as it is modified within 60 days of placement.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0110

Effective Closure Date

The effective closure date for cases no longer meeting Title IV-E eligibility criteria is the earliest of the following:

(1) The end of the month in which eligibility ended.

(2) Retroactive to the end of the month in which eligibility ceased to exist, even if the information that ended the child's eligibility became known to the Department after the fact.

(3) The date that the custodial or non-custodial parent or the parents establish residency in the home in which their child resides if one or both are providing caretaking responsibility for the child.

(4) The date the foster home's certificate of approval expires or is revoked.

(5) On the 181st day of placement for a voluntary placement if a court has not approved the continuation of the placement within 180 days of the date that the child was placed. The placement date, not the date that the agreement was signed, begins the 180-day count.

(6) The date of the child's transfer to Developmental Disability Services (DDS).

(7) The date of the child's placement in a facility considered to be outside the scope of "foster care."

(8) The date that the Department ceases having responsibility for the placement and care of the child.

(9) The end of the month in which an 18 year old young adult graduates or obtains a GED; or the end of the last month in which he or she is 17 years of age if he or she will not graduate by age 19.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0120

Verification of Eligibility

(1) If the child is determined not to be Title IV-E eligible when the child enters substitute care based on the information available at the time of the initial determination, the child is not eligible for Title IV-E foster care maintenance payments for the entire duration of that substitute care episode.

(2) To establish Title IV-E Foster Care eligibility, the Department must verify the eligibility factors with acceptable documentary evidence. The Department determines which eligibility factors require verification and the types of acceptable verification. The Department may:

(a) Decide to require verification of additional eligibility factors; and

(b) Deny an application or end ongoing benefits when acceptable verification is not provided or available.

(3) Verification is required for the following:

(a) Residency;

(b) U.S. Citizenship status;

(c) Referral to the Division of Child Support;

(d) Age;

(e) Removal from the home of the specified relative;

(f) Judicial language in Court Orders;

(g) Countable family or child income and benefits;

(h) Parental deprivation; and

(i) Family or child resources.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

ADMINISTRATIVE RULES

413-100-0130

Eligibility Determinations-AFDC Linkage

(1) The Department reconstructs the facts of the removal home to determine if the child, in the eligibility month, received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made.

(2) AFDC Relatedness. The child meets the "AFDC relatedness" test if the requirements of one of the following subsections are met:

(a) The child:

(A) Received or would have been eligible to receive AFDC in the removal home under the rules in effect on July 16, 1996, in the eligibility month; and

(B) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

(b) The child:

(A) Lived with the specified relative within six months of removal; and

(B) Would have been eligible to receive AFDC under the rules in effect on July 16, 1996, during the eligibility month, had an application been made.

(C) Remains within the resource limits that were in effect prior to the implementation of the Oregon Options Waiver under Section 1115 of the Social Security Act, effective July 1, 1996.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0135

Eligibility Determinations - Living with a "Specified Relative" and "Removal"

(1) Specified Relative Requirements. To meet Title IV-E eligibility requirements the child, at the time of the child's removal from his or her home, must have been living with and removed from the same "specified relative", as defined in OAR 413-100-0020.

(2) Removal Requirements. To meet Title IV-E eligibility requirements, the child's removal from the home must occur pursuant to:

(a) A voluntary custody agreement or voluntary placement agreement, signed by a parent or specified relative, that results in the "physical" or "constructive" removal of the child from the home; or

(b) A judicial order that requires the child's "physical" or "constructive" removal from the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(3) Removal Home Requirements. Effective June 9, 2006, for Title IV-E eligibility purposes, the child's "removal home" must meet requirements of one of the following subsections:

(a) Physical Removal. The home of a parent or specified relative when the judicial order or the signing of a voluntary custody or voluntary placement agreement results in the removal of the child from the custody of the parent or specified relative and gives the Department responsibility for the placement and care of the child.

(b) Constructive Removal:

(A) The home of a parent or specified relative if the child is living in the home of an interim caretaker (relative or non-relative) within six months of the judicial order, the voluntary custody agreement, or the voluntary placement agreement which results in the constructive removal of the child from the parent or specified relative and gives the Department responsibility for the placement and care of the child; or

(B) The home of a parent when the parent and the child both live in a specified relative's home; the parent leaves the home, and the child continues to live in the home of the specified relative within six months of the judicial order, the voluntary custody agreement, or the voluntary placement agreement which results in the constructive removal of the child from the parent and gives the Department responsibility for the placement and care of the child.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.625

Hist.: SOSCF 20-2000(Temp), f. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 1-2007(Temp), f. & cert. ef. 2-7-07 thru 8-6-07; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0150

Parental Deprivation

(1) The continued absence of one or both birth or adoptive parents, or a stepparent from the home constitutes the basis for deprivation of parental support or care.

(2) Deprivation of parental support in relation to the home from which the child is removed exists when:

(a) Death of a parent. Either parent of a child is deceased.

(b) Continued absence of the parent from the home. There is a Continued Absence of one or both parents when:

(A) One or both parents are out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child;

(B) There is evidence of continued absence of over 30 days duration;

or

(C) Predictable absence due to divorce, legal separation, incarceration, or other verified and documented circumstances.

(c) Physical or mental incapacity. Incapacity is documented as parental deprivation in a one-parent or two-parent household as follows:

(A) One or both parents' receipt of Supplemental Security Income (SSI) or being found eligible for OASDI or SSI based on disability or blindness;

(B) One or both parents receive Social Security Benefits (SSB) based on disability or blindness; or

(C) One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the child.

(d) Unemployment or underemployment may be documented as parental deprivation in a two-parent household if they each meet one of the following criteria:

(A) Is working less than 100 hours per month; or

(B) Has a temporary one-month increase to over 100 hours, but:

(i) Worked less than 100 hours in each of the two previous months;

and

(ii) Is expected to work less than 100 hours in the following month.

(Title IV-A).

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0160

AFDC Eligibility – Financial Need

(1) A child removed from the home of a specified relative who was not receiving AFDC requires the Department to reconstruct the child's situation to determine whether under rules in effect on July 16, 1996 the child was AFDC eligible.

(2) If the child is physically removed from a parent's home:

(a) The Department considers the income and resources of the parent, parents, or stepparent from whom the child was removed in the eligibility month;

(b) Determines the countable gross earned income of all the family members in the assistance unit including the \$90 standard earned income deduction;

(c) Determines the countable unearned income of all the family members in the assistance unit including the \$50 child support deduction; and

(d) Excludes SSI or a combination of SSI and SSA benefits as countable income. The Department excludes the parent or child receiving SSI or a combination of SSI and other Social Security benefits and excludes them from the number in the household for AFDC calculations.

(e) An assistance unit is not eligible when all available countable earned and unearned income (in the eligibility month) exceeds the Adjusted Income Payment or Need Standard under rules in effect on July 16, 1996.

(3) Child is removed from a minor parent who resides in his or her parents' home. If the minor parent's parents live together and the minor parent is under age 18, has never married, and is not legally emancipated, the assets of the parents of a minor parent are deemed as follows:

(a) The resources of the parents of the minor parent are excluded.

(b) The income of the minor parent's parents is deemed available to the minor parent if the minor parent and his or her child live with the minor parent's parents.

(c) The income of the parents of the minor parent is considered available to the minor parent and his or her child even if it is not received by the minor parent and his or her child.

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(d) The amount of the deemed income of the parents of the minor parent is determined as follows:

(A) A \$90 earned income deduction is allowed.

(B) The needs of the parents of the minor parent and their dependents, living in the same household and not included in the benefit group, are deducted at the AFDC Payment Standard.

(C) Amounts paid to their legal dependents not living in the household are deducted.

(D) Payments of alimony and child support are deducted.

(E) Any remaining income is countable deemed income to the minor parent.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0170

AFDC Eligibility – Resources

(1) An assistance unit is not eligible if in the eligibility month all available resources not excluded by Department rules in effect on July 16, 1996 exceed the resource limit.

(2) The resource limit is \$10,000.00. An assistance unit with resources in excess of \$10,000.00 is ineligible. The most common resources are motor vehicles and money, including cash, bank accounts, and Federal and State Income Tax refunds.

(3) If an assistance unit has a licensed motor vehicle, only the first \$1,500 of equity value of the vehicle is exempt. Any equity over \$1,500 is counted toward the \$10,000.00 resource limit.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0180

AFDC Eligibility – Earned Income of Students

(1) A child under age 18 with a GED or high school diploma, and employed must have his or her earnings considered as income that reduces the maintenance payment. Otherwise Title IV-E Foster Care eligibility must be determined ineligible.

(2) Earned income is not counted for:

(a) A child, 18 years old or younger, who is a full-time student in grade 12 or below (or the equivalent level of vocational training or GED courses); or

(b) A child under 18 years of age, who is a full-time or part-time student (as defined by the institution) in grade 12 or below (or in the equivalent level of vocational training or GED courses), and not employed full-time.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0190

AFDC Eligibility – Unearned Income

(1) For Title IV-E Foster Care purposes, all unearned income and benefits potentially available to the child must be counted against his or her maintenance payment on a dollar-for-dollar basis. Benefits awarded to the child for which the Department is not yet payee and benefits not readily available to the child must still be counted.

(2) The following are examples of countable unearned income:

(a) All Social Security benefits;

(b) Veteran's benefits;

(c) Loans;

(d) Cash contributions from any source;

(e) State or private accident or disability payments;

(f) Personal injury settlements;

(g) Lump sum income (except SOIL and IRS recoveries and lump sum support payment applied in the month of receipt to offset prior months Title IV-E maintenance costs);

(h) Child support;

(i) Railroad Retirement and other pensions;

(j) Annuities, dividends, interest, royalties.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0200

AFDC Eligibility – Lump Sum Benefits

(1) Lump sum benefits must be used to offset a child's cost of care. Federal lump sum benefits paid to the Department must be applied retroactively to reimburse the Department from the date paid placement was initiated. The Department must be the representative payee. This can be accomplished by contacting the Children's Benefit Unit of the Department.

(2) A Title IV-E eligible child receiving lump sum benefits exceeding the cost of care is ineligible for Title IV-E Foster Care during the months that the calculated lump sum exceeds the foster care maintenance payment.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0210

U.S. Citizenship and Qualified Aliens

A Title IV-E eligible child must be:

(1) A United States citizen; or

(2) A Qualified Alien as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-198, which restricts access to Federal public benefits to qualified aliens. Under PRWORA a qualified alien is --

(a) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act");

(b) An alien granted asylum under Section 208 of the Act;

(c) A refugee admitted to the United States under section 207 of the Act;

(d) An alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;

(e) An alien whose deportation is being withheld under Section 241(b)(3) of the Act;

(f) An alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;

(g) An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

(h) An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C.1641(c).

(i) An alien disqualified under sections 245A(h) or 210(f) of the Act from receiving aid under the approved Title IV-A State plan.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0220

Residency

There is no minimum time-of residency requirement for a child to be eligible for Title IV-E Foster Care. There need only be the intent that the child reside in the State of Oregon.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0230

Age Requirements

(1) At Removal. To be Title IV-E eligible, a child must be under age 18.

(2) At Redetermination. A child must be:

(a) Under age 18; or

(b) Age 18, and regularly attending school or training, and on track to obtain a high school diploma or equivalent.

(A) "Attending" means the student's full-time or half-time school attendance as defined by the school.

(B) Students are considered to be "attending school" for the full month in which they complete or discontinue school or training.

(C) "Regularly attending school" means enrolled in and attending any of the following:

(i) A school in grade 12 or below;

(ii) GED classes in lieu of high school; or

(iii) A course of vocational or technical training in lieu of high school.

(D) A child is still considered to be "regularly attending school" during a training program, vacation, illness, or family emergency.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.163

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Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0240

Judicial Finding Requirements

(1) Contrary to the Welfare or Best Interest Findings Requirement. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, the first court ruling that addresses the removal must include a determination to the effect that continued residence in the home would be contrary to the welfare of the child or that placement would be in the best interest of the child. If the finding is not made as described in this section, the child is not Title IV-E eligible for the duration of that stay in foster care.

(2) Reasonable Efforts Finding at Removal. If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, a judicial finding must be made, no later than 60 days from the date the child was removed, to the effect that reasonable efforts have been made to prevent or eliminate the need for removal or that reasonable efforts are not required to prevent a child's removal from the home or to reunify the child and family. If the finding is not made as described in this section, the child is not Title IV-E eligible for the duration of that stay in foster care.

(3) Reasonable efforts to prevent a child's removal from the home or to reunify the child and family are not required when the Department obtains a judicial finding that such efforts are not required because any of the following subsections apply:

(a) The court has determined that the parent has subjected the child to aggravated circumstances;

(b) The court has determined that the parent has been convicted of:

(A) Murder of another child of the parent;

(B) Voluntary manslaughter of another child of the parent;

(C) Aiding or abetting, attempting, conspiring, or soliciting to commit such murder or such a voluntary manslaughter;

(D) A felony assault that results in serious bodily injury to the child or another child of the parent; or

(c) The parental rights of the parent with respect to a sibling have been terminated involuntarily.

(4) Annual Reasonable Efforts Finding:

(a) If the child's removal from the home was not the result of a voluntary placement or voluntary custody agreement, a judicial finding must be made, no later than 12 months from the date the child is considered to have entered foster care, to the effect that reasonable efforts have been made for reunification of the family or to achieve the permanency plan. If the determination is not made as described in this subsection, the child is temporarily ineligible for Title IV-E foster care until a judicial finding is made.

(b) At least once every 12 months thereafter while the child is in foster care, there must be a judicial determination of reasonable efforts to finalize a permanency plan. The date of the child's last judicial determination determines the date the next judicial determination is due. If the determination is not made as described in this subsection, the child is temporarily ineligible for Title IV-E foster care until a judicial finding is made.

(5) Judicial orders concerning placements.

(a) If the court disagrees with the Department's placement recommendation, Title IV-E eligibility may continue if:

(A) The court heard the relevant testimony and will continue to work with all parties, including the Department, to make appropriate placement decisions; and

(B) The Department continues to have responsibility for the placement and care of the child.

(b) The court may recommend a placement or name the child's placement in the court order as an endorsement or approval of the Department's placement choice without affecting the child's Title IV-E Foster Care eligibility.

(6) Nunc Pro Tunc Orders. Nunc pro tunc court orders correct the omission of a "best interest" or "reasonable efforts" finding only if a court transcript accompanies the order and verifies that the judicial determination was made at the original removal hearing.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 30-2003(Temp), f. & cert. ef. 9-2-03 thru 2-28-04; CWP 2-2004, f. & cert. ef. 2-10-04; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0250

Voluntary Custody and Voluntary Placement Agreements

(1) When a child is in substitute care, pursuant to a Voluntary Custody Agreement or Voluntary Placement Agreement, and is Title IV-E eligible, the Department must, within 180 days of the date of placement, obtain a judicial finding to the effect that continuation of the placement is in the best interest of the child. The judicial finding requirement does not require a court hearing and may be obtained by a letter to the court which results in a court order with the required finding. Findings of reasonable efforts to prevent or eliminate the removal and to achieve the permanency plan are not required.

(2) If the finding in section (1) of this rule is not made within the first 180 days, the child is not Title IV-E eligible for the duration of that stay in foster care.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 419B.175, 419B.180, 419B.185

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0260

Voluntary Relinquishments

(1) A child in placement based on a voluntary relinquishment is Title IV-E eligible if:

(a) Within 60 days of placement, the first court order issued has a judicial finding to the effect that remaining in the home would be "contrary to the welfare" of the child or "placement is in the child's best interest"; and

(b) Within 60 days of placement, there is a judicial finding to the effect that "reasonable efforts" have been made to prevent or eliminate the need for removal from the home.

(2) When all other eligibility criteria are met, Title IV-E eligibility is effective the first of the month in which the judicial finding was made.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0270

Title IV-E Foster Care Eligibility Redetermination

(1) The Department shall redetermine for each month a child is in substitute care whether the child continues to be Title IV-E eligible at least 12 months from the date the child is considered to have entered foster care.

(2) A child may lose and regain eligibility. The loss of eligibility in any one month does not permanently deprive the child of eligibility in future months.

(3) For each child who is Title IV-E eligible, except a child who has been placed in relative foster care, redeterminations shall occur at least every year to establish whether the child continues or continued to be eligible on a month-to-month basis. For a child placed in relative foster care, the redetermination will occur every six months.

(4) Title IV-E Specialists will review the following criteria to ensure continued Title IV-E eligibility:

(a) The child's resources must not exceed \$10,000 in any month;

(b) The child's countable earned income (see OAR 413-100-0180) and unearned income (per OAR 413-100-0190) including lump sum benefits (see OAR 413-100-0200) must not exceed the cost of the foster care maintenance payment;

(c) The child must meet the age requirement (see OAR 413-100-0230);

(d) The child must continue to be deprived of parental support (see OAR 413-100-0150 and 413-100-0280);

(e) Annual judicial finding requirements (see OAR 413-100-0240); and

(f) The child was placed in a certified foster home.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 1-1997, f. 2-18-97, cert. ef. 3-1-97; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0280

Redetermination of Deprivation at Relinquishment or Termination of Parental Rights

If the parental rights of the parent of a Title IV-E eligible child are relinquished or terminated, the Department must redetermine the deprivation factor to confirm that the conditions at the time of removal from the home continued to exist in the month that the relinquishment or termination occurs. The redetermination is required for the child to remain Title IV-E

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eligible. If deprivation is confirmed, in further reviews of eligibility, parental deprivation will be based on continued parental absence.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0300

Parental Referral to Division of Child Support

Unless an exception is granted pursuant to Child Welfare Policy I-E.7.1, "Child Support Referrals", OAR 413-100-0800 to 413-100-0850, every case involving a Title IV-E eligible child must be referred to the Division of Child Support of the Oregon Department of Justice.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0310

Title XIX Medicaid Eligibility

A child found Title IV-E eligible is categorically eligible for Title XIX Medicaid benefits, as described in OAR 413-100-0430, except that a child found Title IV-E eligible who does not have a social security number is ineligible for Title XIX Medicaid benefits until a social security number application has been completed.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-2000(Temp), f. & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

413-100-0320

Consolidated Omnibus Reconciliation Act (COBRA) and Title XIX Medicaid

(1) The COBRA of 1985, PL 99-272 enacted on April 7, 1986, permits a Title IV-E eligible child in paid substitute care or receiving adoption assistance to receive Title XIX Medicaid coverage from the state in which he or she resides.

(2) The Title IV-E Eligibility Specialist will notify and provide documentation of Title IV-E eligibility to the foster or adoptive parents residing or moving outside of Oregon of the discontinuance of the Oregon Medicaid coverage and their need to apply for Title XIX Medicaid under COBRA for the Title IV-E eligible child in their state of residence.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1998, f. 2-5-98, cert. ef. 2-6-98; SOSCF 20-2000(Temp), & cert. ef. 8-11-00 thru 2-6-01; SOSCF 4-2001, f. & cert. ef. 2-7-01; SOSCF 44-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 14-2007, f. & cert. ef. 8-1-07

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**Department of Human Services,
Division of Medical Assistance Programs
Chapter 410**

Rule Caption: Removal of outdated, unnecessary rules - Standards for Residential Programs.

Adm. Order No.: DMAP 13-2007

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 7-1-07

Rules Repealed: 410-010-0000, 410-010-0010, 410-010-0020, 410-010-0030, 410-010-0040, 410-010-0050, 410-010-0060, 410-010-0070, 410-010-0080, 410-010-0090, 410-010-0100, 410-010-0110, 410-010-0120, 410-010-0130, 410-010-0140, 410-010-0150, 410-010-0160, 410-010-0170

Subject: DHS repealed all rules listed above because they are outdated and no longer necessary. Administrative rules covering standards for residential programs are found in Chapter 415.

Rules Coordinator: Darlene Nelson—(503) 945-6927

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

Rule Caption: Amend Rules Relating to Student Dismissal from Academy.

Adm. Order No.: DPSST 8-2007

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 7-30-07

Notice Publication Date: 7-1-07

Rules Amended: 259-012-0035

Rules Repealed: 259-012-0035(T)

Subject: Amends rule relating to student dismissal to include appeal process by student and/or employer and establishes eligibility criteria to return to academy following a dismissal

Rules Coordinator: Bonnie Salle—(503) 378-2431

259-012-0035

Penalties

(1) A person attending any course as a student or other participant, or a person residing at the Academy for any purpose, is subject to the rules which have been promulgated by the Department. The rules will be posted in a prominent location at the Academy. All persons attending the Academy will be expected to be knowledgeable of and to conform their conduct to the standards set forth in the rules.

(2) Failure to comply with the rules may result in the person being dismissed from the Academy, suspended from participating in Academy activities, or any other disciplinary action deemed appropriate. A student dismissed from the Academy or suspended from Academy participation for conduct or behavior in violation of the rules may not be given training credit or credit for completion of the course in which that student was enrolled. Any decision to withhold credit will be subject to Department approval.

(3) Any alleged violation of these rules, wherein a formal written report is made, shall be communicated to the student's department administrator by the DPSST staff. All disciplinary actions shall be made in accordance with the Oregon Public Safety Academy Student Rules and Regulations.

(4) Dismissal, suspension, or other disciplinary action may be ordered by the Director, or any DPSST staff delegated that authority.

(a) If a student is to be dismissed from the Academy, the student may request a meeting with the Director and present written evidence on his/her behalf.

(b) If the Director, or designee, upholds the dismissal, the student's employer may appeal the Director's decision to the Board within 30 days of the dismissal. The appeal must be in writing and state the employer's reason for disagreeing with the dismissal.

(A) If the student's employer does not appeal the student's dismissal within 30 days, the dismissal is final.

(B) If the Board upholds the student's dismissal, the dismissal is final.

(c) Eligibility to return to the Academy following a final dismissal is subject to the provisions of this rule. This applies whether the Board upholds a dismissal or an employer fails to appeal a student's dismissal within 30 days.

(d) If the Board upholds the Department's dismissal, or an employer fails to appeal a student's dismissal within 30 days, any student coursework previously completed in a Basic Course will not be considered to have been successfully completed. If the student is determined to be eligible to return to the Academy, the entire course must be retaken and successfully completed for credit toward certification.

(e) If the Board overturns the Department's dismissal, the student will be eligible to return to the Academy to attend a subsequent Academy class if the employer submits a new Application for Training. If the Department determines training effectiveness would not be compromised, the student may be allowed to complete only the remaining coursework not previously completed due to the dismissal.

(f) Following any dismissal from the Academy, the Department will review a student's file and all materials relating to the dismissal to determine whether the student's conduct should be reviewed by the appropriate Policy Committee and Board for possible violation of the minimum standards for public safety officers. The provisions of OAR 259-008-0070 (Denial and Revocation) will apply.

(A) If Policy Committee and Board review is required, the student will remain ineligible to return to the Academy until the Board makes a determination regarding denial or revocation of a student's certification.

(B) A student will remain ineligible to return to the Academy pending any contested case proceeding initiated under the provisions of OAR 259-008-0070.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 4-2004, f. & cert. ef. 4-23-04; DPSST 8-2006(Temp), f. & cert. ef. 6-9-06 thru 12-1-06; DPSST 17-2006, f. & cert. ef. 11-20-06; DPSST 5-2007(Temp), f. & cert. ef. 2-15-07 thru 8-3-07; DPSST 8-2007, f. & cert. ef. 7-30-07

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Rule Caption: Amend Rules relating to Police Chief Certification and Sheriff Eligibility.

Adm. Order No.: DPSST 9-2007

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07

Notice Publication Date: 7-1-07

Rules Amended: 259-008-0075, 259-008-0076

Subject: Amends rule relating to Sheriff Eligibility to include applicable standards that must be met by any individual elected to the office of Sheriff and amends Police Chief certification rules to allow for recall of certification for failing to obtain management level certification with two years of hire date.

Rules Coordinator: Bonnie Salle—(503) 378-2431

259-008-0075

Eligibility for Candidacy for Office of Sheriff

(1) A person is not eligible to be a candidate for election or appointment to the office of sheriff unless:

(a) The person is 21 years of age or older;

(b) The person has at least four years experience as a full-time law enforcement officer or at least two years experience as a full-time law enforcement officer with at least two years post-high school education; and

(c) The person has not been convicted of a felony or any other crime that would prevent the person from being certified as a police officer under ORS 181.610 to 181.670.

(2) As used in section (1) of this rule, "two years post-high school education" means four semesters or six quarters of classroom education in a formal course of study undertaken after graduation from high school in any accredited college or university. The term does not include apprenticeship or on-the-job training.

(3) If the person is not certified as a police officer by the Department at the time of accepting appointment or filing as a candidate, a person elected or appointed to the office of sheriff must:

(a) Obtain certification not later than one year after taking office;

(b) File a copy of the certification with the County Clerk or the county official in charge of elections within one year after taking office.

(4) Prior to attending any Department-approved training course, a person elected or appointed to the office of Sheriff must comply with the minimum standards for employment and training specified in OAR 259-008-0010 and 259-008-0025. This includes, but is not limited to the following categories:

(a) Citizenship;

(b) Age;

(c) Fingerprints;

(d) Criminal Records;

(e) Notification of Conviction;

(f) Moral Fitness (Moral Character);

(g) Education;

(h) Physical Examination;

(A) Any written request for a waiver of any physical requirement must be submitted to the Department as described in OAR 259-008-0010(8)(k);

(B) Any request for a waiver of any physical requirement must be approved by a Policy Committee and Board; and

(C) Any expense associated with providing documentation or testimony shall be borne by the person requesting the waiver.

(i) Submitting an Application for Training (DPSST Form F-5) to the Department providing evidence that a minimum of a 12th grade reading and writing level has been attained, as required in OAR 259-008-0010(7)(c);

(j) Submitting a current Medical Examination Report (DPSST Form F-2) completed by a licensed physician; and

(k) Completion of a Basic Course and Field Training Manual, unless a written request for a waiver of this requirement is received and approved by the Department.

(5) Prior to obtaining certification as a police officer, a person elected or appointed to the office of Sheriff must comply with the minimum standards for certification specified in OAR 259-008-0060 which include, but are not limited to:

(a) Full-time employment;

(b) Submission of a Criminal Justice Code of Ethics (DPSST Form F 11);

(c) Submission of an Application for Certification (DPSST Form F-7) with all applicable sections of the form completed; and

(d) Valid First Aid and cardiopulmonary resuscitation (CPR) cards.

(6) Any newly appointed public safety professional must submit a Personnel Action Report (DPSST Form F-4) to the Department within ten (10) business days after employment, as provided in OAR 259-008-0020.

(7) For complete information relating to employment, training and certification requirements, refer to the full text of the statutes and rules referenced in subsections (1) through (6) above.

(8) The procedure for determining whether an individual is eligible to be a candidate for election to the office of sheriff is:

(a) A potential candidate for sheriff must submit an Application for Determination of Eligibility to Be Sheriff (BPSST Form F-25) to the Department not sooner than the first of July before the primary election and not later than the 70th day before the primary election (ORS 249.037);

(b) The Department will file a copy of its determination on an individual's eligibility to be a candidate for election to the office of sheriff with the county clerk or county official in charge of elections not later than the 61st day before the date of the election;

(c) The Department will notify the applicant in writing of the determination and decision concerning the eligibility of the applicant by certified mail, mailed to the applicant and postmarked at not later than the 61st day before the date of the election.

(9) Any candidate seeking election or appointment to the office of sheriff, must submit a criminal history affidavit (BPSST Form F-26), provided by the Department.

(10) If any falsification is made on the application or documents submitted in support of the application, the Department may deny approval, revoke and/or rescind any approval previously given.

(11) The Department will provide a copy of this rule to all persons requesting an evaluation of their eligibility to be a candidate for sheriff.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 206.015

Stats. Implemented: ORS 206.015

Hist.: PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1982, f. & ef. 7-2-82; PS 2-1982, f. & ef. 9-7-82; PS 1-1983, f. & ef. 12-15-83; PS 2-1987, f. & ef. 10-26-87; Renumbered from 259-010-0057, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 9-2007, f. & cert. ef. 8-15-07

259-008-0076

Eligibility Requirements for Police Chief

(1) In addition to the minimum standards for employment and training as a law enforcement officer as described in OAR 259-008-0010 and 259-008-0025, a person accepting employment as a Police Chief must:

(a) Be currently certified as a police officer by the Department; or

(b) If the person is not currently certified as a police officer by the Department, the person accepting employment as Police Chief must obtain certification no later than 18 months after accepting such employment.

(2) Any person accepting employment as Police Chief must obtain Management certification by the Department within two (2) years of accepting employment as Police Chief, unless an extension is requested in writing and granted by the Department.

(3) The Department may grant an extension of time to obtain a Management certificate upon presentation of evidence by a law enforcement unit that a Police Chief was unable to obtain the certification within the required time limit due to a leave of absence for illness, injury, military service, special duty assignment, or any other reasonable cause as determined by the Department. No extension will be granted beyond one year.

(4) The employing agency must maintain documentation of a Police Chief's qualifications.

(5) The employing agency must notify the Department within 10 days of the date that a Police Chief is appointed, resigns, retires, terminates employment, is discharged, deceased, takes a leave of absence, or transfers within a law enforcement unit, or private or public safety agency as required by OAR 259-008-0020.

(6) Failure to obtain a Management Certificate as required in section (2) or (3) above, will result in the immediate recall of the Police Chief's certification:

(a) A Police Chief with a recalled certification is prohibited from performing the duties of, or working in any capacity as, a Police Chief or Acting Police Chief;

(b) Prior to recertification of a Police Chief's recalled certificate, the employing agency head must submit the following:

(A) A written request for recertification, along with an explanation of the individual's current job duties and why the Department should recertify the individual if they are not currently in a certifiable police officer position; or

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(B) Verification that a Management Certificate was obtained, if the individual is requesting reinstatement as a Police Chief.

(c) A police chief whose certification has been recalled pursuant to this rule must submit a completed F-4 (Personnel Action Form) identifying that the individual is no longer serving as, or performing the duties of, police chief prior to reactivating their police certification;

(d) A Police Chief who fails to recertify within 2-1/2 years is subject to the provisions of OAR 259-008-0025(2);

(e) A Police Chief who fails to recertify within five (5) years is subject to the provisions of OAR 259-008-0025(1)(c).

Stat. Auth.: ORS 181.640, 181.665

Stats. Implemented: ORS 181.640, 181.665

Hist.: DPSST 13-2005, f. & cert. ef. 12-7-05; DPSST 9-2007, f. & cert. ef. 8-15-07

Department of Revenue Chapter 150

Rule Caption: Alternative certification of assessment and taxation expenditures for counties; exempt leased property.

Adm. Order No.: REV 4-2007

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 7-31-07

Notice Publication Date: 6-1-07

Rules Adopted: 150-294.181

Rules Amended: 150-307.475, 150-308.709

Rules Repealed: 150-330-123, 150-570.562, 150-820.560(9), 150-294.181(T)

Subject: 150-294.181 describes how a county may qualify for certification of assessment and taxation expenditures using an alternative method of certification

150-307.475 describes situations that may meet test of "hardship" for property tax exemption. This amendment modifies the section related to disability certificates used to determine eligibility of Disabled War Veteran exemption

150-308.709 Describes the information required; deadline for making application; and approval process for special assessment as Government Restricted Multiunit Rental Housing. Amendment clarifies that assessor must annotate the assessment and tax roll of potential penalty if disqualified.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-294.181

Alternative Method for Certification

(1) If, at a conference held pursuant to notice under ORS 294.175, a county is unable to meet the level of expenditures required by the department for certification in the county assessment function funding assistance program for a particular year, that county may request that the department certify a lesser level of expenditures under the alternative method described in this rule.

(2) To meet the requirements of this alternative method of certification, a county must submit a plan that describes the actions the county will take to achieve adequacy of expenditures for the county assessment and taxation program. The department will not certify any plan submitted by a county that requires more than three tax years to comply with ORS 308.232 and 308.234, ORS chapter 309 and other laws requiring equality and uniformity in the system of property taxation within the county.

(3) The plan submitted by the county may include any combination of increased expenditures or increased efficiencies that will lead to adequacy within the specified duration of the plan.

(4) Acceptance of the plan described in paragraph (2) of this rule is at the discretion of the department. No plan will be accepted for which compliance is conditioned only upon the county's future receipt of funding authority not in existence at the time of submission of the plan.

Example 1: The department determines County A's assessment program is inadequate because it fails to meet the minimum requirements under ORS 294.175. The department determines that two appraisers are necessary to satisfy the minimum requirements. Pursuant to a plan submitted under ORS 294.181, County A proposes to add two appraisers beginning in December of the fiscal year, contingent on passage of a local option tax levy in November to fund the positions. Because the plan to fund the appraisers is contingent upon passing the local option tax measure, it cannot be approved by the department.

Example 2: The department determines County B's assessment program is inadequate because it fails to meet the minimum requirements under ORS 294.175. County B submits a plan under ORS 294.181 that agrees to add two appraisers by January 1 of the first year of the plan. The department determines that this will enable County B to achieve adequacy in the assessment program by the midpoint of the second year of the plan. Accordingly, the department certifies the expenditures presented by the county under the plan. The county also proposes to add yet another appraiser (for a total of three) if a local option tax measure pass-

es in the first year of the plan. The addition of the third appraiser is contingent upon passage of the local option tax, but the plan to add two appraisers is not so conditioned. The fact that a local option tax has been proposed to add staff or resources during the plan period will not automatically disqualify the plan submitted by the county.

(5) The department will not certify expenditures under this alternative method of certification if the expenditures for the tax year for which the filing under ORS 294.175 was made, or for any subsequent year covered by the plan, do not demonstrate the county's ability to maintain adequacy in all of the following functions:

(a) Accurate appraisal of real property in accordance with OAR 150-308.234;

(b) Assessment of new construction, subdivisions, segregations, consolidations, omitted property, and other exceptions activity described in ORS 308.146;

(c) Accurate processing of special assessment qualification applications and disqualifications, including but not limited to, farm, forest, and small tract forest programs;

(d) Accurate processing of property tax exemption and deferral applications and disqualifications;

(e) Accurate processing of personal property, real property, and combined property tax returns;

(f) Providing explanation of the process of developing real market value to a court of jurisdiction for a property tax assessment under appeal;

(g) Completing an annual ratio report and appraisal plan that meets the requirements of ORS 309.200, 308.234, and OAR 150-309.200-(A), (B), and (C);

(h) Maintaining accurate property records by timely processing deeds, including address and name changes and property transfers;

(i) Maintaining tax collection and distribution activity as prescribed by statute, including tax statement issuance, roll corrections, refunds, and processes related to delinquency notification, foreclosures, warrants, and bankruptcies;

(j) Maintaining all cadastral functions for new and existing tax lots, including lot line adjustments, consolidations, creating new maps, and updating tax code boundary changes;

(k) Maintaining accurate and current assessment and tax rolls; and

(L) Completing roll summary reports as required by ORS 309.330.

(6) The department will notify the county governing body if it determines the plan as submitted does not meet the requirements of this rule. The notice will contain an explanation of the reasons for the determination and describe specific items required to achieve adequacy.

(7) If the department determines that the plan submitted by the county or subsequently modified during conference meets the requirements of this rule, the department will certify to the county governing body the expenditures for assessment and taxation at the level contained in the county's estimate filed with the department pursuant to ORS 294.175 or as adjusted by the conference agreement.

(8) A county operating under an accepted plan must certify to the department not less than 15 days prior to the close of each fiscal quarter that the county is in compliance with the accepted plan. The certification must be in the form of a written status report that provides details demonstrating the county's compliance with the accepted plan.

(9) The department will deny grant funds pursuant to ORS 294.178(5) for any quarter in which the department determines the county has failed to demonstrate compliance with the accepted plan.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.175, 294.178, 294.181

Hist.: REV 3-2007(Temp), f. & cert. ef. 4-5-07 thru 10-1-07; REV 4-2007, f. 7-30-07, cert. ef. 7-31-07

150-307.475

Hardship Situations

(1) "Exemption" includes total exemptions, partial exemptions, cancellations of tax due, and special assessments including, but not limited to those listed in ORS 308A.706(1)(d). Relief under this section does not apply to the provisions of ORS 311.666 to 311.735.

(2) "Good and sufficient cause" is an extraordinary circumstance beyond the control of the taxpayer or the taxpayer's agent or representative that causes the taxpayer to file late.

(a) Extraordinary circumstances include, but are not limited to:

(A) Illness, absence, or disability that substantially impairs a taxpayer's ability to make a timely application. The substantial impairment must have existed prior to the filing deadline, and must have been of such a nature that a reasonable and prudent taxpayer could not have been expected to conform to the deadline.

(B) Delayed receipt of a disability certification, a death certificate, or other documentary justification necessary for the filing of a claim for

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exemption, unless the taxpayer, with ordinary prudence, could have obtained the required information in a timely manner.

(C) Reasonable reliance on misinformation provided by county assessment and taxation staff or Department of Revenue personnel.

(b) Extraordinary circumstances do not include:

(A) Late filing due to the taxpayer's inadvertence, oversight, or lack of knowledge regarding the filing requirements.

(B) Financial hardship.

(C) Reliance on misinformation provided by a professional such as a real estate broker, attorney, or CPA.

(3) "Military service," as used in section (4) of this rule, includes the period of time that National Guard members are called into federal service for more than 30 days under 32 USC 502(f), as well as the time that members of the Army, Air Force, Navy, Marine Corps, or Coast Guard, and military reservists are ordered to report to active duty.

(4) Notwithstanding ORS 307.475(3), the Servicemembers' Civil Relief Act (SCRA), 50 USC app. 526 suspends the deadline for filing a petition for hardship relief during the period that a service member is in active duty military service with the armed forces.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 307.475

Hist.: RD 8-1983, f. 12-20-83, cert. ef. 12-31-83; RD 9-1984, f. 12-5-84, cert. ef. 12-31-84;

REV 4-2006, f. & cert. ef. 7-31-06; REV 4-2007, f. 7-30-07, cert. ef. 7-31-07

150-308.709

Application and Election Process for Government Restricted Multiunit Rental Housing

(1) The property owner must file an application and election form with the county assessor to obtain a special assessment for government restricted multiunit rental housing (LIH) provided by ORS 308.701 to 308.724. The application and election form must be filed on or before April 1 of the assessment year. The application and election form may be filed after April 1 and on or before December 31, if accompanied by a late filing fee equal to the greater of \$200 or one-tenth of one percent of the real market value (RMV) of the property described in the application filed. Any application and election form that is filed late must be accompanied with the late filing fee. If the fee is not paid, the special assessment will not be granted. If the special assessment is denied by the assessor, the late filing fee must be refunded to the applicant.

(2) At the time the application and election form is filed, the property owner must elect the method the assessor is to use to determine the specially assessed value (SAV) of the property.

(a) If the property owner elects the income approach method, the application and election form must be accompanied by income and expense documentation. The required documents are:

(A) The rent roll for the month of December immediately preceding the date of application. The rent roll must show the rents charged for each unit and which units, if any, are vacant; and

(B) Annual income and expense statements for at least the three most recent years. Audited statements should be submitted, but unaudited statements may be provided if audited statements are not available; or

(C) Pro forma income and expense statements, but only if the project is new and historical documents are not available; or

(D) A combination of actual and pro forma income and expense statements for at least three years, if the property is not more than three years old.

(E) For mixed-use property the applicant must provide income and expense statements only for the portion of the property used as government restricted multiunit rental housing. Mixed-use property is property that consists of both government restricted multiunit rental housing and property used for other purposes.

(b) If the property owner elects the ratio method, the application and election form must be accompanied by the rent roll for the month of December immediately preceding the date of application. The rent roll must show the rents charged for each unit and which units, if any, are vacant.

(3) When one of the following events occurs after the initial application and election form has been approved, the owner must submit additional information to the assessor:

(a) The property owner wishes to change the election of the method used to determine the SAV; or

(b) New property has been constructed at the site, or new improvements are made to the government restricted multiunit rental housing; or

(c) The county assessor requests current income and expense statements.

(4) The county assessor will review the application and election form and accompanying documentation and determine if the property qualifies for special assessment.

(a) The application and election form must contain the information required under ORS 308.709 for the assessor to approve the special assessment. If the application and election forms are incomplete, the assessor may request additional information from the applicant in writing, as necessary, for completion or clarification. The applicant must submit the requested information, in writing, to the assessor within 15 days of the date of the request or by the filing deadline, whichever is later, for the assessor to accept the application as a timely filing. If the applicant does not submit the requested information within the time required, the assessor may deny the application.

(b) The assessor must notify the applicant of the determination, in writing, within 120 days of the date the application was filed with the assessor's office.

(A) If the application is denied, the notice to the property owner must include the instructions for appealing a denial of the special assessment by the assessor.

(B) If the application is approved, the assessor must add the following notation to the tax and assessment rolls each year: "LIH special assessment (potential penalty if disqualified)."

Stat. Auth.: ORS 305.100, 306.120, 308.709, 308.724

Stats. Implemented: ORS 308.709

Hist.: REV 6-2001, f. & cert. ef. 12-31-01; REV 10-2002, f. & cert. ef. 12-31-02; REV 10-

2002, f. & cert. ef. 12-31-02; REV 4-2007, f. 7-30-07, cert. ef. 7-31-07

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Rule Caption: Defining tangible personal property for corporate tax apportionment; denomination of cigarette tax stamps.

Adm. Order No.: REV 5-2007

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 7-31-07

Notice Publication Date: 6-1-07

Rules Adopted: 150-314.665(2)-(C)

Rules Amended: 150-314.665(2)-(A), 150-323.160(1), 150-323.160(2)

Subject: 150-314.665(2)-(A) — Add definition of "tangible personal property." Clarify language dealing with property shipped to a purchaser in another state. Provide that provisions related to shipments directly to a third party (current section (7)) is authorized under ORS 314.670.

150-314.665(2)-(C) — Provides direction as to computing sales of electricity and natural gas for purposes of the Oregon sales factor.

150-323.160(1) and 150-323.160(2) are amended to provide the manner in which the Department of Revenue will sell self-adhesive cigarette tax stamps and to delete references to stamps sold for a 10 unit package of cigarettes.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-314.665(2)-(A)

Sales Factor; Sales of Tangible Personal Property in this State

The rule adopts provisions of a model regulation recommended by the Multistate Tax Commission to promote uniform treatment of this item by the states.

(1) For purposes of ORS 314.665 and the rules thereunder, "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software.

(2) For purposes of apportioning income under ORS 314.665 and this rule, gross receipts from the sales of tangible personal property (except sales to the United States Government; see OAR 150-314.665(2)-(B)) are in this state:

(a) If the property is delivered or shipped to a purchaser within this state (Oregon) regardless of the f.o.b. point or other conditions of sale; whether transported by seller, purchaser, or common carrier; or

(b) If the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.

Example 1: A seller with a place of business in State A is a distributor of merchandise to retail outlets in multiple states. A purchaser with retail outlets in several states, including Oregon, makes arrangements to hire a common carrier to pick up merchandise, f.o.b. plant, at the seller's place of business and have it delivered to the purchaser's outlet in Oregon. The

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seller, who is subject to Oregon excise tax, must treat this as a sale of property delivered or shipped to a purchaser in Oregon.

Example 2: A seller with a place of business in Oregon is a distributor of merchandise to retail outlets in multiple states. A purchaser with retail outlets in several states, including State A, sends its own truck to pick up the merchandise at the seller's place of business and have it transported to the purchaser's outlet in State A. The seller is taxable in State A. The seller must treat this as a sale of property delivered or shipped to a purchaser in State A.

(c) Notwithstanding subsection (2)(b) of this rule, for tax years beginning on or after January 1, 2006, the sale of goods from a public warehouse is not considered to take place in Oregon if:

(A) The taxpayer's only activity in Oregon is the storage of the goods in a public warehouse prior to shipment; or

(B) The taxpayer's only activities in Oregon are the storage of the goods in the public warehouse prior to shipment and the presence of employees within this state solely for purposes of soliciting sales of the taxpayer's products.

(3) Property is deemed to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.

Example 3: The taxpayer, with inventory in State A, sold \$100,000 of its products to a purchaser having branch stores in several states including Oregon. The order for the purchase was placed by the purchaser's central purchasing department located in State B. \$25,000 of the purchase order was shipped directly to purchaser's branch store in Oregon. The branch store in this state is the "purchaser within this state" with respect to \$25,000 of the taxpayer's sales.

(4) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

Example 4: The taxpayer makes a sale to a purchaser who maintains a central warehouse in Oregon at which all merchandise purchases are received. The purchaser reships the goods to its branch stores in other states for sale. All of taxpayer's products shipped to the purchaser's warehouse in Oregon is property "delivered or shipped to a purchaser within this state."

(5) The term "purchaser within this state" includes the ultimate recipient of the property if the taxpayer in Oregon, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within Oregon.

Example 5: A taxpayer in Oregon sold merchandise to a purchaser in State A. Taxpayer directed the manufacturer or supplier of the merchandise in State B to ship the merchandise to the purchaser's customer in Oregon pursuant to purchaser's instructions. The sale by the taxpayer is in Oregon.

(6) When property being shipped by a seller from the state of origin to a purchaser in another state is diverted while enroute to a purchaser in Oregon, the sales are in Oregon.

Example 6: The taxpayer, a produce grower in State A, begins shipment of perishable produce to the purchaser's place of business in State B. While enroute the produce is diverted to the purchaser's place of business in Oregon, in which state the taxpayer is subject to tax. The sale by the taxpayer is attributed to Oregon.

(7) If the taxpayer is not taxable in the state of the purchaser, the sale is attributed to Oregon if the property is shipped from an office, store, warehouse, factory, or other place of storage in Oregon.

(a) Sales to a purchaser in a state other than Oregon will not be attributed to Oregon if the other state imposes a net income tax on the seller.

(b) Sales to a purchaser in a state other than Oregon will not be attributed to Oregon if the other state would have jurisdiction to tax the seller on net income under the constitution of the United States and federal Public Law (P.L.) 86-272.

(c) OAR 150-314.620-(C) provides that sales and activities in a foreign country will be treated the same as those in another U.S. state for determining if the foreign country has jurisdiction to tax the seller on net income.

(d) The guidelines provided by federal P.L. 86-272 apply equally to activities regarding sales to unrelated parties and sales to affiliated corporations.

(e) The immunity provided by P.L. 86-272 is not lost when a business engages in de minimis activities unrelated to the solicitation of orders in a state or foreign country where its only other activities are those protected by P.L. 86-272. Examples of such immune activities include the following:

(A) The board of directors of a corporation based in Oregon holds a meeting at a hotel in another state or in a foreign country,

(B) The president of a parent corporation based in Oregon meets with the managers of a subsidiary in a foreign country to discuss the subsidiary's five-year plan and capital acquisitions budget.

(C) The controller of a parent corporation based in Oregon meets with the accounting staff of a subsidiary in a foreign country to discuss federal financial reporting requirements.

Example 7: The taxpayer has its head office and factory in State A. It maintains a branch office and inventory in Oregon. Taxpayer's only activity in State B is the solicitation of orders by a resident salesman. All orders by the State B salesman are sent to the branch office in Oregon for approval and are filled by shipment from the inventory in Oregon. Since taxpayer is immune under Public Law 86-272 from tax in State B, all sales of merchandise to purchasers in State B are attributed to Oregon, the state from which the merchandise was shipped.

Example 8: A parent company sells its product to a subsidiary, organized in a foreign

country, that uses the parent's product in manufacturing its product. Because of the parent-subsidiary relationship, orders are not solicited in the same way as sales to unrelated customers. Instead, the products are shipped as needed to the subsidiary. Officials from the parent company maintain a close liaison with the foreign subsidiary on the planning and design of the items sold. After the parties agreed on a contract in which the parent would manufacture and sell certain items to the subsidiary, the close working relationship continued between the technicians of both companies. Many of the parent's employees made regular trips to the subsidiary after the contract was signed, to take care of such items as manufacturing problems, installation problems, repair work, redesign discussions, and/or production problems. Parent's production engineers, production workers, metallurgists, quality control managers, and assembly supervisors were some of the personnel who spent several weeks of the year working closely with the foreign subsidiary. The foreign country does not impose an income tax on the parent corporation. Based upon the above facts, the parent is not considered to be protected under P.L. 86-272 and therefore is not required to attribute sales to Oregon.

Example 9: A subsidiary organized in a foreign country purchases products from its parent, a manufacturing company in Oregon. The subsidiary places a purchase order with the parent on an "as needed" basis. The parent, upon receipt of the purchase order, makes shipment to the subsidiary. The subsidiary, upon receipt of the product, makes payment to the parent. The parent has a relationship with its foreign subsidiary that is unrelated to the sale of its product. Officials from the parent company occasionally visit the foreign subsidiary to discuss matters unrelated to the sale of its product, including: (1) public relations, (2) personnel matters, and (3) government relations. The foreign country does not impose an income tax on the parent corporation. Based upon the above facts, the parent is considered to be protected under P.L. 86-272 and is required to attribute the sales to Oregon.

(8) If a taxpayer whose salesman operates from an office located in Oregon makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply, under authority of ORS 314.670:

(a) If the taxpayer is taxable in the state from which the third party ships the property, then the sale is in such state.

(b) If the taxpayer is not taxable in the state from which the property is shipped, then the sale is in Oregon.

Example 10: The taxpayer in Oregon sold merchandise to a purchaser in State A. Taxpayer is not taxable in State A. Upon direction of the taxpayer, the merchandise was shipped directly to the purchaser by the manufacturer in State B. If the taxpayer is taxable in State B, the sale is in State B. If the taxpayer is not taxable in State B, the sale is in Oregon.

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

Stat. Auth.: ORS 305.100, 314.670

Stats. Implemented: ORS 314.665

Hist.: 12-70; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; REV 11-2004, f. 12-29-04, cert. ef. 12-31-04; REV 3-2005, f. 12-30-05, cert. ef. 1-1-06; REV 5-2007, f. 7-30-07, cert. ef. 7-31-07

150-314.665(2)-(C)

Sales Factor; Sale of Electricity or Natural Gas

(1) A sale of tangible personal property, including but not limited to the sale of a commodity like electricity or natural gas, which is delivered or shipped to a purchaser with a contracted point of delivery in Oregon is a sale in this state. This is regardless of whether the purchaser uses the property in Oregon, transfers the property to another state, or resells the property in Oregon. If the contract states the point of delivery is at the border with another state, the sale is presumed to be in Oregon unless the taxpayer can demonstrate to the satisfaction of the department that delivery occurred in some other place.

Example 1: A provider of wholesale electricity enters into a contract to deliver a specified amount and duration of a supply of electricity to a purchaser who takes possession at a specified point of delivery in Oregon. The sale is an Oregon sale.

(2) A taxpayer who contracts to sell electricity to and also buy electricity from the same entity during the same period or partial period of time will have an offsetting contractual amount. The gross sales of electricity, without regard to the offsetting purchase amount, are considered to be Oregon sales if the contracted point of delivery is in Oregon.

Example 2: Company A signed a contract on January 2, 2006, to purchase 50 megawatts of electricity for a period of 10 hours starting November 15, 2006, from Company B with a delivery point of Malin, Oregon. For this same time period, Company A signed a contract on March 15, 2004, to sell 30 megawatts of electricity to Company B with a point of delivery at Malin, Oregon. The 30 megawatts of power is recorded as a book-out on both companies' books for reporting to Oregon. The offsetting transaction for the 30 megawatts is deemed to be delivered in Oregon for the purposes of computing the Oregon sales factor. Company A will report the sale of 30 megawatts in its Oregon sales factor numerator and Company B will report the sale of 50 megawatts (20 megawatts to complete the sales contract plus 30 megawatts of book-out) of electricity in its Oregon sales factor numerator.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.665

Hist.: REV 5-2007, f. 7-30-07, cert. ef. 7-31-07

150-323.160(1)

Tax Stamp Units of Sale; Minimum Sales

(1) The Department of Revenue will sell cigarette tax stamps only to licensed distributors and their properly authorized employees whose signature cards are in the possession of the designated agent of the department. The department has set the minimum unit purchases for each sale as follows:

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(2)(a) Heat-applied decal tax stamps for the denominated value of 20 units per pack are sold in rolls containing 30,000 stamps. The stamps are sold in full rolls only and the smallest sale unit is one roll.

(b) Heat-applied decal tax stamps for the denominated value of 25 units per pack are sold in rolls containing 7,200 stamps. The stamps are sold in full rolls only and the smallest sale unit is one roll.

(c) Heat-applied decal tax stamps for the denominated value of 20 units per pack are sold in pads containing 10 sheets of 100 stamps per sheet. The stamps are sold in full pads and the smallest sale unit is one pad of 10 sheets totaling 1,000 stamps.

(d) Self-adhesive decal tax stamps for the denominated value of 1 unit per pack are sold in pads containing 10 sheets of 150 stamps per sheet. The stamps are sold in full pads and the smallest sale unit is one pad of 10 sheets totaling 1,500 stamps.

Stat. Auth.: ORS 305.100 & 323.440
Stats. Implemented: ORS 323.160
Hist.: 6-66; 9-71; RD 8-1984, f. 12-5-84, cert. ef. 12-31-84; RD 5-1993, f. 12-30-93, cert. ef. 12-31-93; REV 11-1999, f. 12-30-99, cert. ef. 12-31-99; Renumbered from 150-323.155, REV 5-2004, f. 7-30-04, cert. ef. 7-31-04; REV 2-2007(Temp), f. & cert. ef. 3-21-07 thru 7-30-07; REV 5-2007, f. 7-30-07, cert. ef. 7-31-07

150-323.160(2)

Manner of Affixing Stamps

(1) The department will sell the following cigarette tax stamp types and denominations:

(a) A heat-applied decal tax stamp with the denominated value of 20 units per pack.

(b) A heat-applied decal tax stamp with the denominated value of 25 units per pack.

(c) A self-adhesive decal tax stamp with the denominated value of 1 unit per pack.

(2) Stamps must be affixed to each individual package of cigarettes, as distinguished from cartons or large containers, in an aggregate denomination not less than the amount of tax upon the contents therein.

Example 1: A licensed cigarette distributor receives a shipment of cigarettes from a manufacturer in packages containing 16 cigarettes each. The distributor intends to distribute those cigarettes within the state of Oregon. The distributor must affix to each package of cigarettes an Oregon tax stamp in the denomination value of at least 20 units per pack.

Example 2: A licensed cigarette distributor receives a shipment of cigarettes from a manufacturer in packages containing 3 cigarettes each. The distributor intends to distribute those cigarettes within the state of Oregon. The distributor must affix to each package of cigarettes either three Oregon tax stamps in the denomination value of 1 unit or one Oregon tax stamp of a higher denomination sufficient to pay the tax required to be paid. The stamps must not overlap and must not cover any other required markings on the cigarette package.

(3) Stamps must be affixed to the bottoms of such packages in a manner that is clearly visible to subsequent purchasers. No other stamp, label, decal, mark or sign shall be affixed to or displayed on the bottom of a package of cigarettes without prior written approval from the department. If packaging is different from the typical 20 or 25 cigarette packages, written department approval specifying where the stamp(s) will be affixed is required before stamps can be affixed to the packaging. Such approval will be given only to licensed cigarette agents who agree to purchase such indicia from the department.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 323.160
Hist.: REV 11-1999, f. 12-30-99, cert. ef. 12-31-99; Renumbered from 150-323.160, REV 7-2004, f. & cert. ef. 8-11-04; REV 5-2007, f. 7-30-07, cert. ef. 7-31-07

Rule Caption: Penalty and interest waivers; appealing denial of a waiver.

Adm. Order No.: REV 6-2007

Filed with Sec. of State: 7-30-2007

Certified to be Effective: 7-31-07

Notice Publication Date: 6-1-07

Rules Adopted: 150-305.145(4), 150-314.402(6), 150-316.992

Rules Amended: 150-305.145, 150-305.265(1)-(B), 150-305.265(15), 150-305.217, 150-314.724(3)

Rules Repealed: 150-305.145(4)(a), 150-305.145(4)(b), 150-305.145(4)(c)

Subject: 150-305.145, 150-305.265(1)-(B) — Clarify the time period for filing an appeal from penalty or interest charges. 150-305.265(15) — To provide that the five percent penalty applies to tax that is assessed in order to allow the taxpayer to appeal directly to the Tax Court.

150-305.145(4) — Provides for waiver of payroll taxes, adds a compliance requirement before waiver would be granted, and

changes the current policy for granted waivers to an updated one that applies to all programs other than payroll.

150-305.145(4)(a), 150-305.145(4)(b), 150-305.145(4)(c) — Rules are repealed due to adoption of waiver provisions in 150-305.145(4).

150-305.217, 150-314.402(6), 150-314.724(3), 150-316.992 — Clarify penalty waiver provisions.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-305.145

How to Appeal When the Department Denies a Request for Waiver of Penalty or Interest

(1) Waivers in General. ORS 305.145 allows the department to reduce or cancel any part or all of the interest or penalties imposed by Oregon law in certain cases. If the taxpayer has requested that interest or penalty be waived and the department denies that request, the taxpayer may appeal the denial by requesting a conference with the department.

(2) Appealing a denial when the department exercised its discretionary authority. If the taxpayer agreed that the interest or penalties were lawfully imposed, but the department denied the taxpayer's request for a discretionary waiver of interest or penalties under ORS 305.145(3) or (4), the taxpayer may request a conference within 30 days of the date of the department's notice of denial. The request for conference must be filed with the department as described in OAR 150-305.265(5). If the conference results in a denial of the waiver request, that decision is final and may not be appealed to the Oregon Tax Court.

(3) Appeals based on the accuracy of penalty or interest charges. If a taxpayer believes the interest or penalties were incorrectly imposed or calculated, the taxpayer may request a conference with the department within 30 days of the date of the department's first notice assessing interest or penalty. The conference request must be filed as described in OAR 150-305.265(5). If the conference results in a denial, the taxpayer may appeal the decision to the Oregon Tax Court as provided by ORS 305.275.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 305.145
Hist.: RD 13-1987, f. 12-18-87, cert. ef. 12-31-87; REV 3-2005, f. 12-30-05, cert. ef. 1-1-06; REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

150-305.145(4)

Discretionary Penalty Waivers

(1) Taxpayers who believe a penalty was imposed improperly may contest the penalty as provided in OAR 150-305.145.

(2) For rules governing the waiver of penalty imposed under ORS 314.402, 316.177 or 316.992 see OAR 150-314.402; ORS 316.177(4); OAR 150-316.177(2), or 150-316.992.

(3)(a) The following penalties are eligible for waiver under this rule:

(A) The five percent penalty under ORS 314.400(1) or 321.560(2) for failure to file a report or return by the due date (five percent failure-to-file penalty);

(B) The five percent penalty under ORS 314.400(1) or 321.560(2) for failure to pay a tax by the due date (five percent failure-to-pay penalty);

(C) The additional 20 percent penalty under ORS 314.400(2)(a)(A) or 321.560(3) for failure to file a report or return within three months after the due date (25 percent failure-to-file penalty);

(D) The additional 25 percent penalty under ORS 314.400(2)(a)(B) for failure to file a report or return more than three months after the due date and the taxpayer receives a Notice of Determination and Assessment (50 percent failure-to-file penalty); and

(E) The 100 percent penalty under ORS 305.992 for failure to file three consecutive reports or returns by the due date of the third year (100 percent failure-to-file penalty).

(b) The following penalties are not eligible for waiver under this rule:

(A) The 100 percent penalty imposed under ORS 305.265(13), 314.400(3), or 321.560(4);

(B) Civil or criminal penalties imposed under ORS Chapter 323 (cigarette and other tobacco products); or

(C) Any penalty if the taxpayer was involved in an "abusive tax shelter" as defined in ORS 314.402(4) for the year at issue or any penalty imposed under 2007 Oregon Laws, Chapter 568 (Enrolled Senate Bill 39).

(4) Taxpayers, or a taxpayer's representative authorized under ORS 305.230, may request that a failure-to-file or failure-to-pay penalty listed in subsection (3)(a) of this rule be waived. A waiver request is timely filed if the department receives it any time before the tax, penalty, and interest are paid in full, or up to one year after the tax, penalty, and interest are paid in full. The department's decision will be based upon the facts and circumstances in each case. To qualify for waiver, the taxpayer must:

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(a) Make a written request that explains the reason for the taxpayer's failure to file a return or failure to pay the tax as required by law;

(b) Pay the balance of the account (other than an amount equal to the penalty amount that may be waived under this rule) for the tax period for which waiver is requested; and

(c) Meet all filing requirements for the tax program that assessed the penalty. Filing requirements for the tax program that assessed the penalty may be found in forms, instructions, or other forms of media provided by the department.

(5) Penalty Waivers Due to Circumstance beyond Taxpayer Control. The department will waive all of any penalty listed in subsection (3)(a) of this rule for any tax program if there are circumstances beyond the taxpayer's control that caused the failure to file or pay. The circumstance must have existed at the time the return or payment was due. The return must be filed and the tax must be paid within a reasonable period of time depending on the facts and circumstances of each case.

(a) Circumstances that are accepted by the department as "circumstances beyond the taxpayer's control" include, but are not limited to:

(A) Death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

(B) Destruction by fire, a natural disaster, or other casualty of the taxpayer's home, place of business, or records needed to prepare the returns.

(C) Unavoidable and unforeseen absence of the taxpayer from the state that began before the due date of the return;

(D) A department employee provided erroneous written information to the taxpayer that caused the taxpayer to incur the penalty if:

(i) The taxpayer's reliance on the erroneous written information caused the failure of the taxpayer to pay or file timely;

(ii) The taxpayer supplied the department with complete information connected with the erroneous written information given; and

(iii) The taxpayer could not reasonably be expected to be knowledgeable in the tax matter connected with the erroneous written information; or

(E) The taxpayer's reliance on incorrect advice from a professional the taxpayer could reasonably assume was knowledgeable and experienced in the tax involved if:

(i) The taxpayer's reliance on the advice caused the failure of the taxpayer to pay or file timely;

(ii) The taxpayer supplied the professional with complete information connected with the advice given; and

(iii) The taxpayer could not reasonably be expected to be knowledgeable in the tax matter connected with the erroneous advice.

(b) Circumstances that are not accepted by the department as "circumstances beyond the taxpayer's control" include, but are not limited to:

(A) Reliance on a professional to merely prepare a return on time;

(B) Reliance on an employee of the taxpayer to prepare a return on time;

(C) Inability of the taxpayer to pay the tax unless there is also a cause listed in subsection (5)(a) of this rule.

(6) One-time penalty waiver.

(a) When a taxpayer does not qualify for relief under section (5) of this rule, the department will consider for waiver all of the penalty imposed under ORS 314.400(1) (five percent failure to file or pay penalty), 314.400(2)(a)(A) (25 percent failure-to-file penalty), or 321.560 (five percent failure to file or pay penalty or the 25 percent failure-to-file penalty) for one tax period if the taxpayer has not already received relief under this section for any tax period in the tax program that assessed the penalty, or in a "closely-related" tax program defined in subsection (6)(b) of this rule; and

(A) The taxpayer did not know that the taxpayer was subject to the tax program in which the penalty was imposed; or

(B) Has a history of filing and paying on time.

(b) "Closely-related" tax programs are:

(A) Transit payroll and withholding tax programs authorized under ORS 316.162 to 316.221;

(B) Forest Products Harvest Tax and Small Tract Forestland Severance Tax programs authorized under ORS Chapter 321; or

(C) Cigarette tax and Other Tobacco Products tax programs authorized under ORS Chapter 323.

(7) Payroll Tax Penalty Waivers. Taxes due under ORS 316.162 to 316.221 are collected at the source of payment and are held in trust for eventual payment to the State of Oregon. Because failure to remit trust funds or timely file reports related to trust funds is considered a breach of fiduciary duty, the standards for waiver of penalties imposed for such failures are higher than standards for waiver of penalties for other tax programs. For penalties imposed on withholding or transit payroll taxes due

under ORS 316.162 to 316.221 and that do not qualify for waiver under subsections (5) or (6) of this rule, the department will provide waiver of penalties as follows:

(a) The department will waive the entire penalty imposed under ORS 314.400(1) (five percent failure to file or pay penalty) or 314.400(2)(a)(A) (25 percent failure to file penalty) for the most recent quarter due if the taxpayer has not received a penalty in the eight quarters preceding the most recent quarter.

(b) The department will waive half of the penalties imposed under ORS 314.400(1), 314.400(2)(a)(A), and 314.400(2)(a)(B) (50 percent failure-to-file penalty) if a taxpayer files the tax return and pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of the date shown on the Notice of Determination and Tax Assessment.

(c) The department will waive part of the 100 percent failure-to-file penalty imposed under ORS 305.992 as follows:

(A) The department will waive 70 percent of the 100 percent failure-to-file penalty if the taxpayer

(i) Files a withholding or transit district return before receiving a Request to File Notice, Notice and Demand to File, Combined Failure-to-File Notice, or any combination of these notices from the department that relates to the return the taxpayer filed; and

(ii) Pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of filing the return.

(B) The department will waive 50 percent of the 100 percent failure-to-file penalty if a taxpayer:

(i) Files a withholding or transit payroll return after receiving a notice listed in section (7)(c)(A)(i) of this rule; and

(ii) Pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of the date on the most recent notice.

(C) The department will waive 25 percent of the 100 percent failure-to-file penalty if the taxpayer, after receiving a Notice of Determination and Assessment, files the tax return and pays the tax, penalty, and interest as provided in section (4)(b) of this rule within six months of the date of the notice.

(8) Additional Penalty Waivers. For penalties imposed on taxes other than withholding or transit payroll taxes due under ORS 316.162 to 316.221 and that do not qualify for waiver under subsections (5) or (6) of this rule, the department will provide waiver of penalties as follows:

(a) The department will waive half of the penalties imposed under ORS 314.400(1), 314.400(2)(a)(A), and 314.400(2)(a)(B) (50 percent failure-to-file penalty) if a taxpayer files the tax return within 30 days of the date shown on the Notice of Determination and Tax Assessment. The department will not waive this penalty for the tax program or "closely-related" tax program (as defined in subsection (6)(b) of this rule) that assessed the penalty if the taxpayer:

(A) Has not filed as required by the due date of the return (including extensions) for any three of the most recent six filing periods; or

(B) Has received the 100 percent failure-to-file penalty under ORS 305.992.

(b) The department will waive part of the 100 percent failure-to-file penalty imposed under ORS 305.992 as follows:

(A) The department will waive 70 percent of the 100 percent failure-to-file penalty if the taxpayer files a return before receiving a Request to File Notice, Notice and Demand to File, Combined Failure-to-File Notice, or any combination of these notices from the department that relates to the return the taxpayer filed.

(B) The department will waive 50 percent of the 100 percent failure-to-file penalty if the taxpayer files a return after receiving a notice listed in section (8)(b)(A) of this rule.

(C) The department will waive 25 percent of the 100 percent failure-to-file penalty if the taxpayer:

(i) Received a Notice of Determination and Assessment; and

(ii) Files the return (other than transit district or withholding returns) related to the Notice of Determination and Assessment.

(9) Late payments made in connection with electronic filing. The department will waive the entire five percent failure-to-pay penalty imposed under ORS 314.400(1) if the taxpayer:

(a) Files an Oregon tax return on or before the due date of the return, excluding extensions;

(b) Submits the Oregon tax return in the same transmission as a federal tax return, using a department-approved alternative to filing a paper return;

(c) Pays any federal tax shown as due on the transmitted federal return on or before the due date using an electronic form of payment such as a credit card, debit card, or electronic funds transfer (ACH Debit);

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(d) Pays any tax shown as due on the Oregon return within 30 days of the date shown on the Notice of Tax Assessment sent to the taxpayer;

(e) Proves to the department that failure to pay Oregon tax was due to a good faith, mistaken belief of the taxpayer that the state tax had been paid; and

(f) Has not received relief under this section before.

(10) The provisions of this rule apply to discretionary waiver requests received on or after July 31, 2007.

Stat. Auth.: ORS 305.100, 305.145

Stats. Implemented: ORS 305.145

Hist.: REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

150-305.265(1)-(B)

Appeals of Interest Charged on the Underpayment of Estimated Tax

(1) Appeals based on accuracy. Interest on underpayment of estimated tax imposed under the provisions of ORS 316.587 or 314.525 must be appealed as if it were a deficiency, as defined in OAR 305.265(2)-(A). A taxpayer who disagrees with either the correctness of the imposition or the calculation of interest may request a conference or file a written objection with the department. The conference request or written objection must be made in the manner prescribed under OAR 150-305.265(5). If the taxpayer does not agree with the result of the conference or the written objection, the taxpayer may appeal the decision to the Oregon Tax Court as provided by ORS 305.275.

(2) Discretionary waiver. A taxpayer who agrees that interest on underpayment of estimated tax was correctly imposed, but who believes there is good and sufficient cause for a waiver of all or part of the interest, may file a request for waiver of interest under OAR 150-305.145(3). A denial by the department of a discretionary waiver request under that provision is final and may not be appealed to the Oregon Tax Court.

(3) Effective date: The provisions of this rule apply to appeals of interest on underpayment of estimated tax filed with the department on or after January 1, 1998.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 305.265

Hist.: Rev 5-1998, f. 7-14-98, cert. ef. 7-15-98; REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

150-305.265(15)

Waiver of a Conference or Written Objection; Direct Appeal of Deficiency

(1) A taxpayer may waive a conference or written objection and request immediate assessment of a deficiency for purposes of filing a direct appeal with the Magistrate Division of the Oregon Tax Court.

(2) In general. Any request for a direct appeal from a notice of deficiency must meet general requirements. The request must:

(a) Be in writing and be filed with the department within 30 days of the date on the notice of deficiency.

(b) Contain language that requests a waiver of a conference or written objection.

(c) Contain language that requests the department to assess the deficiency.

(d) Inform the department of the taxpayer's intent to appeal to the Magistrate Division of the Oregon Tax Court.

(3) The department will assess the deficiency with any applicable penalty and interest. Payment of the deficiency is a credit to the taxpayer's account; only the balance of the account will be assessed.

(4) A request for assessment and appeal from a notice of deficiency that does not satisfy the requirements of this rule is considered a request for a conference or written objection, whichever is applicable, and the corresponding administrative remedies under ORS 305.265 apply.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 305.265

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 1-1997(Temp), f. 6-13-97, cert. ef. 7-4-97 thru 12-31-97; RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 7-1999, f. 12-1-99, cert. ef. 12-31-99; REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

150-305.217

When Deduction for Amounts Paid as Wages or Remuneration Permitted

(1) An employer will not be allowed a deduction for wages or payments to individuals for personal services rendered if:

(a) The employer does not file any information returns, such as 1099's or W-2's, as required by federal law, ORS 314.360 or 316.202; or

(b) The employer files information returns for payments made to an individual as if the individual was an independent contractor and upon examination the individual is determined to have actually been an employee.

Example 1: Brian owns a convenience store. Brian hired Elmer to help stock shelves in the evenings. Brian did not issue W-2's for Elmer. Brian's expense for payments made to Elmer for services rendered are not deductible.

Example 2: Assume the same facts in Example 1, except that Brian issued a Form 1099 to Elmer. Upon examination of Brian's return it was determined that Elmer was actually an employee, subject to withholding. Brian's expense for the payments made to Elmer for services rendered are not deductible.

(2) In the case of a failure to file as described in subsection (1)(a) of this rule, the expense will be allowed if the employer can show there was a circumstance beyond the employer's control that caused the failure to file returns as required by law. Refer to OAR 150-305.145(4) for examples of situations that are accepted by the department as a circumstance beyond the employer's control.

(3) In the case of a misclassification as described under subsection (1)(b) of this rule, the expense will be allowed if the employer can show reasonable cause as to why the appropriate returns were not filed. Reasonable cause will be considered if the employer had relied on information from:

(a) Judicial precedents;

(b) Published rulings;

(c) Technical advice memorandums or letter rulings;

(d) Past IRS audits in which there were no assessments of employment tax for amount paid to other individuals who held a similar position;

(e) A recognized practice of the industry;

(f) Advice from someone who would be considered knowledgeable in tax matters; or

(g) Written advice from an employee of the Department of Revenue.

(4) The preceding are factors that would influence the department's decision regarding the existence of reasonable cause. It is not intended to be an exclusive list.

Example 3: Martha owns a hair salon employing Sam as an independent contractor. She issues Sam a Form 1099 at the end of each year showing the amount paid to Sam that year for services rendered. The Internal Revenue Service had examined Martha's payroll in a prior year and no changes or assessments were made to Martha's return regarding her wage expense. Martha produces the audit reports that show the Internal Revenue Service accepted her characterization of Sam as an independent contractor. Therefore, Martha had reasonable cause to classify Sam as an independent contractor.

(5) For the purposes of section (3) of this rule, the evidence of reasonable cause must be clear and convincing.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 305.217

Hist.: RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

150-314.724(3)

Partnership Penalty

(1) A penalty is assessable against a partnership that transacts business in Oregon, but fails to timely file a partnership return (including extensions) or fails to show the required information as defined in ORS 314.724. Under ORS 305.229, a penalty will not be imposed unless the partnership fails to file or to supply required filing information after requested in writing by the department to do so.

(2) The penalty is \$50 per month or part of a month that the partnership return is late or incomplete up to a maximum of five months. The penalty amount is multiplied by the total number of partners in the partnership during any part of the tax year for which the return is due. Although the penalty is assessed against the partnership each partner is individually liable for the penalty to the extent that the partner is liable for partnership debts generally.

Example 1: A partnership return for 2006 is due April 17, 2007. However, the return is not filed until July 3, 2007. No penalty will be assessed even though the partnership return is filed late.

Example 2: A partnership return for 2006 is due April 17, 2007. After written requests to file by the department, the partnership still does not file a return. The partnership has one general partner and three limited partners. Penalty will be assessed for failure to file a return. The penalty computation is shown below:
\$50 - 5 months - 4 partners = \$1,000 penalty

(3) The penalty described above is in addition to any other penalty provided by law. Any partnership assessed with this penalty may appeal to the director as provided in ORS 305.275.

(4) The department may waive all or any part of the penalty if the partnership can show that there was a circumstance beyond the partnership's control that caused the failure to file a complete or timely return. See OAR 150-305.145(4).

[ED. NOTE: Computations referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.724

Hist.: RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1989, f. 12-18-89, cert. ef. 12-31-89, Renumbered from 150-316.467; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

ADMINISTRATIVE RULES

150-314.402(6)

Waiver of 20 Percent Substantial Understatement of Income Penalty Imposed under ORS 314.402

(1) The department will waive the penalty if the taxpayer shows that there was reasonable cause for the understatement and that the taxpayer acted in good faith.

(2) The department will not waive the penalty if the taxpayer was involved in an abusive transaction as defined in ORS 314.402(4) for the tax year at issue.

(3) Reasonable cause and good faith. A taxpayer's reasonable cause and good faith for a substantial understatement of income is demonstrated by the extent of the taxpayer's efforts to determine the taxpayer's correct tax liability under the law.

(a) The following circumstances demonstrate reasonable cause and good faith:

(A) The taxpayer relied on a position contained in a proposed federal regulation or state rule.

(B) The taxpayer honestly misunderstood the facts or law affecting the understatement, and the misunderstanding was reasonable in light of the taxpayer's experience, knowledge and education.

(C) The taxpayer or taxpayer's return preparer made a computational or transcriptional error in preparing the return.

(b) Generally, reliance on an information return, incorrect facts or advice of a professional does not demonstrate reasonable cause and good faith, unless under all the circumstances the taxpayer's reliance was reasonable. The following examples demonstrate reasonable cause and good faith:

Example 1: The taxpayer relied on erroneous information that was inadvertently included in the financial records of the taxpayer's business by others, if procedures existed that were designed to identify factual errors.

Example 2: The taxpayer relied on erroneous information reported on a Form 1099 provided by another person, if the taxpayer did not know or have reason to know that the information was incorrect.

(c) A taxpayer is considered to know or have reason to know that information is incorrect only if such information is inconsistent with other information reported to the taxpayer or is inconsistent with the taxpayer's knowledge of the underlying facts.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.402

Hist.: REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

150-316.992

Waiver of Frivolous Return Penalty Imposed Under ORS 316.992

The department will waive 50 percent of the \$250 penalty if the taxpayer:

(1) Submits a timely written request for waiver as required in OAR 150-305.145(4);

(2) Files a return for that same tax year that is not frivolous under ORS 316.992; and

(3) Pays the balance of the account (other than the penalty amount that may be waived under this rule) for the tax period for which waiver is requested, or has entered into and is in compliance with a department-approved plan for payment of the amounts.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.992

Hist.: REV 6-2007, f. 7-30-07, cert. ef. 7-31-07

Department of State Lands

Chapter 141

Rule Caption: Revisions to Removal-Fill Permit Application Fee Schedule.

Adm. Order No.: DSL 3-2007(Temp)

Filed with Sec. of State: 8-1-2007

Certified to be Effective: 8-1-07 thru 1-27-08

Notice Publication Date:

Rules Amended: 141-085-0064

Subject: The agency is increasing the fees it charges to process removal-fill permit applications. The agency is instituting a new fee for emergency authorizations, and the agency is adding a new provision in rule that will allow it to waive fees for a permit that will be used to perform a voluntary habitat restoration project.

Rules Coordinator: Elizabeth Bott—(503) 378-3805, ext. 239

141-085-0064

Removal-Fill Authorization Fees; Disposition of Fees

(1) Any application for an individual removal-fill authorization submitted as described in OAR 141-085-0025 of these rules must be accompanied by a base fee in accordance with the following schedule:

(a) For a removal by a private operator, or a person contracting to perform services for a private operator, \$85;

(b) For a removal by a public body: \$250;

(c) For a removal by a commercial operator: \$250;

(d) For a fill by a private operator, or a person contracting to perform services for a private operator: \$250;

(e) For a fill by a public body: \$620;

(f) For a fill by a commercial operator: \$620;

(g) For erosion-flood repair, including riprap, no fee.

(2) In addition to the base fee for removal established under OAR 141-085-0064(1)(a) of these rules each applicant shall also pay as part of the application fee the following fee based on the volume of removal material:

(a) For activities involving less than 500 cubic yards: no volume fee;

(b) For activities involving 500 to less than 5,000 cubic yards, \$125;

(c) For activities involving 5,000 to less than or equal to 50,000 cubic yards: \$250;

(d) For activities over 50,000 cubic yards: \$375.

(3) In addition to the base fee for fill established under OAR 141-085-0064(1)(a) of these rules each applicant shall also pay as part of the application fee the following fee based on the volume of fill material:

(a) For activities involving less than 500 cubic yards: no volume fee;

(b) For activities of 500 to less than 3,000 cubic yards: \$125;

(c) For activities involving 3,000 to less than or equal to 10,000 cubic yards: \$250;

(d) For activities of over 10,000 cubic yards: \$375.

(4) For each application that involves both removal and filling, the application fee assessed shall be either for removal or filling, whichever is higher, per ORS 196.815(4), according to the fee schedule described in section (1) to (3) of this rule.

(5) The department may waive the fees specified in OAR 141-085-0064(1), (2) and (3) for a permit that will be used to perform a voluntary habitat restoration project.

(6) A person who receives an emergency authorization under OAR 141-085-0066 to remove material from the beds or banks of any waters of this state or to fill any waters of this state shall, within 45 days after receiving the authorization, submit a fee to the department calculated in the manner provided under (OAR 141-085-0064).

(7) The annual fee for an individual removal-fill authorization is equivalent to the base fee according to the schedule set forth in section (1) of this rule. Fees for a multi-year period permit, in accordance with ORS 196.815(5), shall be paid annually on the anniversary date of the permit. Any authorization may be suspended during any period of delinquency of payment and shall be treated as though no authorization had been issued.

(8) There shall be no application fee for a Letter of Authorization (OAR 141-085-0010(119)).

(9) Fees received under this section shall be credited to the Common School Fund for use by the Department in administration of these rules and ORS 196.600 to 196.905, 196.990.

Stat. Auth.: ORS 196.815

Stats. Implemented: ORS 196.800 - 196.990

Hist.: DSL 6-2002, f. 11-25-02 cert. ef. 1-15-03; DSL 1-2003, f. & cert. ef. 7-10-03; DSL 1-2004, f. & cert. ef. 5-21-04; DSL 1-2006, f. 3-21-06, cert. ef. 3-27-06; DSL 3-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08

Department of Transportation,

Board of Maritime Pilots

Chapter 856

Rule Caption: Increases annual license fee.

Adm. Order No.: BMP 3-2007(Temp)

Filed with Sec. of State: 7-26-2007

Certified to be Effective: 7-26-07 thru 1-21-08

Notice Publication Date:

Rules Adopted: 856-010-0016

Subject: The proposed rule increases the annual state pilot license fee from \$1,500 to \$2,500.

Rules Coordinator: Susan Johnson—(971) 673-1530

ADMINISTRATIVE RULES

856-010-0016

License Fees

The annual license fee for pilots shall be \$2,500.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.355

Hist.: MP 1-1991(Temp), f. 6-19-91, cert. ef. 7-1-91; MP 2-1991, f. & cert. ef. 12-27-91; MP 3-1992(Temp), f. 6-26-92, cert. ef. 7-1-92; MP 4-1992, f. 11-13-92, cert. ef. 12-28-92; BMP 3-2007(Temp), f. & cert. ef. 7-26-07 thru 1-21-08

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Amendment of rules relating to vehicles or non-divisible loads subject to variance permits.

Adm. Order No.: HWD 4-2007

Filed with Sec. of State: 7-19-2007

Certified to be Effective: 7-19-07

Notice Publication Date: 6-1-07

Rules Amended: 734-082-0001, 734-082-0005, 734-082-0010, 734-082-0020, 734-082-0035, 734-082-0040, 734-082-0051

Subject: Division 82 rules govern variance permit terms, requirements and exemptions for vehicles and loads that exceed legal limits. These rule amendments clarify the scope and intent of Division 82 rules, reflect current practices, address industry changes, and enhance safety for operations requiring three pilot vehicles. The amendments: (1) Clarify that Division 82 rules govern not only variance permit operations, but also requirements and exemptions for such operations; (2) Revise the definition of "non-divisible load" to be uniform with the federal definition; (3) Revise restrictions related to tires on vehicles operating under a variance permit; (4) Allow pre-assembled railroad track sections to be considered non-divisible for the purpose of obtaining over-width authorization; (5) Add signage requirements for pilot-vehicles escorting certain oversize loads; (6) Address changes in the manufactured housing industry by allowing the transport of reusable manufactured housing chassis under the terms of a 30-day permit, rather than a single-trip permit; (7) Update permit attachment revision dates and definitions.

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

Rules Coordinator: Lauri Salisbury—(503) 986-3171

734-082-0001

Scope

OAR chapter 734, division 82 governs the operation of vehicles transporting loads that exceed legal limits and variance permits issued for vehicles or loads having weight or dimension greater than that allowed by statute.

Stat. Auth.: ORS 810.050 & 818.200

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 8-2002, f. & cert. ef. 10-14-02; HWD 4-2007, f. & cert. ef. 7-19-07

734-082-0005

Definitions

As used in OAR chapter 734, division 82:

(1) "Auxiliary axle(s)" is an axle that qualifies as a booster axle, flip axle, or lift axle.

(2) "Boom dolly" means a separate vehicle designed to carry part of the weight of a boom.

(3) "Booster axle(s)" means a separate vehicle bolted or pinned to another vehicle that redistributes weight from one or more axles to other axles and pivots from side to side at the connection point or has wheels that steer during turning.

(4) "Business day" is any day Monday through Friday, except holidays as defined in section (13) of this rule.

(5) "Chief Engineer" means the Chief Engineer of the Oregon Department of Transportation or a person designated to act for the Chief Engineer.

(6) "Daylight hours" means one-half hour before sunrise until one-half hour after sunset.

(7) "Dolly" means those devices attached to a frame, deck or load converting the frame to a trailer or semitrailer and is included in the measurement of the trailer. The dolly must bear weight when the permitted vehicle is laden.

(8) "Dromedary truck-tractor" means a motor vehicle designed to carry a load on a dromedary box, plate or deck, not exceeding 12'06" in length inclusive of load and designed to pull a semitrailer.

(9) "Equivalent Single-Axle Load" (ESAL) means the relationship between actual or requested weight and an 18,000 pound single-axle load as determined by the American Association of State Highway and Transportation Officials Road Tests reported at the Proceedings Conference of 1962.

(10) "Fire apparatus" means a vehicle or combination of vehicles designed and used exclusively for fire suppression or rescue operations. These emergency vehicles and associated loads or equipment are necessary to protect the public safety and are considered non-divisible loads.

(11) "Flip axle(s)" means an axle that is bolted or pinned to a vehicle and flips from the closed position on the trailer to a deployed position on the ground extending the length or hauling capacity of the trailer.

(12) "Gross Vehicle Weight Rating" (GVWR) means the gross vehicle weight rating as defined in ORS 801.298.

(13) "Holiday" for the purposes of these rules means New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and includes any other days on which the state officially observes the aforementioned holidays by the closure of State offices.

(14) "Jeep axle(s)" means a separate vehicle connected to a motor vehicle by kingpin to fifth wheel connection. A jeep axle(s) must bear all or part of the weight of the load of another vehicle and must be connected to that other vehicle either by kingpin to fifth wheel connection or a pintle hook.

(15) "Lift axle" means an axle that can be raised from or lowered to the surface of the ground.

(16) "MCTD" means the Motor Carrier Transportation Division of the Oregon Department of Transportation.

(17) "Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers.

(18) "Non-divisible load" means:

(a) Any load or vehicle exceeding applicable size or weight limits that, if separated into smaller loads or vehicles, would:

(A) Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;

(B) Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or

(C) Require more than eight workhours to dismantle using appropriate equipment. The applicant for a non-divisible load permit has the burden of proof as to the number of workhours required to dismantle the load; or

(b) The following loads or vehicles:

(A) Emergency response vehicles, including those loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, and being used for the purpose of spreading the material on highways that are or may become slick or icy;

(B) Casks designed for the transport of spent nuclear materials; and

(C) Military vehicles transporting marked military equipment or materiel.

(19) "Passenger vehicle" or "light vehicle" means a motor vehicle, regardless of design or intended use.

(20) "Permit Weight Table 1" is the table of legal weight found in ORS 818.010.

(21) "Permit Weight Table 2" is the Extended Weight Table used for oversize loads that cannot be reduced in size, except as specified in OAR 734-082-0051 and 734-082-0053, and having authorized divisible load weights. Permit Weight Table 2 is available from MCTD as Form 735-8111 (February 2000).

(22) "Permit Weight Table 3" is a table based on two wheelbase weight formulas. The first formula is 1,000 times (the wheelbase in feet plus 40) for groups of axles or combinations of vehicles having 18 feet or less wheelbase. The second formula is 1,200 times (the wheelbase in feet plus 40) for groups of axles, vehicles or combinations of vehicles having more than 18 feet of wheelbase. Permit Weight Table 3 is available from MCTD as Form 735-8112 (July 2006).

(23) "Permit Weight Table 4" is a table based on three wheelbase weight formulas. The first formula is 1,200 times (the wheelbase in feet plus 40) for groups of axles or combinations of vehicles having nine feet five inches or less wheelbase. The second formula is 2,200 times (the wheelbase in feet plus 20) when wheelbase is more than nine feet five inches but is not more than 30 feet. The third formula is 1,600 times (the wheelbase in feet plus 40) when wheelbase is more than 30 feet. This table limits maximum weights to no more than 21,500 pounds per axle and 43,000

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pounds per tandem axle. Permit Weight Table 4 is available from MCTD as Form 735-8113 (July 2006).

(24) "Permit Weight Table 5" is a table based on the same three formulas as Permit Weight Table 4, but describes maximum weights up to 24,000 pounds per axle and 48,000 pounds per tandem axle when the combination consists of a steering axle and four or more consecutive tandem axles. Permit Weight Table 5 is available from MCTD as Form 735-8114 (July 2006).

(25) "Primary haul" means the non-divisible load transported under OAR 734-082-0053.

(26) "Road use assessment fee" means a fee for each ESAL mile of travel as established by ORS 818.225.

(27) "Secondary haul" means the divisible load transported under OAR 734-082-0053.

(28) "Self propelled fixed load vehicle" means a vehicle with motive power designed and used primarily to support and move a permanent load in the form of equipment or appliances constructed as part of, or permanently attached to, the body of the vehicle.

(29) "Stinger steered" is as defined in ORS 801.507.

(30) "Toter" means a motor vehicle designed and used primarily for towing a mobile home.

(31) "Transport" means to tow, haul, drive, or otherwise move a vehicle or load on the State highway system.

(32) "Truck-tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as being drawn.

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

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 2-2005, f. & cert. ef. 3-18-05; HWD 5-2006, f. 10-19-06, cert. ef. 1-1-07; HWD 4-2007, f. & cert. ef. 7-19-07

734-082-0010

Tires

(1) The permitted vehicles must be equipped with tires of sufficient size so the gross weight on any wheel, axle, tandem axle, or group of axles does not exceed 600 pounds per inch of tire width, except as provided in section (2) of this rule.

(2) By permit, unladen self-propelled or towed fixed-load vehicles, equipped with low pressure flotation tires (15-inch or larger) shall be permitted 700 pounds per inch of tire width to a maximum of 36,000 pounds on any single axle or 43,000 pounds on any tandem axle.

(3) In no instance shall the weight carried on a tire exceed the manufacturer's sidewall tire rating.

(4) A motor carrier transporting a single non-divisible permitted load that exceeds the weight limits allowed by ORS 818.010 may carry spare tires with or without wheels for the transporting equipment, and if transporting a vehicle, no more than one spare tire with or without wheel of each size used by the transported vehicle. The single non-divisible permitted load shall comply with the following dimensions:

(a) The width does not exceed eight feet six inches due to items loaded side by side or overlapping;

(b) The height does not exceed 14 feet due to items stacked one on the other; and

(c) The weight does not exceed that authorized by permit.

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

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 11-1992, f. & cert. ef. 9-16-9; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 4-2007, f. & cert. ef. 7-19-07

734-082-0020

Width

Permits are required for widths more than eight feet, six inches:

(1) Unless specifically stated on the permit as authorized by ORS Chapter 818 or rule, overwidth permits will not be valid if overwidth is caused by two or more items placed side by side or overlapping, or for items that could be loaded at a legal width.

(2) Except as provided in section (3), items joined (by spot weld, tack weld, bolting, or strapping, etc.) to facilitate transport, shall be considered to be divisible loads and not eligible for overwidth permits.

(3) Loads no wider than 14' consisting of pre-assembled railroad track sections are eligible for overwidth permits.

Stat. Auth.: ORS 184.616 & 184.619

Stats. Implemented: ORS 818.210, 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; HWD 4-2007, f. & cert. ef. 7-19-07

734-082-0035

Pilot Vehicle(s)

(1) Pilot vehicles may be needed to insure the safety of the traveling public when vehicle and load movements involve excessive width, height, length or projections to the front or rear of vehicles or combinations of vehicles. The configuration of such pilot vehicle(s) shall be a passenger car, pick-up, truck, or truck-tractor of legal size and weight. A pilot vehicle may not tow another vehicle.

(2) Pilot vehicles escorting oversize loads or vehicles are required to have the following:

(a) Warning sign(s) mounted above the roofline of the vehicle. One required sign shall bear the legend "OVERSIZE LOAD." When three front pilot vehicles are required by a permit, and the load will cross the centerline of the highway, additional signs that bear the legend "REDUCE SPEED" and "MOVE RIGHT" may be required. Signs shall be at least five feet wide by ten inches high; have black letters eight inches high with one-inch brush stroke in accordance with Federal Highway Administration series B, on highway yellow background. Signs shall be displayed only during the course of the oversize movement, and shall be removed or retracted at all other times. Signs must be clean, legible, and mounted adequately to afford full view at all times, when in use, to the front or rear depending upon location of pilot vehicle or relative to the oversize unit;

(b) Warning lights are required in addition to those lights that may otherwise be required by law. The warning lights shall be displayed only during the course of the oversize movement, and at all other times the requirements found in ORS 816.350(7) shall apply. Strobe lights are allowed. These lights shall be mounted above the roof of the cab, be clearly visible from a distance of 500 feet, have a minimum of 30 flashes per minute and be either:

(A) Two flashing amber lights as widely spaced laterally as is practical; or

(B) Revolving type amber light(s); or

(C) Amber type strobe light(s) with 360 degree visibility.

(c) Two-way radio communications between the oversize vehicle and the pilot vehicle(s) must be maintained at all times;

(d) Two 18-inch-square red flags mounted on three-foot length staffs shall be carried by each pilot vehicle. The pilot vehicle operator shall use the flags to warn oncoming or overtaking traffic when the oversize unit is stopped and/or obstructing traffic; and

(e) Eight safety flares or reflectors. Safety flares may not be used when the movement involves hazardous materials.

(3) The number of pilot vehicles required for certain movements is shown on permit Attachment 82-A, which is issued with permits requiring pilot vehicles. The Chief Engineer is authorized to alter the number of pilot vehicles from those specified in permit Attachment 82-A depending upon local conditions, seasonal traffic, construction projects, or other considerations. The permit will reflect altered requirements.

(4) Permit Attachment 82-A is available from the Motor Carrier Transportation Division, Over-Dimensional Permit Unit.

(5) The highway classification groups referred to in permit Attachment 82-A are established by and maintained by the Chief Engineer.

(6) Positioning of pilot vehicles — Unless specified otherwise, the pilot vehicle(s) shall be positioned ahead of (when one is required) or to the front and rear of (when two or more are required) the oversize unit at a distance of 300 feet to 500 feet from the unit. In areas where traffic congestion is encountered, where traffic is controlled by signals, or where other conditions may require, the spacing shall be reduced as may be required to properly safeguard the traveling public.

(7) When for any cause the oversize unit is stopped and occupies or encroaches onto the highway's travel lane, the pilot vehicle(s) shall be positioned to warn and safeguard other traffic approaching from any direction from which visibility or sight distance may be limited.

(8) Duties of pilot vehicle operations:

(a) Warn approaching and/or overtaking traffic of the unit's presence on the highway to provide a maximum of protection and safety for the traveling public; and

(b) When encountering bridges, structures, tunnels, or other locations where clearances may be limited to the extent that normal two-way traffic cannot be maintained, the pilot vehicle operator shall signal by hand or radio to the towing vehicle driver when the oversize unit can proceed without conflict to approaching traffic. As the oversize unit then proceeds

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through such areas of impaired clearance, the pilot vehicle operator shall act as flagger to warn approaching traffic.

(9) Pilot vehicles are considered to be under the direct control and supervision of the operator of the vehicle to which the permit is issued.

(10) Specifically identified locations may require additional precautions. Permits may specify locations that require certified flagging to be conducted. The flagging shall be conducted in accordance with the standards in the Manual on Uniform Traffic Control Devices as adopted in OAR 734-020-0005.

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

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1991(Temp), f. & cert. ef. 8-23-91; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 4-2007, f. & cert. ef. 7-19-07

734-082-0040

Combination of Vehicles

(1) The following vehicles or combinations of vehicles may be authorized for continuous trip permits over authorized routes provided the width does not exceed 14 feet, the height does not exceed 14 feet, and the overall length does not exceed that stated below:

(a) A solo vehicle shall not exceed 40 feet and vehicle inclusive of load shall not exceed 50 feet in overall length.

(b) Truck-tractor and semitrailer combinations, which may include an auxiliary axle, shall not exceed the length limits as shown on the reverse of Group Map 1 or Route Map 7, whichever is greater, and the semitrailer shall not exceed 53 feet in length including the auxiliary axle. An auxiliary axle attached to the rear of a trailer shall be included in the measurement of the trailer unless the combination measurement exceeds 53 feet. Group Map 1, dated February 2007, and Route Map 7, dated October 2006, available from the Over-Dimensional Permit Unit, are by reference made a part of Division 82 rules.

(c) Motor truck and trailer shall not exceed 75 feet in overall length.

(d) Truck-tractor with semitrailer and trailer combinations shall not exceed the length limits shown on the reverse of Group Map 1 or Route Map 7, whichever is greater.

(e) Passenger or light vehicles towing any trailer shall not exceed 70 feet in overall length.

(f) An unladen combination of vehicles used to transport non-divisible loads may consist of the truck-tractor, one jeep axle(s), one semitrailer, one booster axle(s) and removable deck section(s). Semitrailer length shall not exceed 62 feet. Overall length shall not exceed 105 feet. Unladen movement is authorized with fewer vehicles, or with the jeep axle(s) and/or booster axle(s) loaded on the semitrailer.

(g) A combination consisting of a truck-tractor or toter towing a manufactured home, mobile home or modular building unit chassis, which may include axles and tires attached to each chassis hauled, may operate on a 30-day multiple trip permit under the following conditions:

(A) Chassis length inclusive of tongue shall not exceed 75 feet;

(B) The chassis shall not be loaded end to end but may be staggered lengthwise for transport;

(C) Overhang shall not extend more than five feet off the rear of the chassis transporting the load;

(D) Overall length of the combination shall not exceed:

(i) 105 feet on interstate and multilane highways; and

(ii) 95 feet on two-lane green and brown routes shown on Route Map 7; and

(E) The chassis transporting the load shall be equipped with brakes and lights that meet the requirements of CFR 49 Part 393.

(2) When the combination of vehicles includes jeep axles, or other vehicles of a size or weight not authorized by section (1) of this rule, movement shall be by single trip permit only.

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

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1991(Temp), f. & cert. ef. 8-23-91; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 11-1992, f. & cert. ef. 9-16-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 2-2005, f. & cert. ef. 3-18-05; HWD 4-2007, f. & cert. ef. 7-19-07

734-082-0051

Commodities Authorized by the Permit

(1) Authorized commodities may be transported on vehicles up to eight feet six inches in width and on trailers up to 53 feet in length and with weights authorized under ORS 818.010. Other items may be transported in addition to the commodity authorized by the permit provided:

(a) Items are not more than eight feet six inches in width when items are stacked side by side or overlapping, or more than 14 feet in height when

items are stacked one on the other. Loads consisting of pipe and culverts where smaller pipe or culverts are contained within the larger pipe or culvert may be authorized greater dimensions; and

(b) The authorized weight does not exceed that allowed under ORS 818.010, unless the single trip permit authorizes Permit Weight Table 2.

(2) A permit issued under these division 82 rules shall not be combined with a permit issued under another division of the department's rules unless specifically authorized on the permit.

(3) The following apply to authorized commodities and related items transported on vehicles exceeding eight feet six inches in width, or with trailers exceeding 53 feet in length, and with weights authorized under ORS 818.010:

(a) As used in ORS 818.210, the term "items related to" means:

(A) Equipment used in the operation of the vehicle transporting the permitted load; or

(B) Items authorized by a permit and listed on the bill of lading, if:

(i) They are the same manufactured commodity as the permitted item;

or

(ii) They are accessory parts of the permitted item.

(b) The use of an oversize vehicle or combination of vehicles must be warranted by the size of the permitted item;

(c) Related item(s) may be transported on the upper deck of a drop deck trailer. Item(s) transported on the upper deck shall not exceed 14 feet in height or the loaded height of the load on the lower deck, whichever is greater;

(d) Authorized commodities may not be more than eight feet six inches in width when items are stacked side by side or overlapping, or be more than 14 feet in height when items are stacked one on the other. Loads consisting of pipe and culverts where smaller pipe or culverts are contained within the larger pipe or culvert may be authorized greater dimensions;

(e) Related items may not extend past the rear of the trailer or semitrailer if the trailer exceeds 53 feet. Smaller pipe and culverts may extend beyond the rear of the trailer or semitrailer when contained within the larger permitted pipe or culvert but the smaller pipe or culvert may not extend beyond the larger pipe or culvert; and

(f) Except as provided in OAR 734-082-0053, multiple items may not be transported on an oversize vehicle or combination of vehicles without the permitted item.

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

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 17-1990, f. & cert. ef. 12-28-90; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 4-2007, f. & cert. ef. 7-19-07

Rule Caption: Outdoor advertising sign rules for Protected Areas; definitions.

Adm. Order No.: HWD 5-2007(Temp)

Filed with Sec. of State: 7-19-2007

Certified to be Effective: 7-19-07 thru 1-14-08

Notice Publication Date:

Rules Adopted: 734-059-0020, 734-059-0025, 734-059-0030, 734-059-0050

Subject: These rules define certain terms and add provisions for regulation of advertising signs in protected areas so the Department can immediately implement the changes resulting from HB 2273, including re-permitting signs and issuing new permits for signs. Whether a sign requires or is eligible for a permit is largely based on these definitions, so the rules are initially being adopted as temporary rules so the Department can operate and provide enforcement in a manner consistent with legislative intent.

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

Rules Coordinator: Lauri Salisbury—(503) 986-3171

734-059-0020

Business Defined

(1) As used in OAR chapter 734, division 059, unless the context of the rule requires otherwise, a business means a commercial or industrial enterprise operated with the intent of economic gain.

(2) The location of a business includes the main buildings as well as other physical areas necessary or customarily incident to the business, including a limited amount of open space as is arranged and designed to be used in immediate connection with such buildings and uses.

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(3) In determining whether a location is a business, the Department may consider the totality of the circumstances, including but not limited to the following:

- (a) Whether the operation is open to potential customers;
 - (b) Whether the operation has the appropriate license, permit, or meets other requirements to operate under local, state, and federal law;
 - (c) How long the operation has been in existence;
 - (d) Whether the primary use of the location is as a residence;
 - (e) Whether the location has indices of operation such as telephone and other communication service, appropriate equipment, appropriate vehicular access, parking and other facilities, regular hours of operation, etc.
- (4) Vacant lots, fields used for crops, grazing or timber are not considered the location of a business.

(5) The following are not businesses for the purposes of ORS 377.710(20):

- (a) Public or private utilities (e.g. telephone poles, cell phone towers);
 - (b) Railroad tracks;
 - (c) Outdoor advertising sign or other signs.
- Stat. Auth: ORS 184.616, 184.619, 377.710, 377.720
Stats. Implemented: ORS 377.710, 377.720
Hist.: HWD 5-2007(Temp), f. & cert. ef. 7-19-07 thru 1-14-08

734-059-0025

Activity Open to the Public

As used in OAR chapter 734, division 059, unless the context of the rule requires otherwise, an activity open to the public means a location, the main purpose of which involves the admission of or providing service to members of the public. This includes without limitation:

- (1) Places of worship;
- (2) Educational facilities;
- (3) Meeting halls;
- (4) Facilities of non-profit or charitable organizations;
- (5) Public parks;
- (6) Government offices.

Stat. Auth: ORS 184.616, 184.619, 377.710, 377.720
Stats. Implemented: ORS 377.710, 377.720
Hist.: HWD 5-2007(Temp), f. & cert. ef. 7-19-07 thru 1-14-08

734-059-0030

Compensation Defined

(1) As used in OAR chapter 734, division 059, unless the context of the rule requires otherwise, compensation means the exchange of something of value. It includes, without limitation, money, securities, real property interest, personal property interest, barter of goods or services, promise of future payment, or forbearance of debt.

- (2) Compensation does not include:
 - (a) Goodwill;

(b) The exchange of a de minimis value in relation to the benefit acquired. When an exchange of substantial value is for a purpose other than posting of a sign on the land, and a negligible amount of value is added for the sake of a sign as an accessory to that purpose, the Department may consider that a de minimis amount that does not constitute compensation for purposes of ORS 377.710(20).

(c) An exchange of value that a land owner (or other person with a right to possession of the land) provides to a sign company when:

- (A) The compensation to the sign company is only for sign structure construction or maintenance on behalf of the land owner; and
- (B) The land owner fully controls the content of the sign.

(3) In all cases the Department shall consider the totality of the circumstances, including without limitation, whether the compensation arrangement is reasonable and credible.

Stat. Auth: ORS 184.616, 184.619, 377.710, 377.720
Stats. Implemented: ORS 377.710, 377.720
Hist.: HWD 5-2007(Temp), f. & cert. ef. 7-19-07 thru 1-14-08

734-059-0050

Signs in Protected Areas

(1) As used in OAR chapter 734, division 059, unless the context of the rule requires otherwise, the following definitions apply:

(a) "Center line of the highway" means the line equidistant from the edges of the median separating the main-traveled ways of a divided highway or is the center line of the main traveled way of a nondivided highway.

(b) "Entrance Road" means any public road, including acceleration lanes by which traffic may enter the main-traveled way of an Interstate highway, irrespective of whether traffic may also leave the main-traveled way by such road.

(c) "Exit Road" means any public road, including deceleration lanes by which traffic may leave the main-traveled way of an Interstate highway, irrespective of whether traffic may also enter the main-traveled way by such road.

(d) "Interstate System" means I-5, I-84, I-82, I-105, I-205, and I-405 within Oregon's borders.

(e) "Main-traveled way" means the traveled way of an Interstate Highway on which through-traffic is carried. It does not include frontage or service roads.

(f) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(2) Signs Allowed in Protected Areas. Only the following signs may be erected or maintained in protected areas of the Interstate System:

(a) Class 1: Official signs. Official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with authorization in State or Federal law, for the purpose of carrying out an official duty or responsibility.

(b) Class 2: Signs that are not outdoor advertising signs.

(c) Class 3: Outdoor advertising signs, subject to the permit and other requirements of the Oregon Motorist Information Act and these rules.

(d) Class 4: Temporary signs, subject to the requirements of the Oregon Motorist Information Act.

(3) Prohibited Signs. The following signs are not allowed in Protected Areas:

(a) Signs that are illegal under ORS 377.720.

(b) Signs that exceed twenty feet in length, width, or height, or exceed 150 square feet in area, except for those signs that are not "outdoor advertising signs" as that term is defined in ORS 377.710.

(c) Signs that do not adhere to these rules.

(d) Signs that do not adhere to the other requirements of the Oregon Motorist Information Act (ORS 377.700-377.840 and 377.992).

(4) Measurement of Distances. Distances under these rules are measured in the following manner:

(a) Distance from the edge or a right of way shall be measured horizontally along a line normal or perpendicular to the center line of the interstate highway.

(b) All distances for location of signs and spacing requirements shall be measured along the center line of the interstate highway between two vertical planes that are normal or perpendicular to and intersect the center line of the interstate highway and that pass through the termini of the measured distance.

(5) Number of Class 3 signs and spacing requirements. The erection and maintenance of Class 3 signs within protected areas shall not be allowed in any manner that is inconsistent with the following:

(a) In advance of an intersection of the main-traveled way of a protected area and an exit road, such signs will not be permitted to exceed the following numbers: [Table not included. See ED. NOTE.]

(b) Subject to the provisions of subsection (a) of this section, not more than two such signs will be permitted within any mile distance measured from any point, and no such signs will be permitted to be less than two thousand feet apart.

(c) No class 3 sign will be permitted adjacent to an exit road or entrance road.

(d) No class 3 sign will be permitted within 1000 feet of the furthest point of the intersection between the traveled way of the entrance road and the main-traveled way of the interstate highway.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth: ORS 184.616, 184.619, 377.710, 377.720
Stats. Implemented: ORS 377.710, 377.720
Hist.: HWD 5-2007(Temp), f. & cert. ef. 7-19-07 thru 1-14-08

Department of Veterans' Affairs Chapter 274

Rule Caption: Veteran's Organizations and the Expansion and Enhancement Appropriations Program.

Adm. Order No.: DVA 1-2007(Temp)

Filed with Sec. of State: 7-25-2007

Certified to be Effective: 7-25-07 thru 1-18-08

Notice Publication Date:

Rules Adopted: 274-030-0602

Rules Amended: 274-030-0500, 274-030-0505, 274-030-0506, 274-030-0510, 274-030-0520, 274-030-0545, 274-030-0550, 274-030-0555, 274-030-0560, 274-030-0565, 274-030-0570, 274-030-0575,

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274-030-0600, 274-030-0610, 274-030-0620, 274-030-0630, 274-030-0640

Rules Suspended: 274-030-0605

Subject: The rules are adopted, amended, or suspended as determined necessary upon conclusion of review by the agency and the State Auditors in the matter of rules pertaining to Veteran's Organizations and the Expansion and Enhancement Appropriations Program.

Housekeeping corrections have also been made to ensure rule consistency and for clarification purposes.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-030-0500

Definitions for 274-030-0500 – 274-030-0575

Whenever used in these rules or any amendments thereof, or in any blank form, document, publication, or written instrument of any kind prescribed, provided, published, issued, or used by the Director of Veterans' Affairs of the State of Oregon or any of his duly authorized agents or employees in connection with the administration of the provisions of ORS 406.310 to 406.340 and 406.450 to 406.462, providing for distribution of funds to organizations and counties for rehabilitation services, the terms herein defined shall have the meanings herein set forth unless the context of the words with which a term is used shall clearly indicate a different meaning:

(1) "Advisory Committee" shall mean the Advisory Committee to the Director of the Department of Veterans' Affairs as provided for in ORS 406.210.

(2) "Benefits" shall mean funds available for distribution to war veterans' organizations and counties of the State of Oregon under ORS 406.310 to 406.330 and 406.450 to 406.462.

(3) "Capital outlay" shall be synonymous with and mean the same as "capital assets" as defined in the Oregon Accounting Manual, Number 10.50.00 PR. Copies of the Oregon Accounting Manual are available from the Department of Veterans' Affairs or the Department of Administrative Services Division website.

(4) "County" shall mean a county which carries on a program of veterans' rehabilitation work and which contracts for or employs a part-time or full-time Service Officer.

(5) "County Service Officer" shall mean a person contracted with or employed as a part-time or full-time agent or employee of the governing body of the county whose duty is to carry on a program of rehabilitation and service to veterans.

(6) "Department" means the Department of Veterans' Affairs for the State of Oregon.

(7) "Director" shall mean Director of the Department of Veterans' Affairs for the State of Oregon.

(8) "Funds Available" shall mean the funds remaining from those that have been designated by the Director, with approval of the Advisory Committee, to aid organizations and counties in connection with their respective programs of service to war veterans.

(9) "Rehabilitation and Service". For the purpose of these rules, the words "rehabilitation" and "service to veterans" shall be synonymous and shall be interpreted to mean assistance rendered by paid Service Officers accredited by the U.S. Department of Veterans Affairs.

(10) "Rehabilitation Program for Two Years Preceding". For the purpose of these rules the phrase, "However, a veterans' organization does not qualify for benefits under ORS 406.310 unless it has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding", is interpreted to mean that, for the two years immediately preceding application for benefits under ORS 406.310, a veterans' organization must have in its employ a part-time or full-time paid Service Officer who is accredited by the U.S. Department of Veterans Affairs and who, during the past two years, has been active in representing veterans before the rating boards of the Portland Regional Office of the U.S. Department of Veterans Affairs.

(11) "Service Officer" shall mean a part-time or full-time paid state or national employee of a veterans' organization who is accredited by the U.S. Department of Veterans Affairs and employed to represent veterans before rating boards of the U.S. Department of Veterans Affairs.

(12) "Supplant" means to remove from a situation and replace or supply with a substitute.

(a) For purposes of the Expansion and Enhancement Program, county funding for the fiscal year ending on June 30, 2005, will be considered the minimum level of funding a county must maintain for their Service

Officer Program in order for the county to receive state expansion and enhancement appropriations.

(b) Exceptions may be granted by the Department for one-time county funding made in fiscal year 2005, such as funds used to purchase a vehicle for transportation of veterans.

(13) A "war veterans' organization" shall mean a veterans' organization accredited by the U.S. Department of Veterans Affairs, which has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding application, by a part-time or full-time paid Service Officer.

(14) "Voluntary Service Officer" shall mean an appointee of a County Court or Board of Commissioners who acts as County Service Officer without remuneration.

Stat. Auth.: ORS 406 & 408.410

Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.450, 406.450 - 462

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0505

Original Application

Each organization desiring to apply for benefits under ORS 406.310 to 406.340 must submit an application in writing to the Director before August 15th of the year of application. The application shall set out the organization's eligibility for benefits as defined by law, together with a statement covering its rehabilitation program carried out for a period of at least two years immediately preceding. There shall be attached to said application as an exhibit a statement of its expenditures for such work for said period of time and a copy of the approved budget for its rehabilitation program for the forthcoming fiscal year.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.310 - 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0506

Late Applications

Any application filed after August 15 for participation in Department of Veterans' Affairs funds for the current fiscal year will be granted by the Director, with approval of the Advisory Committee, only if sufficient funds are available. This rule applies to original applications only.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.210, 406.215, 406.310 - 406.340

Hist.: DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0510

Subsequent Application

Each organization which has received benefits during the preceding fiscal year and which desires to apply for benefits during the forthcoming year shall submit a request to the Director in writing before August 15th and shall attach to the application a copy of its approved budget for the forthcoming year.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.310 - 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0520

Quarterly Reports and Audits

Veterans' organizations found eligible to receive benefits shall submit a quarterly report of the activities of their accredited Service Officers and a quarterly report of the expenses of their accredited Service Officers on forms prescribed by the Director before reimbursements may be authorized. The Director may audit and examine the activities and expenditures of war veterans' organizations in connection with their programs of service to war veterans before approving reimbursements.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.310 - 406.340

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0545

Application

Counties desiring to apply for benefits under ORS 406.310 shall apply in writing and shall submit budget reports and revenue and expense reports for their respective County Service Officer departments before August 15th of the year in which they wish to receive benefits.

Stat. Auth.: ORS 406

Stats. Implemented: ORS 406.030, 406.215, & 406.310

Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

ADMINISTRATIVE RULES

274-030-0550

Late Applications

Any application for benefits filed after August 15 will be granted by the Director, with approval of the Advisory Committee, only if sufficient funds are available. This rule applies to both late applications and a request for an increase in funds because of proposed additional expenditures.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.450, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0555

County Programs

The governing body of counties which have qualified for funds shall submit quarterly reports of expenses of their County Veterans' Service Officer Programs, and county Service Officers shall submit quarterly reports of their activities on forms provided by the Director before benefits shall be authorized.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.310, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0560

Quarterly Reports and Audits

(1) Quarterly benefits to counties shall be approved for payment only after the Service Officer's activity report, the county report of expenditures, and all supporting documentation have been received by the Veterans Services Division on forms prescribed by the Director.

(2) Completed reports must be received by the Department by the last working day of the month following the end of each fiscal quarter.

(3) The Director may audit and examine the activities and expenditures of counties in connection with their programs of service to war veterans before approving benefits.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0565

Fiscal Division of Funds

(1) 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.

(2) The maximum reimbursement to counties during the fiscal year shall be 75 percent of the approved budget expenditures, not to exceed \$12,500.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0570

Distribution of Funds

The Director, with the approval of the Advisory Committee, shall determine the maximum amount of benefits payable to each county. Benefits will not be allowed for capital outlay.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.330, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0575

Payments and Adjustments

(1) Benefits shall be paid quarterly at the rate of reimbursement as described in OAR 274-030-0565, Fiscal Division of Funds; however, no more than 75 percent of the approved authorized funds shall be paid during the first three quarters of any fiscal year.

(2) After the required reports for the fourth quarter of the fiscal year have been filed with the Director, the total expenditures for the year by each county shall be calculated and applied against its authorized annual benefits, whereupon adjustment shall be made to allow the county to be reimbursed to its full entitlement for the year; however, benefits shall not exceed the maximum amount set forth for that county for the year.

(3) All rates of payments and adjustments shall be made upon approval of the Advisory Committee.

Stat. Auth.: ORS 406
Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.450, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

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 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; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0602

County Responsibilities

(1) In order to receive expansion and enhancement funds, the governing body of qualified counties shall submit the following forms as prescribed by the Department:

(a) An annual application to receive funds.

(i) The application will include a copy of the county's plan to use the expansion and enhancement funds. Counties must have an approved plan in order to receive expansion and enhancement funds.

(ii) Financial reports, including revenue and expense and budget reports may also be required.

(b) Quarterly Expense Reports of the County Service Officer Program, including any required attachments.

(c) Quarterly Activity Reports of the County Service Officer Program, including any required attachments.

(2) Counties shall not use expansion and enhancement funds for capital outlay.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 406.462 & 408.410
Stats. Implemented: ORS 406.030, 406.050, 406.450 - 462 & 408.410
Hist.: DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

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; Suspended by DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

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.

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; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0620

Quarterly Reports and Audits

(1) Quarterly disbursements to counties shall be approved for payment only after the County Service Officer's activities report, the county report of expenditures, and all supporting documentation have been received by the Veterans Services Division on forms prescribed by the Department.

(2) Completed reports must be received by the Department by the last working day of the month following 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.

ADMINISTRATIVE RULES

(4) Audits may require refunds of prior disbursements if expansion or enhancement activities cannot be verified.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 406.462, 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; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0630

Withholding Funds

(1) Funds may be withheld by the Department due, but not limited, to the following conditions:

(a) Reports are not submitted in the timeline established in OAR 274-030-0620, Quarterly Reports and Audits.

(b) Reports do not contain accurate or verifiable information.

(c) Lack of evidence that previous funds were used in a manner established in OAR 274-030-0602, County Responsibilities.

(d) Lack of evidence that acceptable progress has been made in accomplishing the timelines, goals, and objectives as contained in the county's approved plan.

(e) The determination that a county is supplanting funds.

(A) The amount of supplanted monies will be withheld dollar for dollar from that county's expansion and enhancement funds.

(B) When sufficient evidence has been received by the Department showing supplanted funds have been restored to the County Veterans' Service Program, withheld funds will be released to the county, subject to budgetary limitations and if all required reports were in a current received status at the time supplanting was discovered.

(2) Withheld funds will be released at the conclusion of the quarter following the Department's receipt of:

(a) Prior quarterly reports and supporting documentation.

(b) Amended reports with accurate and verifiable information.

(c) Sufficient evidence that funds were used in the manner established in ORS 406.450 and OAR 274-030-0602(2), County Responsibilities.

(d) Sufficient evidence has been received that acceptable progress has been made in accomplishing the timelines, goals, and objectives as outlined in the county plan.

(3) In order for any withheld expansion and enhancement funds to be released, the current quarter's reports and any required attachments must be received within the timeframe outlined in OAR 274-030-0620

(4) Unless otherwise legislatively restricted, funds withheld by the Department at the conclusion of the biennium may be disbursed to all remaining qualified counties as determined by the Director, with the approval of the Advisory Committee.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 406.462, 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; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

274-030-0640

Waiver of Rules

Subject to the limitations of the law, and at its sole discretion, the Department may waive all or part of these administrative rules.

Stat. Auth.: ORS 406.030, 406.050, 406.310 - 340, 406.450 - 406.462, 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; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08

Economic and Community Development Department

Chapter 123

Rule Caption: Conform Brownfields rules to the provisions of SB 350 (2007 Legislature).

Adm. Order No.: EDD 3-2007(Temp)

Filed with Sec. of State: 8-10-2007

Certified to be Effective: 8-10-07 thru 2-5-08

Notice Publication Date:

Rules Amended: 123-135-0020, 123-135-0070

Subject: The temporary rule implements the provisions of SB 350 (2007 Legislature) that became effective July 1, 2007 and conforms existing rule to the legislation.

Rules Coordinator: Paulina Layton—(503) 986-0192

123-135-0020

Definitions

As used in this division, the following terms shall have the following meaning unless otherwise indicated:

(1) "Applicant" means any person, combination of persons, non-profit, or municipality applying for financial assistance from the Brownfields Redevelopment Fund;

(2) "Bridge Loan" means a loan that will be repaid in full at the end of a short-term, twelve (12) to twenty four (24) months, following loan closing;

(3) "Brownfield" means real property where expansion or redevelopment is complicated by actual or perceived environmental contamination as defined in ORS 285A.185(1);

(4) "Capacity Building" means evaluating, cleaning up, or otherwise preparing a site without an identified redevelopment use to meet the buildable lands needs of a municipality;

(5) "Collateral" means property subject to a security interest or security agreement as defined in ORS 79.1050;

(6) "Commission" means the Oregon Economic and Community Development Commission;

(7) "Contribution" means cash, a reduction in land sale price, a donation of real property or personal services of value; or some other like act that offsets the benefit of receiving sums from the Fund that are conveyed on a recipient or site owner who is a potentially responsible party for a release of a hazardous substance or is potentially liable for the cost of cleanup at the site according to ORS 465.255;

(8) "Department" means the Oregon Economic and Community Development Department;

(9) "Environmental Action" means activities undertaken to:

(a) Determine if a release has occurred or may occur, if the release or potential release, poses a significant threat to human health or the environment, or if additional remedial actions may be required at the site;

(b) Conduct a remedial investigation and a feasibility study;

(c) Plan for remedial action or removal action; or

(d) Conduct a remedial action or removal action at a site.

(10) "Environmental Insurance" means a specific form of casualty insurance based on industry custom standards. Policies such as, but not limited to, cleanup cost caps, secured creditor on impaired property, or pollution legal liability are examples of environmental insurance;

(11) "Environmental Justice" means community based issues, concerns, or problems resulting from the disparate effects caused by the placement and/or proximity of facilities that negatively impact minority or low-income populations;

(12) "Environmental Service Professional" means an entity that has the necessary experience, capacity, expertise, or is otherwise certified to conduct environmental actions;

(13) "Facility" means any building, structure, installation, equipment, pipe or pipeline including any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, above ground tank, underground storage tank, motor vehicle, rolling stock, aircraft, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located and where a release has occurred or where there is a threat of a release, but does not include any consumer product in consumer use or any vessel. Facility has the meaning given in ORS 465.200;

(14) "Financial Institution" means any commercial bank, mutual savings bank, savings and loan association, credit union, insurance company, investment bank, certified development corporation or National Association of Securities Dealers (NASD) securities underwriter licensed or authorized to do business in Oregon;

(15) "Fund" means the Brownfields Redevelopment Fund;

(16) "Grant" means awards from the Fund to a Recipient to reimburse or pay eligible project expenses. When there is otherwise no specific reference to Cash Grant, or Conditional Grant the reference shall include all Grant types.

(a) "Cash Grant" means awards from the Fund that are available to pay eligible project costs;

(b) "Conditional Grant" means awards from the Fund that are repaid only as conditions allow;

(17) "Hazardous Substance" has the meaning given in ORS 465.200;

(18) "Institutional Controls" has the meaning given in ORS 465.315 and OAR 340-122-0115(32);

(19) "Loan" means debt financing offered through the Fund. The Fund has two types of loans, bridge loan and term loan;

(20) "Municipality" means any city, county, municipal corporation or quasi-municipal corporation, special district, port, or federally recognized tribe;

ADMINISTRATIVE RULES

(21) "Non-Profit" means an organization certified under sections 501(c)(2) through (4) and (6) through (8) and (10) of the Internal Revenue Code;

(22) "Person" means any individual, association of individuals, company, joint venture, partnership, or corporation;

(23) "Project" and "Project Description" means the resulting combination of the site, the proposed activities to be performed, the proposed or likely redevelopment use, and any other information stated in the Fund application;

(24) "Prospective Purchaser Program" refers to ORS 465.327 and associated administrative rules;

(25) "Recipient" means the person, non-profit, or municipality receiving a disbursement of sums from the Fund;

(26) "Release" (as in release of a hazardous substance) has the meaning given in ORS 465.200;

(27) "Scope of Work" means a detailed plan to perform in part or in whole an environmental action. Scopes of work shall be drafted by an environmental service professional;

(28) "Site" means the parcel or parcels of real property on which the funded activities will be performed;

(29) "Site Characterization" means determining and delineating the boundaries of the plume(s) of contamination and/or determining the status of the contamination such as whether it is migrating or crossing from one media to another, such as from soil to water, at the site. This review provides a level of detail comparable to a "preliminary assessment" (PA) as described in OAR 340-122-0072 and may be comparable to a "Phase II Environmental Site Assessment" under ASTM Standard E 1903;

(30) "Site Investigation" means a historic use investigation of the site involving, but not limited to, the analysis of aerial photos, public and private records, personal interviews, and other documents and data sources to determine the likelihood of a release of a hazardous substance at the site or facility. This review provides a level of detail comparable to a "Phase I" review under ASTM Standards E1527 and 1528 and is often a desktop review without any sampling;

(31) "Site Sampling" means systematically obtaining and analyzing representative samples from the site of relevant media such as soil and water to determine the presence of and/or the concentration of the contamination and/or identify the specific substances or compounds comprising the contamination. Sampling is a critical component of the "preliminary assessment" (PA) conducted under OAR 340-122-0072 or the ASTM "Phase II" under E-1903;

(32) "Substantial Public Benefit" includes, but is not limited to:

(a) The generation of substantial funding or other resources facilitating remedial measures at the facility in accordance with OAR chapter 123, division 135;

(b) A commitment to perform substantial remedial measures at the facility in accordance with OAR chapter 123, division 135;

(c) Productive reuse of a vacant or abandoned industrial or commercial facility; or

(d) Development of a facility by a governmental entity or nonprofit organization to address an important public purpose. Substantial Public Benefit has the meaning given in ORS 465.327(1)(d);

(e) Other meanings listed in the Fund's Program Guidelines;

(33) "Term Loan" means a loan to be paid over a period of years, usually ten (10) to fifteen (15), with a rate of interest;

(34) "Voluntary Cleanup Program" relates to ORS 465.325 and associated administrative rules.

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

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.185 & 285A.188

Hist.: EDD 2-2001, f. & cert. ef. 2-1-01; EDD 8-2001(Temp), f. & cert. ef. 11-15-01 thru 5-14-02; EDD 10-2002(Temp), f. & cert. ef. 5-15-02 thru 11-11-02; Administrative correction 11-29-02; EDD 18-2002, f. & cert. ef. 12-10-02; EDD 3-2007(Temp), f. & cert. ef. 8-10-07 thru 2-5-08

123-135-0070

Application Approval

(1) When evaluating an application, the Department shall consider the following:

(a) The extent to which real or perceived contamination prevents the property from being fully utilized;

(b) The need for providing public assistance, after considering the difficulty of obtaining financing from other sources or of obtaining financing at reasonable rates and terms;

(c) The degree to which redevelopment of the property provides opportunity for achieving protection of human health or the environment by

reducing or eliminating the contamination of the property and for contributing to the economic health and diversity of the area;

(d) The probability of the success of the intended use or the degree to which redevelopment of the property provides a public purpose following remediation of the property;

(e) Compliance with the land use plan of the local government with jurisdiction over the property;

(f) Endorsement from the local government with jurisdiction over the property; and

(g) Other criteria described in the Fund's Program Guidelines.

(2) Applications are received on a first come, first served basis. In the event of a shortage of funds, priority will be given to projects that meet one or more of the following:

(a) The site is located in a distressed area as defined by OAR chapter 123, division 24;

(b) The site is located within a state or federal empowerment or enterprise zone or community or otherwise designated under those programs;

(c) The site is enrolled in the Department of Environmental Quality's Voluntary Cleanup Program, Prospective Purchaser Program, Independent Cleanup Pathway, Site Response Section, or any other program that demonstrates active involvement or oversight by that agency;

(d) The site is located in or is participating in any Environmental Protection Agency brownfields initiative including, but not limited to: Brownfield Assessment Grants, Supplemental Pilots, Targeted Brownfield Assessments, Cleanup Grants, or Brownfields Cleanup Revolving Loan Fund;

(e) The project will likely create above average income jobs in the manufacturing or traded sectors;

(f) The project will assist in the resolution of environmental justice concerns of the local community;

(g) The project has significant community involvement and participation;

(h) The project will result in a substantial public benefit;

(i) The project includes or is relatively certain to leverage other public or private funding; or

(j) Other criteria described in the Fund's Program Guidelines.

(3) The Department may conditionally approve funding of an application. Possible conditions include, but are not limited to:

(a) Requiring collateral or other security;

(b) Requiring a co-signer or guarantor;

(c) Enrolling in a Department of Environmental Quality oversight program or obtaining scope of work review from that agency;

(d) Obtaining an environmental insurance policy;

(e) Requiring some event to occur such as, but not limited to, a transfer of ownership of the site or approval of other funding; or

(f) Other conditions described in the Fund's Program Guidelines.

(4) If application approval is conditioned, the conditions will become part of the award contract. If appropriate, the Department may require the recipient to demonstrate or document how the conditions have or will be met before funds are disbursed in whole or in part.

(5) Complete applications will be reviewed by the Department for credit worthiness according to prudent lending practices.

(6) When making a grant to a municipality, the Department shall give priority to municipalities that provide matching funds from a loan under OAR chapter 123, division 135, from another source or from both.

(7) When making a grant to an entity that is not a municipality, the department shall require that:

(a) The recipient is not liable for the subject property under ORS 465.255, is a qualified non-profit organization, or has a valid Prospective Purchaser Agreement under ORS 465.327;

(b) The environmental action provides a substantial public benefit; and

(c) The recipient provides matching funds from a loan under OAR chapter 123, division 135, from another source or from both.

(8) The Department may request additional information from the applicant to facilitate a funding decision.

(9) The Department shall make a funding decision on a complete application in a timely manner.

(10) No more than sixty percent (60%) of the total amount of the Fund in any biennium shall be awarded to persons who are liable with respect to the site under ORS 465.200. The sixty percent (60%) limitation will be calculated at the beginning of each biennium following, if applicable, the funding allocation to the Fund by the Commission. The limitation will be sixty percent (60%) of the total, non-obligated, funds available after the Commission allocation. Only awards to recipients that caused or

ADMINISTRATIVE RULES

contributed to the contamination at a site shall be included in the sixty percent (60%) calculation.

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

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.185 & 285A.188

Hist.: EDD 2-2001, f. & cert. ef. 2-1-01; EDD 8-2001(Temp), f. & cert. ef. 11-15-01 thru 5-14-02; EDD 10-2002(Temp), f. & cert. ef. 5-15-02 thru 11-11-02; Administrative correction 11-29-02; EDD 18-2002, f. & cert. ef. 12-10-02; EDD 8-2006, f. 10-30-06, cert. ef. 10-31-06; EDD 3-2007(Temp), f. & cert. ef. 8-10-07 thru 2-5-08

***** Employment Relations Board Chapter 115

Rule Caption: Establishes rules for public employees to designate a collective bargaining representative without an election.

Adm. Order No.: ERB 2-2007(Temp)

Filed with Sec. of State: 7-20-2007

Certified to be Effective: 7-23-07 thru 1-15-08

Notice Publication Date:

Rules Adopted: 115-025-0065, 115-025-0070, 115-025-0075

Rules Amended: 115-025-0000, 115-025-0010, 115-025-0015, 115-025-0020, 115-025-0023, 115-025-0025, 115-025-0030, 115-025-0035

Subject: Establishes procedures for the Employment Relations Board to certify a labor organization as a public employee collective bargaining representative without an election in accordance with House Bill 2891 passed by the 2007 Legislative Assembly and signed into law by the Governor.

Rules Coordinator: Leann G. Wilcox—(503) 378-8610

115-025-0000

Representation Petitions

(1) Who may file:

(a) A petition for an election to certify a public employee representative may be filed by any labor organization claiming to represent 30 percent of the public employees in an alleged appropriate bargaining unit. A petition for certification also may be filed by any labor organization claiming that 30 percent of the employees in a bargaining unit assert that the designated exclusive representative is no longer the representative of the majority of the employees in the bargaining unit and that they want the petitioning labor organization to represent them;

(b) A petition for an election to certify a public employee representative may be filed by a public employer alleging that one or more labor organizations have presented to it a request to be recognized or continue to be recognized as employee representative and that the employer has a good faith doubt as to the continued majority status of the incumbent labor organization based on reasonable objective standards;

(c) A petition under ORS 243.682(2)(a) to certify a public employee representative without an election may be filed by an employee, group of employees or a labor organization claiming that a majority of employees in an appropriate unit wish to be represented by a labor organization and that no other labor organization is certified or recognized as the exclusive representative of any employee in the proposed unit;

(d) A petition for decertification may be filed by a public employee or group of public employees alleging that 30 percent of the employees in a bargaining unit assert that the designated exclusive representative is no longer the representative of the majority of the employees in the unit;

(e) A petition for redesignation of a bargaining unit represented by a recognized or certified exclusive representative may be filed by a public employer contending that the existing bargaining unit includes an employee or employees who should not be included in such bargaining unit under the criteria set forth in ORS 243.682(1)(a). The timeliness requirements of OAR 115-025-0015 shall serve as a bar to petitions under this subsection even if an election is not held. A petition for a redesignation where a contract exists must be filed not more than 180 days and not less than 150 days before the end of the contract period. If a contract is for more than three years, a petition may be filed not more than 180 days and not less than 150 days before the end of the expiration of the first three years of the contract or anytime after three years from the effective date of the contract. However, if a new contract is negotiated during the fourth year of the contract and prior to the filing of a petition for election, the new contract shall serve as a contract bar. An order redesignating a unit where a contract exists shall be effective upon expiration of the contract.

(2) Petitions shall be filed in writing with the Board on a form approved by the Board. The Board Agent shall serve a copy of the petition upon the parties disclosed therein.

Stat. Auth.: ORS 240 & 243

Stats. Implemented: ORS 243.682

Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 1-1981(Temp), f. 8-6-81, ef. 8-10-81; ERB 1-1982, f. & ef. 1-19-82; ERB 6-1985, f. 10-29-85, ef. 10-31-85; ERB 3-1998, f. & cert. ef. 1-26-98; ERB 1-2000, f. & cert. ef. 12-1-00; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0010

Contents of Petitions

(1) Certification of Public Employee Representative Filed by a Labor Organization Under ORS 243.682(1). A petition for an election to certify a public employee representative shall, when filed by a labor organization, contain the following:

(a) Name, address, telephone number of the public employer and the employer representative to contact, including his/her title, if known;

(b) A description of the bargaining unit claimed to be appropriate for the purpose of exclusive representation by the petitioner. Such description shall indicate the general classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate;

(c) Name, address, and telephone number of the recognized or certified exclusive representative, if any, and the date of prior certification or recognition and the expiration date of any applicable contract, if known to the petitioner;

(d) Names, addresses, and telephone numbers of any other interested labor organizations, if known to the petitioner;

(e) Any other relevant facts;

(f) Name and affiliation, if any, of the petitioner and its address and telephone number;

(g) The signature of the petitioner's representative, including his/her title and telephone number; and

(h) A petition shall be accompanied by a showing of interest of not less than 30 percent of the employees in the unit alleged to be appropriate. "Showing of interest" means the evidence of support a petitioner must show in a bargaining unit or proposed bargaining unit before its petition will be acted upon. The showing may be made by original authorization cards or petitions which must include a statement of a desire by affected employees to be represented by the petitioner for purposes of collective bargaining and which must be signed and dated by employees in the unit during the 90 days preceding the filing of the petition; by dues records or payroll deduction records showing the employees to be current members of a petitioning organization; or, by an existing or the most recently expired bargaining agreement applicable to the bargaining unit, to which the petitioning organization was a party.

(2) Certification of Public Employee Representative Filed by a Public Employer:

(a) A petition filed by a public employer shall state that a request for representation or continued representation has been made by one or more labor organizations and that the public employer has a good faith doubt concerning the majority representative of its employees;

(b) A petition shall include all of the information set forth in section (1) of this rule, except subsections (1)(f) and (h) of this rule.

(3) Decertification of Public Employee Representative Filed by an Employee or a Group of Employees. A petition for decertification of public employee representative shall contain the following:

(a) A statement that the labor organization certified by the Board or recognized by the public employer no longer represents a majority of the employees in the bargaining unit in which it is currently recognized or certified;

(b) The petition also shall contain the information set forth in section (1) of this rule; and

(c) The petition shall be accompanied by a showing of interest of not less than 30 percent of the employees in the unit in which an employee representative has been recognized or certified. The showing of interest shall indicate that the employees no longer desire to be represented for purposes of collective bargaining by the recognized or certified representative. (See subsection (1)(h) of this rule for definition of "showing of interest".)

(4) Clarification of Unit or Amendment of Certification Filed by the Recognized or Certified Representative or by the Public Employer. A petition shall, in addition to setting forth the information required by section (1) of this rule, except subsections (1)(b) and (h) of this rule, further contain the following:

(a) A description of the present bargaining unit and the date of the certification or recognition;

(b) Proposed clarification or amendment of the unit; and

(c) A statement by petitioner setting forth specific reasons as to why clarification or amendment is requested.

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(5) Certification of Public Employee Representative Without an Election. A petition under ORS 243.682(2) to certify a public employee representative without a representation election shall contain the following:

(a) The name, address, telephone number and affiliation, if any, of the labor organization for which certification is sought;

(b) A statement that the petitioner seeks certification without an election based on the Board's card check procedures;

(c) The name, address and telephone number of the public employer and the employer representative to contact, including his/her title, if known;

(d) A description of the bargaining unit claimed to be appropriate for the purpose of exclusive representation by the labor organization named in the petition. The bargaining unit description shall indicate the general classifications or job titles of employees to be included and those to be excluded and the approximate number of employees in the unit claimed to be appropriate;

(e) A statement that no other labor organization is currently certified or recognized as the exclusive bargaining representative of any employee in the proposed unit;

(f) Any other relevant facts;

(g) The name, mailing address, telephone number and signature of the petitioner(s) or petitioner's representative; and

(h) A petition shall be accompanied by signed authorizations, arranged alphabetically, from a majority of the employees in the proposed unit designating the labor organization named in the petition as the exclusive bargaining representative. Authorizations which do not substantially comply with OAR 115-025-0065(2) shall not be counted.

Stat. Auth.: ORS 243

Stats. Implemented: ORS 243.682

Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 6-1985, f. 10-29-85, ef. 10-31-85; ERB 1-2000, f. & cert. ef. 12-1-00; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0015

Timeliness of Petitions

(1) Election Bar. No election may be held, and no petition for certification without an election may be filed, for a bargaining unit or a subdivision of one in which a valid election has been held or a petition for certification without an election has been filed during the preceding 12-month period. In mail ballot elections, the date of the election shall be the deadline for return of ballots to the Board. In on-site elections, the date of the election shall be the last day that the polls are open. In mixed on-site and mail ballot elections, the date of the election will be the latest of the foregoing dates.

(2) Contract Bar. The existence in an appropriate bargaining unit of a written collective bargaining agreement with a term of up to three years' duration shall be a bar to any election involving employees covered by the contract for its entire term. A contract with a term of more than three years shall be a bar for only the first three years of its term. A contract renewed either by new agreement or as the result of an automatic renewal provision shall have the same effect as a new contract. However, the short term extension of an existing contract to afford the parties time to negotiate a new contract shall not operate as a bar. The Board shall rule that a contract will not be given the effect of barring an election if it finds that unusual circumstances exist under which the contract is no longer a stabilizing influence and an election should be held to restore stability to the representation of employees in the unit.

(3) Certification Bar. The certification of an exclusive bargaining representative will serve as a bar to an election for a period of one year from the date of certification unless:

(a) The certified labor organization has dissolved or has become defunct;

(b) A schism developed in the certified labor organization so that it cannot effectively represent bargaining unit members;

(c) The size of the bargaining unit has fluctuated radically within a short period of time; or

(d) Other changed circumstances warrant waiver of the certification bar.

(4) Open Period for Filing. A petition for an election where a contract exists must be filed not more than 90 days and not less than 60 days before the end of the contract period. If a contract is for more than three years, a petition for an election may be filed not more than 90 and not less than 60 days before the end of the expiration of the first three years of the contract or anytime after three years from the effective date of the contract. However, if a new contract is negotiated during the fourth year of the contract and prior to the filing of a petition for election the new contract shall serve as a contract bar.

Stat. Auth.: ORS 243

Stats. Implemented: ORS 243.682

Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 6-1985, f. 10-29-85, ef. 10-31-85; ERB 1-1988, f. & cert. ef. 4-25-88; ERB 1-2000, f. & cert. ef. 12-1-00; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0020

Validity of Showing of Interest

The authorization cards or showing of interest submitted under Division 25 of these rules shall not be furnished to any of the parties, except that the petitioner may examine cards or petition signatures that are deemed invalid. The authorization cards, showing of interest cards or petition shall be destroyed when the file is closed. The Board or its agents shall determine the adequacy of the authorization cards or showing of interest and such decision shall not be subject to collateral attack.

Stat. Auth.: ORS 243.766(7)

Stats. Implemented: ORS 243.682

Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 6-1985, f. 10-29-85, ef. 10-31-85; ERB 1-1991, f. 11-21-91, cert. ef. 12-1-91; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0023

Amendments to Petitions

(1) The board agent may require amendments to correct representation petitions filed under OAR 115-025-0000 or clarification petitions filed under OAR 115-025-0005 where the petitions are timely but are lacking in specificity or detail due to a failure to fully comply with OAR 115-025-0010(1) or (5), or because of inadvertent omissions from requested information blocks on the Board petition forms. A petition may be dismissed if petitioner fails to amend the petition within ten days of such board agent request without good cause.

(2) A petitioner may amend a petition under OAR 115-025-0000 or 115-025-0005 at any time before it is served on respondents. Once the petition is duly served, amendments may only be made with approval of the board agent.

Stat. Auth.: ORS 243.766(7)

Stats. Implemented: ORS 243.682

Hist.: ERB 1-1988, f. & cert. ef. 4-25-88; ERB 1-1991, f. 11-21-91, cert. ef. 12-1-91; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0025

Withdrawal or Dismissal of Petition

(1) Withdrawal of Petition. A petitioner may withdraw its petition with the approval of the Board or its agent. If a petition is withdrawn after the Recommended Order is issued, after a Consent Election Agreement is executed by the parties or after a representation election is requested under OAR 115-025-0070 in response to a petition seeking certification without an election, the withdrawal will be granted with prejudice and the petitioner may not submit a new petition for the bargaining unit for a period of six months from the date the withdrawal was approved.

(2) Dismissal of Petition. If the Board determines after an investigation that the petition has not been timely or properly filed, that no valid question concerning the representation of employees exists in an appropriate unit, or that the petition should not be processed for other reasons, it may request the party filing such a petition to withdraw the petition without prejudice or, in the absence of such withdrawal, it may dismiss the petition. Such action may be taken by the Board at any time prior to the closing of the case. A petitioner may, within 14 days of the date of service of the dismissal, request reconsideration of such action by the Board. This request shall contain a complete statement setting forth the facts and reasons upon which the request is based. On its own motion, the Board may or may not hear oral argument on a request for reconsideration. The Board may affirm the dismissal, or set the dismissal aside and remand the matter for hearing.

Stat. Auth.: ORS 243.766(7)

Stats. Implemented: ORS 243.682

Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 1-1991, f. 11-21-91, cert. ef. 12-1-91; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0030

Posting Notice of Petition

(1) Upon receipt of a petition under OAR 115-025-0010(1), (2), (3) or (4), a Board Agent will cause a notice of the petition to be posted in the work areas granting maximum access to employees in the existing or proposed unit. Copies of the notice shall be served on the public employer and any known exclusive representative. The notice shall set forth:

(a) The name of the petitioning organization or employer.

(b) A description of the unit involved.

(c) A statement that parties and interested persons will have 14 days from the date of the notice to file:

(A) Objections to the appropriateness of the proposed unit;

(B) Objections to the positions to be included or excluded;

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(C) Objections to the petitioner's designation of the issue(s) in cases filed under OAR 115-025-0005;

(D) Petition to intervene as provided in OAR 115-025-0035.

(d) Interested persons may notify the Board Agent of their specific objections. Such objections must also be served on the petitioner. Upon good cause shown, the Board Agent may call an interested person as a witness.

(2) Upon receipt of a petition for certification without an election under OAR 115-025-0010(5), a Board Agent will cause a notice of the petition to be posted in the work areas granting maximum access to employees in the proposed bargaining unit. Copies of the notice shall be served on the public employer. The notice shall set forth:

(a) A statement that certification without an election has been requested;

(b) The name of the labor organization which seeks certification;

(c) A description of the proposed bargaining unit;

(d) A statement that parties and interested persons have 14 days from the date of the notice to file:

(A) Objections to the appropriateness of the unit;

(B) Objections that a labor organization is currently certified or recognized as the exclusive representative of one or more employees in the proposed unit;

(C) Objections to the positions to be included or excluded; or

(D) A request for an election pursuant to ORS 243.682(3).

(e) A statement that employees have 14 days from the date of the notice to notify the Board in writing that the employee rescinds the signed authorization designating a bargaining representative. A timely rescission shall be effective if it substantially complies with OAR 115-025-0065(3).

(f) Interested persons may notify the Board Agent of their specific objections. Such objections must also be served on the petitioner. Upon good cause shown, the Board Agent may call an interested person as a witness.

Stat. Auth.: ORS 243.766(7)

Stats. Implemented: ORS 243.682 & 243.686

Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 6-1985, f. 10-29-85, ef. 10-31-85; ERB 1-1988, f. & cert. ef. 4-25-88; ERB 1-1991, f. 11-21-91, cert. ef. 12-1-91; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0035

Intervention

(1) Except in petitions for certification without an election under OAR 115-025-0010(5), a labor organization may intervene as a candidate for representative of a bargaining unit if it files a representation petition within 14 days from the date of a notice of petition and supports its petition with a showing of interest of ten percent of the employees in the unit. A labor organization may intervene for the purpose of representing a bargaining unit of employees different from that sought by the petitioner, but including some of the employees in the bargaining unit proposed by the petitioner. In such case, it must file a petition for representation within 14 days from the date of the notice of petition and be supported by a showing of interest of 30 percent of the employees in its proposed unit.

(2) A labor organization currently certified or recognized as the exclusive representative of all or a major portion of the employees in the requested bargaining unit will be included as a party in interest in any hearing on the petition and included on the ballot in any resulting election unless it files a disclaimer pursuant to OAR 115-025-0060(3).

Stat. Auth.: ORS 243

Stats. Implemented: ORS 243.682 & 243.686

Hist.: ERB 1-1980, f. & ef. 1-9-80; ERB 6-1985, f. 10-29-85, ef. 10-31-85; ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0065

Certification Without Election

(1) Upon receipt of a petition under OAR 115-025-0010(5) for certification without an election, a Board Agent shall commence an investigation and shall cause a notice of the petition to be posted as described in OAR 115-025-0030(2).

(2) Authorization Cards.

(a) An authorization card submitted in support of a petition for certification without an election must, at a minimum, contain the following:

(A) The employee's name typed or legibly printed;

(B) The employee's signature;

(C) The date of the employee's signature;

(D) A statement that the employee designates the named labor organization as the employee's exclusive representative for purposes of collective bargaining with the employee's employer; and

(E) A statement that the employee understands that the employee's signature on the card may be used to obtain certification of the named labor organization as the exclusive bargaining representative without an election.

(b) An employee authorization card must be signed and dated within the 90-day period before the petition was filed.

(c) Authorization cards shall be submitted in alphabetical order.

(d) An employee authorization card that does not comply with this subsection shall be deemed invalid.

(3) Rescission of an Authorization Card. An employee may rescind his or her authorization card by providing a written statement to the Board within 14 days of the date of the notice posted pursuant to OAR 115-025-0030(2). The written statement must contain the employee's name typed or legibly printed, the employee's signature, the date of the signature, the name of the employee's public employer and a statement that the employee rescinds the prior designation of the named labor organization as the employee's exclusive bargaining representative. An authorization card that has been timely rescinded shall be invalid.

(4) Eligible Employees. Public employees who were employed on the filing date of the petition for certification without an election are included in the proposed bargaining unit. The Board may also include other employees who have a reasonable expectation of continuing employment, including but not limited to seasonal employees or employees on layoff.

(5) List of Eligible Employees. Within 7 days after a public employer receives notice under OAR 115-025-0030(2) that a petition has been filed seeking certification without an election, it will submit to the Board an alphabetical list of employees in the proposed bargaining unit, including their names, addresses and job classifications. The Board will provide a copy of the list to the labor organization named in the petition.

(6) Challenges to the List of Eligible Employees.

(a) Challenges to the inclusion of a name on or exclusion of a name from the list of eligible employees must be filed with the Board within 7 days after the Board provides the labor organization a copy of the list under subsection (5) of this section.

(b) The Board Agent shall determine whether a majority of employees on the list supplied by the employer has signed valid authorization cards. The Board Agent shall then determine whether there is a sufficient number of challenged names to affect the result.

(A) If the number of challenges is insufficient to potentially affect the result, then the challenges shall be dismissed.

(B) If the number of challenges is sufficient to potentially affect the result, the Board Agent shall investigate and, when appropriate, issue a notice of hearing on the challenges. The hearing will be conducted as set forth in OAR 115-025-0045. The challenging party shall bear the burden of proof.

(7) Authentication. The Board shall determine whether each otherwise valid authorization card is from an eligible employee;

(8) Objections. Objections to a petition for certification without an election must be filed within 14 days of the date of the notice posted pursuant to OAR 115-025-0030(2). Hearings on such objections shall be conducted under OAR 115-025-0045.

(9) Certification. If it is determined that a majority of an appropriate unit has signed valid authorization cards designating the labor organization named in the petition as the exclusive representative, and that no other labor organization is currently certified or recognized as the exclusive representative for any employee in the proposed bargaining unit, then the Board shall certify the labor organization named in the petition as the exclusive representative without an election unless a timely petition for election is filed under OAR 115-025-0075.

Stat. Auth.: ORS 243.766(7)

Stats. Implemented: ORS 243.682

Hist.: ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

115-025-0070

Objections to Petition For Certification Without Election

Objections to a petition for certification without election, including objections to the scope of the appropriate bargaining unit, shall be expedited and resolved under the procedures of OAR 115-025-0045. If an election is requested under OAR 115-025-0075, the resolution may occur after the election. The Board may delay counting the ballots until all objections are resolved.

Stat. Auth.: ORS 243.766(7)

Stats. Implemented: ORS 243.682

Hist.: ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

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115-025-0075

Petition For Representation Election

(1) Petition for Election. After a petition for certification without an election has been filed under OAR 115-025-0010(5), an employee or group of employees in the proposed bargaining unit may petition the Board for a representation election. The petition for an election must be filed within 14 days from the date of the notice posted under OAR 115-025-0030(2), and it must be accompanied by a showing of interest from at least 30 percent of the employees in the bargaining unit designated in the petition for certification without an election.

(2) Showing of Interest. For purposes of this section, a showing of interest must contain the employee's name typed or printed legibly, the employee's signature, the date of the employee's signature, and a statement to the effect that the employee requests an election on whether the Board should certify the named labor organization as the exclusive bargaining representative for the employees of the employer. The showing of interest shall be submitted in alphabetical order.

(3) Notice and Election. If it is determined that the petition for election is accompanied by a sufficient showing of interest, the Board shall conduct an election by secret ballot. The Board Agent shall require the employer to post notice of the election under OAR 115-025-0055 at least 14 days before the election. The election may be conducted on site or by mail. In an election by mail, the date of the election shall be the date on which the ballots are to be returned to the Board. Ballots must be delivered to the Board in person by the voter or by US mail. Ballots not so delivered by the date of the election shall be void. The election shall be completed within 45 days from the date of the petition requesting an election.

(4) Procedures. All employees in the bargaining unit designated in the petition for certification without an election shall be eligible to vote. The two choices on the ballot shall be no representation or the labor organization named in the petition for certification without an election. The election shall follow the procedures in OAR 115-025-0060(4) and (7)-(12).

Stat. Auth.: ORS 243.766(7)

Stats. Implemented: ORS 243.682

Hist.: ERB 2-2007(Temp), f. 7-20-07, cert. ef. 7-23-07 thru 1-15-08

Landscaping Contractors Board Chapter 808

Rule Caption: Clarifies obtaining permits, providing social security numbers, criminal convictions, license fitness standards, amends penalties.

Adm. Order No.: LCB 3-2007

Filed with Sec. of State: 8-1-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 7-1-07

Rules Adopted: 808-003-0440, 808-003-0450

Rules Amended: 808-002-0665, 808-003-0015, 808-003-0018, 808-003-0035, 808-003-0040, 808-003-0112, 808-005-0020, 808-008-0260, 808-009-0400

Subject: 808-002-0665 — Amend the definition of monetary damages to include the cost to demolish the negligent or improper work in order to restore the property to the condition it was before the landscaping work began.

808-003-0015 — Clarifies the types of entities that are required to provide social security number to the LCB.

808-003-0018 — Deletes requirement that Verification Form must be received each year, instead it is only required if it has not been previously submitted by that specific landscaping business for that specific landscape contractor.

808-003-0035 — Clarifies the penalty and suspension of license for installing a backflow assembly when a written agreement not to install those assemblies has been signed may be against both the individual landscape contractor and/or the landscaping business.

808-003-0040 — Clarifies the landscape contractor or the landscaping business can obtain the required backflow permits.

808-003-0112 — Clarifies the types of entities that are required to provide social security number to the LCB.

808-003-0440 — Adopted to require sole proprietors or partners in a partnership to notify the LCB within 30 days if they have been convicted of a crime listed in ORS 671.610(1)(q).

808-003-0450 — Adoption of this rule ties abusive or predatory behavior crimes to a set of standards that allow the agency to prop-

erly exercise its authority in ORS 671.610(1)(q) to deny a license to applicants who pose a serious continued threat to the public.

808-005-0020 — Adds penalty for advertising for landscape contracting work that is outside the scope of the landscape business license, amends penalties for performing landscape work without a written contract and failure to include the license number in all written advertisements.

808-008-0260 — Eliminates the requirement that a recording be made on tope to allow for other types of recordings.

808-009-0400 — Eliminates the requirement that a recording be made on tope to allow for other types of recordings.

Rules Coordinator: Kim Gladwill-Rowley—(503) 378-5909, ext. 223

808-002-0665

Monetary Damages

"Monetary damages" may include, but is not limited to:

(1) The dollar amount required in excess of the contract amount to provide the claimant what was agreed to be provided under the terms of the contract minus any amount due and unpaid the licensed landscaping business; or

(2) The dollar amount paid to the licensed landscaping business less the reasonable value of any work properly performed by the licensed landscaping business, plus the cost to demolish negligent or improper work, and to restore the property to the condition it was in before work began.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 183 & 671.703

Hist.: LCB 1-2000, f. & cert. ef. 2-1-00; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCCB 3-2007, f. & cert. ef. 8-1-07

808-003-0015

Application for Landscaping Business and Landscape Contractor License

(1) Application for a landscaping business license must be on forms provided by the agency. Information provided on the form must include, but not be limited to:

(a) Name of business entity, all additional assumed business names under which the landscaping business is conducted and Corporation Division registry numbers (if applicable). The business entity name and all assumed business names listed must be the same as what appears on record with the Corporation Division, if applicable;

(b) Mailing and location address of the business entity;

(c) Name of all owners and percent of ownership of each owner;

(d) Name and license number of all licensed landscape contractors employed by the business as required under ORS 671.565 along with a signed and notarized verification of employment form provided by the agency. A business may meet the requirements of ORS 671.565, not withstanding the conditions or ORS 657.044, if the licensed landscape contractor is a sole proprietor, a member of an LLC, a general partner in a partnership, or a stockholder of a Sub Chapter S-Corp and is actively involved in the landscaping business' operations and is receiving remuneration, whether by salary or other payment, for services provided.

(e) Independent contractor certification statement;

(f) A signed statement by the owner of the business, on which the landscaping business estimates the total maximum job charges for a single landscape job during the term of the license for the purpose of determining the correct bonding amount for that specific term of the license;

(g) List of all owners and percent of ownership of each owner;

(h) Social security number of the owner of a sole proprietorship or partners in a general partnership (where the partners are human beings);

(i) Signature of owner, partner, joint venturer, corporate officer, member or trustee, signifying that the information provided in the application is true and correct.

(2) Application for a landscaping business license must be accompanied by:

(a) Required license fee;

(b) A properly executed surety bond, irrevocable letter of credit or deposit as required under ORS 671.690;

(c) A Certificate of Liability Insurance as required under ORS 671.565 for an amount not less than \$100,000 listing the Landscape Contractors Board as the certificate holder;

(d) Copies of the original and amended articles of incorporation for corporations, organizational filings for limited liability companies, and partnership agreements for partnerships; and

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(e) A completed, signed and notarized Verification form (provided by the board) for every licensed landscape contractor who is supervising work for the landscaping business as required in OAR 808-003-0018.

(3) Application for a landscape contractor license shall be on forms provided by the agency and shall be accompanied by:

- (a) Required application and examination fees;
- (b) Verification of experience and/or transcripts or copies of completion certificates from courses of study; and
- (c) If applicable, name of employing licensed landscaping business or businesses.

Stat. Auth.: ORS 183 & 671

Stats. Implemented: ORS 671.560 & 671.565

Hist.: LC 3, f. & ef. 2-7-77; LC 3-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0015; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-1999, f. & cert. ef. 11-17-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 4-2005, f. & cert. ef. 10-5-05; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCCB 3-2007, f. & cert. ef. 8-1-07

808-003-0018

Employment, Change of License Phase, Supervisory Responsibilities

(1) If a landscaping business employs only one licensed landscape contractor, that licensed landscape contractor must hold a license covering each phase of landscaping work that the business offers and must be on the payroll each hour or meet the salary test for salaried, exempt employees during the time the landscaping business is performing landscape work related to the landscape contractor's phase of license.

(2) If a landscaping business employs more than one licensed landscape contractor the combined licenses must cover each phase of landscape contracting that the business offers and the landscape contractors must be on the payroll each hour or meet the salary test for salaried, exempt employees during the time the landscaping business is performing landscape work related to each landscape contractor's phase of license.

(3) The licensed landscape contractor who holds part or wholly the phase basis of the landscaping business license must perform the following supervisory services:

(a) Review and initial the landscape plan and written contract for each job;

(b) Attend all on-site meetings and appear at any hearings that are a consequence of any claims filed against the landscaping business that relate to the landscape contractor's phase of license; and

(c) Directly supervise all non-licensed employees employed by the landscaping business as defined in OAR 808-002-0328.

(4) A landscaping business must require a licensed landscape contractor to supervise the landscaping operation of the business and directly supervise the unlicensed employees of the landscaping business who are performing work related to the landscape contractor's phase of license.

(5) Upon application for and before the renewal of a landscaping business license, and at any other time the board requests, a landscaping business must submit:

(a) A completed, signed and notarized Verification form (provided by the board) for every licensed landscape contractor for whom the landscaping business has not previously submitted this Verification form and who is supervising work for the landscaping business;

(b) A copy of the landscape contractor's current pay stub issued by the landscaping business if the landscape contractor is a paid employee with the social security number and dollar amounts redacted or blackened out and

(c) A Verification form when a new individual landscape contractor becomes part or the whole basis of the landscaping business license.

(6) The Verification form verifies that the licensed landscape contractor:

(a) Is a paid employee of the landscaping business and is on the payroll each hour or meets the salary test for salaried, exempt employees or is an owner of the business as defined in OAR 808-002-0734 during the time the business is performing landscape work related to the landscape contractor's phase of license;

(b) Will directly supervise work based on the landscape contractor's phase of license;

(c) Will attend on site meetings and appear at any hearings that are a consequence of any claims filed against the landscaping business that relate to the landscape contractor's phase of license; and

(d) Understands the requirement to notify the board within ten calendar days after termination of employment from the landscaping business.

Stat. Auth.: ORS 183.310-183.500, 670.310 & 671.670

Stats. Implemented: ORS 671.565

Hist.: LCB 2-1998, f. & cert. ef. 4-30-98; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 2-2006, f. 8-2-06, cert. ef. 10-2-06; LCCB 3-2007, f. & cert. ef. 8-1-07

808-003-0035

License Categories

(1) Licenses may be issued only for the following:

- (a) All Phase;
- (b) Standard; or
- (c) Irrigation and Backflow Prevention.

(2) Except as set forth in section (3) of this rule, the following previously-issued limited licenses shall remain valid so long as the licensee continues to renew the license:

- (a) General;
- (b) Irrigation;
- (c) Irrigation and Backflow Prevention;
- (d) Sod & Seed; and
- (e) Trees.

(3) The "All Phase" license shall include standard, irrigation, and Backflow Prevention, unless, in lieu of Backflow Prevention, the landscape contractor has signed an agreement with the Board prior to April 30, 1996 stating that the contractor will not perform Backflow Prevention work, with the penalty for violation of the agreement being \$1,000 and suspension of the landscaping business license and the landscape contractor license who is the phase basis of the landscaping business.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.560

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0020; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1993, f. & cert. ef. 2-1-93; LSCB 1-1994, f. 5-26-94, cert. ef. 6-1-94; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCCB 3-2007, f. & cert. ef. 8-1-07

808-003-0040

Limitation of Service by License

(1) A licensed landscaping business shall perform only those phases of landscape contracting for which its employed landscape contractors are licensed.

(2) The landscape contracting service or services a licensed landscaping business offers shall be limited to the following:

(a) An all phase license holder is entitled to perform all areas of landscape contracting, including the installation of backflow prevention assemblies unless, in lieu of Backflow Prevention, the landscape contractor has signed an agreement with the Board prior to April 30, 1996 stating that the contractor will not perform Backflow Prevention work;

(b) A general limited license holder may perform all landscape contracting functions except irrigation and the installation of backflow assemblies;

(c) An irrigation; no backflow limited license holder may only perform irrigation functions;

(d) A sod and seed limited license holder may only perform grass seed planting or sod laying;

(e) A tree limited license holder may only install new or transplant trees;

(f) A standard limited license holder may perform all areas of landscape contracting except irrigation and the installation of backflow assemblies;

(g) An irrigation plus backflow license holder may perform only irrigation and the installation of backflow assemblies.

(3)(a) Tapping into the potable water supply and installation of irrigation or ornamental water feature backflow assemblies shall be done by plumbers licensed by the State Plumbers Board or by licensed landscape contractors who have been qualified by examination to install backflow assemblies and who are either employees or owners of landscaping businesses. If the backflow assembly is installed by a landscape contractor, the landscape contractor or landscaping business shall obtain all required permits and shall install the backflow assemblies in conformance with the permits;

(b) If a landscape contractor or a landscaping business fails to obtain permits to tap into the potable water system and install irrigation or ornamental water feature backflow assemblies or fails to comply with applicable code requirements, in addition to any other remedy, the Board may suspend, condition or revoke the landscape contractor and the landscaping business license.

Stat. Auth.: ORS 183.325 - 183.500, 670.310 & 671.670

Stats. Implemented: ORS 447.060 & 671.560

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0021; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 2-1993, f. & cert. ef. 2-1-93; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 1-2003,

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f. 1-31-03, cert. ef. 2-1-03; LCB 7-2003(Temp), f. 11-28-03, cert. ef. 12-1-03 thru 5-29-04; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCCB 3-2007, f. & cert. ef. 8-1-07

808-003-0112

Social Security Number

(1) The Landscape Contractors Board will not issue or renew a landscape contractors license or business license issued to an individual, a sole proprietorship or a general partnership unless an applicant provides his or her social security number on the application or renewal form. The applicant need not provide the social security number on the application or renewal form, if the applicant's social security number has previously been provided to the Landscape Contractors Board and is in the record.

(2) If an individual, the owner of a sole proprietorship or partners in a general partnership (where the partners are human beings) has not been issued a social security number by the United States Social Security Administration, the Landscape Contractors Board will accept a written statement from the individual, owner or partners to fulfill the requirements of section (1). The individual, owner or partners must submit the written statement on a form provided by the agency. This form must:

(a) Be signed by the individual, owner or partner (where the partner is a human being);

(b) Attest to the fact that no social security number has been issued to the individual, owner or partner by the United States Social Security Administration; and

(c) Acknowledge that knowingly supplying false information under this section is a Class A misdemeanor, punishable by imprisonment of up to one year and a fine of up to \$6,250.

Stat. Auth.: ORS 671.630

Stats. Implemented: ORS 25.278

Hist.: LCB 2-2004, f. 1-27-04, cert. 2-1-04; LCCB 3-2007, f. & cert. ef. 8-1-07

808-003-0440

Notification of Conviction of a Crime

A sole proprietor or partner in a partnership or individual landscape contractor licensed by the agency who is convicted of a crime listed in ORS 671.610(1)(q) must notify the agency in writing within 30 days from the date of the entry of the judgment of conviction.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.560, 671.565, 671.610, 671.703

Hist.: LCCB 3-2007, f. & cert. ef. 8-1-07

808-003-0450

License Fitness Standards

(1) In considering whether to sanction an applicant or licensee pursuant to ORS 671.610(1)(q), the agency shall consider whether the applicant's or licensee's criminal conduct is substantially related to the fitness and ability of the applicant or licensee to engage in landscape contracting. Fitness to engage in landscape contracting includes, but is not limited to, the ability to refrain from the violent, threatening, intimidating or sexually predatory behavior. Factors to be considered in suspending, revoking or refusing to issue or renew a license include, but are not limited to, the date of the offense and the circumstances of the crime. In addition, factors relating to rehabilitation, or lack thereof, as evidence by intervening events include, but are not limited to: failure to complete the criminal sentence, including probation or parole; failure to complete court ordered treatment; or failure to pay court ordered restitution.

(2) Upon notice and request from the agency, it will be the duty of an applicant or licensee to provide the requested information in order for the agency to conduct a criminal background check as authorized by ORS 671.610(1)(q). Requested information includes, but is not limited to police reports, record of conviction, parole or probation reports, restitution records, counseling reports, and letters of recommendation.

(3) Failure to provide requested information in (2) of this section may result in a suspension, revocation or refusal to issue or renew a license.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.560, 671.565, 671.610, 671.703

Hist.: LCCB 3-2007, f. & cert. ef. 8-1-07

808-005-0020

Schedule of Civil Penalties

The board may assess civil penalties according to the following schedule, which may be adjusted per the terms of a settlement agreement:

(1) For operating as a landscaping business in violation of ORS 671.530(3) or (4), \$1,000.

(2) For operating as a landscaping business in violation of ORS 671.530(3) or (4), when a claim has been filed for damages arising out of that work, \$2,000.

(3) For operating as a landscaping business in violation of ORS 671.530(3) or (4), when one or more previous violations have occurred, \$2,000.

(4) For advertising in violation of ORS 671.530(2) or (4), \$600.

(5) For advertising in violation of ORS 671.530(2) or (4) when one or more previous violations have occurred, \$1,000.

(6) For advertising outside the scope of the landscaping business license in violation of OAR 808-003-0040, \$500.

(7) For operating as a landscaping business without employing at least one licensed landscape contractor licensed within the phase of work performed, in violation of OAR 808-003-0040 and 808-003-0045, \$500.

(8) For performing landscaping work while not subject to a written contract, in violation of ORS 671.625(2) and OAR 808-002-0020:

(a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(9) For failure to include the license number in all written advertising, in violation of OAR 808-003-0010:

(a) \$200 for the first offense; and

(b) \$500 for subsequent offenses occurring after action taken on first offense.

(10) For performing work outside the scope of the landscaping business license in violation of OAR 808-003-0040, \$500.

(11) For installation of an irrigation backflow assembly or tapping into the potable water supply in violation of a written agreement with the Board as provided in OAR 808-003-0040, \$1,000 and suspension of the license until Backflow Prevention license is obtained.

(12) For failure to maintain the insurance required by ORS 671.565 or bond as required by ORS 671.690 in effect continuously throughout the license period, \$500.

(13) For failure to maintain the insurance required by ORS 671.565 in effect continuously throughout the license period, if the licensee, in performance of work subject to ORS 671.510 to 671.710, causes damage to another entity or to the property of another person for which that entity or person could have been compensated by an insurance company had the required insurance been in effect, \$2,000, in addition to such other action as may be authorized by statute.

(14) Failure to conform to information provided on the application in violation of ORS 671.510 to 671.710, \$1,000 and suspension of the license until the applicant provides the agency with proof of conformance with the application.

(15) Failure to comply with any part of ORS Chapters 316, 656, 657, and 671, as authorized by ORS 671.510 to 671.710, \$1,000 and suspension of the license until the applicant provides the agency with proof of compliance with the statutes.

(16) Violating an order to stop work as authorized by ORS 671.510 to 671.710, \$1,000 per day.

(17) For failure to obtain a permit to tap into a potable water supply prior to the installation of an irrigation backflow assembly or failure to comply with applicable plumbing code requirements, \$500.

(18) Failure to obtain the appropriate building code permit(s), \$500.

(19) When as set forth in ORS 671.610(5), the number of licensed landscaping businesses working together on the same task on the same job site, where one of the businesses is licensed exempt under ORS 671.525(2)(b), exceeded two sole proprietors, one partnership, one corporation, 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:

(a) \$1,000 for the first offense;

(b) \$2,000 for the second offense;

(c) Six month suspension of the license for the third offense; and

(d) Three-year revocation of license for a fourth offense.

(20) Failure of a landscaping business to notify the board of a change in the landscaping business' phase of license as required by OAR 808-003-0045(4), \$500.

(21) Failure by the landscaping business to provide a signed Verification of Employment form with the application or renewal of the business license, refuse to issue or renew the license until the agency receives the Verification of Employment form.

(22) Failure by the landscape contractor to comply with the supervisory responsibilities as required by OAR 808-003-0018;

(a) \$200 for the first offense;

(b) \$500 for the second offense occurring after action taken on first offense; and

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(c) \$1,000 and six month suspension of the license for the third offense.

(23) Failure of the landscape contractor to notify the Landscape Contractors Board of a change of address or employment in writing on line at the LCB website as required by ORS 671.603 and OAR 808-003-0045, \$200.

(24) Failure of a landscaping business to notify the board of a change in address in writing or on line at the LCB website as required by ORS 671.603, \$200

(25) Failure of a landscaping business to require the landscape contractor to directly supervise unlicensed employees of the landscaping business performing landscaping work that is related to the landscape contractors phase of license, \$500.

(26) Failure of a landscaping business to maintain the correct amount of surety bond or irrevocable letter of credit, as required by ORS 671.690(1), \$1,500 and suspension of the landscaping business license until it obtains and maintains the surety bond or irrevocable letter of credit required by law.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 671.670

Stats. Implemented: ORS 671.720

Hist.: LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 2-1991(Temp), f. 9-27-91, cert. ef. 9-29-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 2-1994, f. 11-8-94, cert. ef. 11-15-94; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 2-2005, f. & cert. ef. 4-5-05; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCCB 3-2007, f. & cert. ef. 8-1-07

808-008-0260

Recording of Arbitration

(1) Unless otherwise agreed by the parties and the arbitrator, the arbitrator must make a recording of the hearing.

(2) The agency may dispose of recordings of arbitrations when 90 days have passed after the arbitrator issues an award in the matter. However, if a party files timely exceptions to the award with the court, the agency may not dispose of the recordings of the hearing until the court makes a final determination of the matter.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 671.670

Stats. Implemented: ORS 183 & 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCCB 3-2007, f. & cert. ef. 8-1-07

808-009-0400

Exceptions to Agency Orders, Claims

(1) After a contested case claim hearing, claimant or licensee may file written exceptions if they believe that the administrative law judge has made a procedural error or that the proposed order is not supported by evidence received at the hearing.

(2) To be considered:

(a) The first exceptions must be received by the agency within 21 days of the date of mailing the proposed order.

(b) If one party files timely exceptions, exceptions by the opposing party, if that party chooses to file them, must be received by the agency within 14 days after the date the agency mails a copy of the first exceptions to the opposing party.

(3)(a) If written exceptions are not timely received, the order will become final under OAR 808-009-0160.

(b) If exceptions are timely received, the matter will be set for consideration by the Board at a regularly scheduled Board meeting for which agenda space is available.

(4) The exceptions must substantially conform to the requirements set forth in OAR 808-009-0430.

(5) Copies of exceptions filed will be mailed to the other side who may respond to the exceptions. Response and any written argument for or against the proposed order will be accepted up to 15 days prior to the Board meeting date if the original exceptions were timely received.

(6)(a) If a party filing exceptions intends to rely on oral testimony given at the hearing, the party must include in the exceptions:

(A) A notice of the intention to rely on oral testimony, and

(B) A request for a copy of the recording of the hearing with the fee required under OAR 808-001-0020.

(b) After the agency receives a party's exceptions containing a notice of an intention to rely on oral testimony under subsection (a) of this section, the agency must send a copy of the recording of the hearing to the other party to the claim at no charge unless that party also filed exceptions that included a notice of intention to rely on oral testimony.

(c) The party that filed the notice of intention to rely on oral testimony must prepare a typed transcript of the portions of the hearing testimony that the party contends support the exceptions filed. The party must deliver

the transcript to the agency 21 days after the date of mailing of the recording of the hearing by the agency to the party.

(d) The agency must mail a copy of the transcript to the other party to the claim.

(7)(a) The party opposing the exceptions may prepare a typed transcript of the portions of the hearing testimony that the party contends support opposition to the exceptions. The opposing party must deliver the transcript to the agency 21 days after the date the agency mailed the transcript under subsection (6)(d) of this rule.

(b) The agency must mail a copy of the transcript prepared under this section to the party that filed the exceptions.

(8) The Board may refuse to consider evidence of oral testimony submitted by a party if the party fails to comply with the requirements of sections (6) and (7) of this rule.

(9) Claimant and respondent may appear before the members of the Board to argue for or against the proposed order.

(10) The agency may waive or extend the time limitations in sections (5) through (7) of this rule on its own motion or on a showing of good cause by the person requesting the waiver.

Stat. Auth.: ORS 183, 670.310 & 671.670

Stats. Implemented: ORS 183.413 - 183.470

Hist.: LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 1-2000, f. & cert. ef. 2-1-00, Renumbered from 808-001-0025; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03; LCCB 3-2007, f. & cert. ef. 8-1-07

Occupational Therapy Licensing Board Chapter 339

Rule Caption: Occupational Therapy fee reduction and adjustment; and adding definition of scope of practice of occupational therapy.

Adm. Order No.: OTLB 1-2007

Filed with Sec. of State: 8-1-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Amended: 339-005-0000, 339-010-0005

Subject: The rule change reduces the fee for renewal fees for Occupational Therapists from \$100 to \$85 per year and for Assistants from \$70 to \$60 per year. There is also an adjustment to make the fee for both in state and out of state applications by endorsement the same for OTs at \$100 and for Assistants at \$70.

The Occupational Therapy Licensing Board tried changing the scope of practice of Occupational Therapy from the national American Occupational Therapy Association model language into statute in SB 135. Legislative Counsel's office advised the board to do this by rule because the change was too long for statutory definitions. The language in this rule is what was proposed with minor changes to the AOTA model language in the last two paragraphs agreed to by the Speech and Physical Therapy Associations.

Rules Coordinator: Felicia Holgate—(971) 673-0198

339-005-0000

Fees

Two year licenses shall be issued to all licensees in even-numbered years at the fee schedule listed below. On a case-by-case basis the Board may approve the issuance of a one-year license.

(1) The fee for an initial Oregon or out of state occupational therapy license by endorsement is \$100.

(2) The two-year renewal fee issued for the occupational therapy license is \$170.

(3) The fee for an initial Oregon or out of state occupational therapy assistant license is \$70.

(4) The two-year renewal fee for the occupational therapy assistant license is \$120.

(5) The fee for a limited permit is \$25 and may not be renewed.

(6) The fee for delinquent payment is \$50 and is due on renewal applications not renewed before May 1.

Stat. Auth.: ORS 675.320(7)

Stats. Implemented:

Hist.: OTLB 1-1989(Temp), f. 9-14-89, cert. ef. 10-3-89; OTLB 1-1990, f. & cert. ef. 3-20-90; OTLB 1-1995, f. 2-15-95, cert. ef. 4-1-95; OTLB 1-2004, f. & cert. ef. 6-3-04; OTLB 1-2007, f. & cert. ef. 8-1-07

ADMINISTRATIVE RULES

339-010-0005

Definitions

(1) "Supervision," is a process in which two or more people participate in a joint effort to promote, establish, maintain and/or evaluate a level of performance. The occupational therapist is responsible for the practice outcomes and documentation to accomplish the goals and objectives. Levels of supervision:

(a) "Close supervision" requires daily, direct contact in person at the work site;

(b) "Routine supervision" requires the supervisor to have direct contact in person at least every two weeks at the work site with interim supervision occurring by other methods, such as telephone or written communication;

(c) "General supervision" requires the supervisor to have at least monthly direct contact in person with the supervisee at the work site with supervision available as needed by other methods.

(2) "Leisure," as it is used in ORS 675.210(3) means occupational behavior that is developed as part of an individual occupational therapy evaluation and treatment process. This process is goal oriented toward the maximum health of the patient by the interaction of self-care, work and leisure, and is not used as an isolated recreation activity. The use in this way does not include leisure activities as used by therapeutic recreation specialists.

(3) "Licensed occupational therapy practitioner," for purposes of these rules, means an individual who holds a current occupational therapist or occupational therapy assistant license.

(4) "Occupational therapy aide," as it is used in OAR 339-010-0055, means an unlicensed worker who is assigned by the licensed occupational therapy practitioner to perform selected tasks.

(5) "Mentorship," as it is used in these rules, is a collaborative experience of direct contact between currently licensed occupational therapy practitioners for the purpose of updating professional skills. Mentorship may include, but is not limited to, mentee observation of the mentor's practice, classroom work, case review and discussion, and review and discussion of professional literature.

(6) "Occupational Therapy" further defines scope of practice as meaning the therapeutic use of everyday life activities (occupations) with individuals or groups for the purpose of participation in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for the purpose of promoting health and wellness and to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect health, well-being, and quality of life:

(a) Occupational Therapists use selected methods or strategies to direct the process of interventions such as:

(A) Establish, remediate or restore skill or ability that has not yet developed or is impaired;

(B) Compensate, modify, or adapt activity or environment to enhance performance;

(C) Maintain and enhance capabilities without which performance in everyday life activities would decline;

(D) Promote health and wellness to enable or enhance performance in everyday life activities;

(E) Prevent barriers to performance, including disability prevention.

(b) Occupational Therapists evaluate factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including:

(A) Client factors, including body functions (such as neuromuscular, sensory, visual, perceptual, cognitive) and body structures (such as cardiovascular, digestive, integumentary, genitourinary systems);

(B) Habits, routines, roles and behavior patterns; (

C) Cultural, physical, environmental, social, and spiritual contexts and activity demands that affect performance;

(D) Performance skills, including motor, process, and [communication/] interaction skills.

(c) Occupational Therapists use the following interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation, including

(A) Therapeutic use of occupations, exercise, and activities;

(B) Training in self-care, self-management, home management and community/work reintegration;

(C) Development, remediation, or compensation of physical, cognitive, neuromuscular, sensory functions and behavior skills;

(D) Therapeutic use of self, including one's personality, insights, perceptions, and judgments, as part of the therapeutic process;

(E) Education and training of individuals, including family members, caregivers, and others;

(F) Care coordination, case management, and transition services;

(G) Consultative services to groups, programs, organizations, or communications;

(H) Modification of environments (home, work, school, or community) and adaptation of processes, including the application of ergonomic principles;

(I) Assessment, design, fabrication, application, fitting, and training in assistive technology, adaptive device, and orthotic devices, and training in the use of prosthetic devices;

(J) Assessment, recommendation, and training in techniques to enhance functional mobility, including wheelchair management;

(K) Driver rehabilitation and community mobility;

(L) Management of feeding and eating to enable swallowing performance;

(M) Application of physical agent modalities, and use of a range of specific therapeutic procedures (such as wound care management; techniques to enhance sensory, perceptual, and cognitive processing, manual therapy techniques) to enhance performance skills as they relate to occupational therapy services.

Stat. Auth.: ORS 675.320(11), (13) & (14)

Stats. Implemented: ORS 675.210(4) & 675.320(13)

Hist.: OTLB 1-1979, f. & ef. 6-7-79; OTLB 1-1988, f. & cert. ef. 1-29-88; OTLB 2-1990, f. & cert. ef. 12-20-90; OTLB 1-1996, f. & cert. ef. 4-16-96; OTLB 1-1999, f. & cert. ef. 10-27-99; OTLB 2-2003, f. & cert. ef. 9-11-03; OTLB 1-2005, f. & cert. ef. 8-11-05; OTLB 1-2007, f. & cert. ef. 8-1-07

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amend 1 rule/repeal 1 rule to simplify Division 6 rules governing suspended licensee activities.

Adm. Order No.: OLCC 15-2007

Filed with Sec. of State: 7-18-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 5-1-07

Rules Amended: 845-006-0498

Rules Repealed: 845-006-0361

Subject: OAR 845-006-0361 Operating While Suspended: This rule describes the type of licensee conduct specifically prohibited by the Commission while a licensee is suspended. In order to simplify and clarify our rules regarding licensee operations while suspended, we need to repeal this rule and incorporate its rule language into OAR 845-006-0498.

OAR 845-006-0498 Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension: This rule describes the requirement that a sign be posted on the doors of businesses where the liquor license has been suspended due to violation of Oregon liquor law(s). This rule also describes activities which are allowed and prohibited on premises where the suspension sign is posted. We need to amend this rule incorporating language from OAR 845-006-0361 into section (3). Staff further proposes: combining the language in section (3)(a) and (b) since there is no distinction between retail and non-retail licensees for purposes of this rule; clarifying in section (4) that a violation of section (3) is a Category I violation while a violation of section (1) or (2)(b) is a Category IV violation; and amending the Statutes Implemented section of this rule in order to accurately and completely cite all Oregon Revised Statutes which this rule implements.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-006-0498

Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension

(1) Before 7:00 a.m. on the date a liquor license suspension goes into effect, and until the suspension is completed, Commission staff will ensure that a suspension notice sign is posted on each outside entrance or door to the licensed establishment. The suspension notice sign must be posted in a way that allows any person entering the premises to read it. Licensees must

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use the suspension notice sign provided by the Commission. The sign will state that the liquor license has been suspended by order of the Commission due to violation(s) of the alcoholic liquor laws (statute or administrative rule) of Oregon. If there are multiple liquor licenses at the location, the sign will specify which license privileges have been suspended.

(2) During the period of license suspension, the licensee is responsible for ensuring:

(a) Compliance with all applicable laws and rules, including compliance with all minor postings assigned to the premises per OAR 845-006-0340;

(b) That the suspension notice sign is not removed, altered, or covered.

(3) No licensee, and no agent, servant or employee of such licensee, shall allow the sale, delivery, service, consumption, or receipt of alcoholic beverages at the licensed premises during the period of time that the license is under suspension pursuant to ORS 471.315, 471.316, or 183.430(2):

(a) A liquor licensee may operate his/her business provided there is no sale, delivery, service, consumption or receipt of alcoholic beverages. No banquet, temporary event or other special occasion function involving the sale, service, delivery or consumption of alcoholic beverages may be held on the premises during a period of liquor license suspension;

(b) When a Winery, Grower Sales Privilege or Brewery-Public House license is suspended, any and all locations operating under the underlying license are suspended.

(4) Sanction: A violation of section (3) of this rule is a Category I violation. A violation of sections (1) or (2)(b) of this rule is a Category IV violation.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1), (2)&(5)
Stats. Implemented: ORS 471.315, 471.316, 471.322 & 471.327
Hist.: OLCC 12-2006, f. 8-21-06, cert. ef. 10-1-06; OLCC 15-2007, f. 7-18-07, cert. ef. 8-1-07

Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Modifies provisions of loan program for Deferred Compensation Program participants.

Adm. Order No.: PERS 8-2007

Filed with Sec. of State: 7-26-2007

Certified to be Effective: 7-26-07

Notice Publication Date: 5-1-07

Rules Amended: 459-050-0077

Subject: Clarifies administration of default and tax reporting requirements of Deferred Compensation loan program.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-050-0077

Loan Program

(1) Definitions. For purposes of this rule:

(a) "Cure period" is that time from when a default occurs until the end of the quarter following the quarter in which the default occurred.

(b) "Loan balance" means the outstanding principal and accrued interest due on the loan.

(c) "Participant Loan" means a loan that only affects the deferred compensation account of a participant.

(d) "Promissory note" means the agreement of loan terms between the Program and a participant.

(e) "Third Party Administrator (TPA)" means the entity providing record keeping and administrative services to the Program.

(2) Eligibility for loan. Participants who are currently employed by a Plan Sponsor that has agreed to participate in a Participant Loan program are eligible for a Participant Loan. Retired participants, participants separated from employment, designated beneficiaries, and alternate payees are not eligible.

(3) Application for loan: A participant must apply for a loan and meet the requirements set forth in this rule.

(a) Once a loan is approved, a participant must execute a promissory note in the form prescribed by the Program.

(b) If a participant is deceased prior to the disbursement of the proceeds of a loan, the participant's loan application shall be void as of the date of death.

(4) Loan Types:

(a) General purpose loan — a loan not taken for the purpose of acquiring a principal residence. General purpose loans must be repaid over a non-renewable repayment period of up to five years.

(b) Residential loan — a loan made for the purpose of acquiring a principal residence, which is, or within a reasonable time shall be, the principal residence of the participant. Residential loans must be repaid over a non-renewable repayment period of up to 15 years. A refinancing does not qualify as a residential loan. However, a loan from the Program that will be used to repay a loan from a third party will qualify as a residential loan if the loan would qualify as a residential loan without regard to the loan from the third party.

(5) Interest Rate: The rate of interest for a loan shall be fixed at one percent (1%) above the prime interest rate as published by the Wall Street Journal on the last business day of the month prior to the month in which the loan is requested.

(6) Loan Fees: A loan fee of \$50.00 shall be assessed when the loan is approved. The fee shall be deducted from a participant's deferred compensation account on a pro-rata basis from existing investments.

(7) Loan Limitations:

(a) The maximum loan amount is the lesser of:

(A) \$50,000; or

(B) One-half of the value of the participant's deferred compensation account on the date the loan is made.

(b) The minimum loan amount is \$1000.

(c) A participant may only have one outstanding loan.

(d) A participant who has received a loan may not apply for another loan until 12 months from the date the previous loan was paid in full.

(8) Source of Loan: The loan amount will be deducted from a participant's deferred compensation account.

(a) Loan amounts will be deducted pro-rata from existing investments in a participant's deferred compensation account.

(b) A participant may not transfer a loan to or from another retirement or deferred compensation plan.

(9) Repayment Terms: The loan amount will be amortized over the repayment period of the loan with interest compounded daily to calculate a level payment for the duration of the loan.

(a) Loan payments must be made by payroll deduction. To receive a loan from the Program a participant must enter into a payroll deduction agreement. For the purposes of this rule, a promissory note or other document that includes the payroll deduction amount and is signed by a participant as a requirement to obtain a loan may be a payroll deduction agreement. Except as provided in this rule, a participant may not submit a loan payment directly to the Program or the Third Party Administrator.

(b) A participant is responsible for loan repayment even if the employer fails to deduct or submit payments as directed under the payroll deduction agreement. To avoid defaulting on a loan by reason of the employer's failure to deduct or submit a payment a participant may submit a loan payment by sending a money order or certified check to the Third Party Administrator.

(c) A participant may repay the loan balance in a single payment at any time before the date the final loan payment is due.

(d) Partial payment of a scheduled payment and partial prepayment or advance payment of future payments shall not be permitted.

(e) Loan payments will be allocated in a participant's deferred compensation account in the same manner as the participant's current contribution allocation. If, for any reason, the allocation is not known, the payment will be allocated to the Short-Term Fixed Income Option.

(f) Any overpayment will be refunded to the participant.

(10) Leave of Absence. Terms of outstanding loans are not subject to revision except as provided in this section.

(a) Loan payments may be suspended up to one year during an authorized leave of absence if a participant's pay from the employer does not at least equal the payment amount.

(A) Interest on a loan continues to accrue during a leave of absence.

(B) A participant must immediately resume payments by payroll deduction upon return to work.

(C) The loan balance will be re-amortized upon the participant's return to work to be repaid within the remaining loan repayment period.

(D) Loan payments may be revised to extend the remaining loan repayment period to the maximum period allowed in the event the loan originally had a term shorter than the maximum period allowed under section (4) of this rule.

(E) If a participant is on a leave of absence that exceeds one year, the loan shall be in default unless repayment begins one year from the participant's last date worked or the date the final payment is due under the promissory note, whichever is earlier.

(b) Military Leave. Loan payments for participants on military leave may be suspended for the period of military service.

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(A) A leave of absence for military service longer than one year will not cause a loan to be in default.

(B) Loan payments by payroll deduction must resume upon the participant's return to work.

(C) The original repayment period of a loan will be extended for the period of military service or to the maximum repayment period allowed for that type of loan, whichever is greater.

(D) Interest on a loan continues to accrue during a leave of absence for military service. If the interest rate on the loan is greater than 6%, then under the provisions of the Servicemembers Civil Relief Act of 2003, the rate shall be reduced to 6% during the period of military service.

(E) The loan balance will be re-amortized upon the participant's return to work to be repaid within the remaining loan repayment period as determined under paragraph (C) of this subsection.

(c) A participant on an authorized leave of absence or military leave may submit loan payments by sending a money order or certified check to the Third Party Administrator.

(11) Tax Reporting.

(a) The loan balance of a general purpose loan will be reported as a taxable distribution to the participant on the earlier of the last day of the loan repayment period, as adjusted under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in default, the last day of the cure period.

(b) The loan balance of a residential loan will be reported as a taxable distribution to the participant on the earlier of the last day of the loan repayment period, as adjusted under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in default, the last day of the cure period.

(c) If a participant dies prior to the loan balance being repaid, and the participant's beneficiary does not repay the loan balance in a single payment within 90 days of the participant's death, the loan balance will be reported as a taxable distribution to the estate of the participant.

(d) If a participant is eligible to receive a distribution under the Program, the reporting of a loan balance as a taxable distribution under this section will cancel the loan at the time the taxable distribution is reported. A canceled loan is a distribution and is no longer outstanding in a participant's account.

(e) If a participant is not eligible to receive a distribution under the Program, a loan balance reported as a taxable distribution under this section will be a deemed distribution for tax reporting purposes. A loan deemed distributed may not be canceled until the loan balance is repaid or the participant becomes eligible to receive a distribution. The loan balance will remain outstanding in the participant's account and will continue to accrue interest until repaid or canceled.

(12) Default.

(a) A loan is in default if a payment is not paid as scheduled or under any of the provisions set forth in this rule, the promissory note, or any related loan agreement.

(b) A loan is in default if the participant separates from employment with the plan sponsor that administers the loan payment payroll deductions.

(c) If a participant with a loan in default resumes loan payments by payroll deduction before the end of the cure period, the default will be cured. The participant must pay any missed payments and accrued interest before the end of the loan repayment period.

(d) Except as provided in subsection (c) of this section, if the participant does not cure a default by repaying the loan balance before the end of the cure period, the loan balance will be reported as a taxable distribution to the participant as provided in section (11) of this rule.

(13) The effective date of this rule is May 1, 2007.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 – 243.507

Hist.: PERS 4-2007, f. 1-23-07, cert. ef. 5-1-07; PERS 8-2007, f. & cert. ef. 7-26-07

Rule Caption: Amends direct rollover rules to administer the PERS programs in compliance with federal tax law.

Adm. Order No.: PERS 9-2007

Filed with Sec. of State: 7-26-2007

Certified to be Effective: 7-26-07

Notice Publication Date: 4-1-07

Rules Amended: 459-005-0591, 459-005-0595, 459-005-0599, 459-050-0090

Subject: The federal Pension Protection Act of 2006 changed the law on beneficiaries who are eligible to roll over benefit payments. In compliance with our statute's direction to adopt rules to conform the plan to federal tax laws, these rules were developed to implement the

changes directed by the new federal law and to conform to state law changes made by the 2007 Oregon Legislative Assembly.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0591

Definitions — Direct Rollovers

As used in OAR 459-005-0590 to 459-005-0599 the following words and phrases shall have the following meanings:

(1) "Code" means the Internal Revenue Code of 1986, as amended.

(2) A "direct rollover" means the payment of an eligible rollover distribution by PERS to an eligible retirement plan specified by the distributee.

(3) A "distributee" includes a PERS member, the surviving spouse of a deceased PERS member, a non-spouse beneficiary of the member that is a designated beneficiary under Code Section 402(c)(11), and the current or former spouse of a PERS member who is the alternate payee under a domestic relations order that satisfies the requirements of ORS 238.465 and the rules adopted thereunder.

(4) An "eligible retirement plan" means any one of the following:

(a) An individual retirement account or annuity described in Code Section 408(a) or (b), but shall not include a Roth IRA as described in Code Section 408A;

(b) An annuity plan described in Code Section 403(a) that accepts the distributee's eligible rollover distribution;

(c) A qualified trust described in Code Section 401(a) that accepts the distributee's eligible rollover distribution;

(d) An eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A) and accepts the distributee's eligible rollover distribution.

(e) An annuity contract described in Code Section 403(b) that accepts the distributee's eligible rollover distribution.

(f) For the purposes of ORS 237.650(3), the individual employee account maintained for a member under the Individual Account Program as set forth under ORS 238A.350(2); and

(g) For the purposes of ORS 237.655(2), the state deferred compensation program.

(5) An "eligible rollover distribution" means any distribution of all or any portion of a distributee's PERS benefit, except that an eligible rollover distribution shall not include:

(a) Any distribution that is one of a series of substantially equal periodic payment made no less frequently than annually for the life (or life expectancy) of the distributee or the joint lives (or life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) Any distribution to the extent that it is a required or minimum distribution under Code Section 401(a)(9).

(6) A "recipient plan" means an eligible retirement plan that is designated by a distributee to receive a direct rollover.

(7) The provisions of this rule are effective on January 1, 2007.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.005 – 238.715

Hist.: PERS 11-1998, f. & cert. ef. 12-17-98; PERS 1-2002(Temp), f. & cert. ef. 1-11-02 thru 6-28-02; PERS 3-2002, f. & cert. ef. 3-26-02; PERS 31-2004(Temp), f. & cert. ef. 12-15-04 thru 6-1-05; PERS 3-2005, f. & cert. ef. 1-31-05; PERS 8-2005, f. & cert. ef. 2-22-05; PERS 5-2007(Temp), f. & cert. ef. 2-16-07 thru 8-14-07; PERS 9-2007, f. & cert. ef. 7-26-07

459-005-0595

Limitations — Direct Rollovers

(1) Notwithstanding any provision to the contrary in OAR 459-005-0590 to 459-005-0599, a distributee's right to elect a direct rollover is subject to the following limitations:

(a) A distributee may elect to have an eligible rollover distribution paid in a direct rollover to only one eligible retirement plan.

(b) A distributee may elect a direct rollover only when his or her eligible rollover distribution(s) during a calendar year is reasonably expected to total \$200 or more.

(c) A distributee may elect to have part of an eligible rollover distribution be paid directly to the distributee, and to have part of the distribution paid as a direct rollover only if the member elects to have at least \$500 transferred to the eligible retirement plan.

(2)(a) The provisions of subsection (1)(a) apply to any portion of a distribution, including after-tax employee contributions that are not includible in gross income.

(b) Any portion of a distribution that consists of after-tax employee contributions that are not includible in gross income may be transferred only to:

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(A) An individual retirement account or annuity described in Code Section 408(a) or (b); or

(B) An annuity contract described in Code Section 403(b) or a qualified defined contribution or defined benefit plan that agrees to separately account for the amounts transferred, including separate accounting for the pre-tax and post-tax amounts.

(c) The amount transferred shall be treated as consisting first of the portion of the distribution that is includible in gross income, determined without regard to Code Section 402(c)(1).

(3) The provisions of this rule are effective on January 1, 2007.

Stat. Auth.: ORS 238.650 & 238A.4500

Stats. Implemented: ORS 238, 238A

Hist.: PERS 11-1998, f. & cert. ef. 12-17-98; PERS 31-2004(Temp), f. & cert. ef. 12-15-04 thru 6-1-05; PERS 8-2005, f. & cert. ef. 2-22-05; PERS 5-2007(Temp), f. & cert. ef. 2-16-07 thru 8-14-07; PERS 9-2007, f. & cert. ef. 7-26-07

459-005-0599

Election Procedures — Direct Rollovers

(1) PERS staff shall provide each distributee with a written explanation of the direct rollover rules for any eligible distribution, as required by Code Section 402(f). In addition to the general explanation required by Code Section 402(f), the written explanation shall include the following information:

(a) A statement that the distributee has the right to consider the decision of whether or not to elect a direct rollover for at least 30 days after the notice is provided;

(b) An explanation of the default rule set forth in section (5) of this rule;

(c) An explanation of the notice and election rules for periodic payments that are eligible rollover distributions.

(2) Except as otherwise provided in sections (4) and (6) of this rule, an eligible rollover distribution shall not be paid, either to the distributee or to a recipient plan, less than 30 days or more than 180 days after the distributee has been provided with the written explanation described in section (1) of this rule.

(3)(a) Any direct rollover election shall be in writing and must be signed by the distributee or by his or her authorized representative pursuant to a valid power of attorney as described in OAR 459-005-0100 to 459-005-0140. The direct rollover election may be on forms furnished by PERS, or on forms submitted by recipient plan which shall include:

(A) Distributee's full name;

(B) Distributee's social security number;

(C) Percentage of amount eligible for transfer (whole percent), or the dollar amount (in whole dollars);

(D) The distributee's account number with recipient plan, if available;

(E) Name and complete mailing address of recipient plan; and

(F) If the distributee is a non-spouse beneficiary of the member, the title of the recipient IRA account.

(b) The election shall include or be accompanied by a statement by the recipient plan's plan administrator that the plan will accept the direct rollover for the benefit of the distributee, including whether or not the recipient plan will accept, and account for separately, after-tax dollars.

(4) If a distributee affirmatively elects a distribution after having received the written election described in section (1) of this rule, PERS may make the distribution even if the initial 30-day period described in section (2) of this rule has not expired.

(5) If a distributee fails to affirmatively elect to make or not to make a direct rollover within at least 30 and no more than 180 days after notice is provided as described in section (1) of this rule, PERS shall pay the eligible rollover distribution directly to the distributee.

(6) Any series of payments that are eligible rollover distributions shall be governed by the provisions of sections (1), (2), (3), (4), and (5) of this rule for each payment made.

(7) For the purposes of this rule, "effective date of payment" means:

(a) The date inscribed on check or warrant; or

(b) The date of an electronic transfer/transaction to the recipient plan.

(8) The provisions of this rule are effective on January 1, 2007.

Stat. Auth.: ORS 238.650 & 238A.4500

Stats. Implemented: ORS 238, 238A

Hist.: PERS 11-1998, f. & cert. ef. 12-17-98; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 5-2007(Temp), f. & cert. ef. 2-16-07 thru 8-14-07; PERS 9-2007, f. & cert. ef. 7-26-07

459-050-0090

Direct Rollover

The purpose of this rule is to establish the criteria and process for a direct rollover (a transfer made from trustee to trustee) by the Deferred Compensation Program to an eligible retirement plan and to establish the criteria and process for the Deferred Compensation Program to accept an

eligible rollover distribution from another eligible retirement plan. This rule shall apply to any direct rollover distribution received by the Deferred Compensation Program on behalf of a participant and any request for distribution from a Deferred Compensation Program account processed on or after January 1, 2002.

(1) Definitions. The following definitions apply for the purpose of this rule:

(a) "Code" means the Internal Revenue Code of 1986, as amended.

(b) "Direct Rollover" means:

(A) The payment of an eligible rollover distribution by the Deferred Compensation Plan to an eligible retirement plan specified by the distributee; or

(B) The payment of an eligible rollover distribution by an eligible retirement plan to the Deferred Compensation Program.

(c) "Distributee" means:

(A) A Deferred Compensation Plan participant who has a severance of employment;

(B) A Deferred Compensation Plan participant who is approved for a de minimis distribution under OAR 459-050-0075(1);

(C) The surviving spouse of a deceased participant;

(D) The spouse or former spouse who is the alternate payee under a domestic relations order that satisfies the requirements of ORS 243.507 and OAR 459-050-0200 to 459-050-0250; or

(E) The non-spouse beneficiary of a deceased participant who is a designated beneficiary under Code Section 402(c)(11).

(d) "Distributing Plan" means an eligible retirement plan that is designated to distribute a direct rollover to another eligible plan (recipient plan).

(e) "Eligible Retirement Plan" means any one of the following that accepts the distributee's eligible rollover distribution:

(A) An individual retirement account or annuity described in Code Section 408(a) or (b), but shall not include a Roth IRA as described in Code Section 408(A);

(B) An annuity plan described in Code Section 403(a);

(C) An annuity contract described in Code Section 403(b);

(D) A qualified trust described in Code Section 401(a);

(E) An eligible deferred compensation plan described in Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(F) A plan described in Code Section 401(k).

(f) "Eligible Rollover Distribution" means a distribution of all or a portion of a distributee's Deferred Compensation account. An eligible rollover distribution shall not include:

(A) A distribution that is one of a series of substantially equal periodic payments made no less frequently than annually for the life (or life expectancy) of the distributee or the joint lives (or life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(B) A distribution that is a required or minimum distribution under Code Section 401(a)(9);

(C) An amount that is distributed due to an unforeseen emergency under OAR 459-050-0075(2).

(g) "Recipient Plan" means an eligible retirement plan that is designated by a distributee to receive a direct rollover.

(2) Direct rollover to an eligible retirement plan. The direct rollover of an eligible rollover distribution by the Deferred Compensation Program to an eligible retirement plan shall be interpreted and administered in accordance with Code Section 457(d)(1)(C) and all applicable regulations. A distributee may elect to have an eligible rollover distribution paid by the Deferred Compensation Program directly to an eligible retirement plan specified by the distributee.

(a) The Deferred Compensation Program staff shall provide each distributee with a written explanation of the direct rollover rules for an eligible distribution, as required by the Code.

(b) A distributee's right to elect a direct rollover is subject to the following limitations:

(A) A distributee may elect to have an eligible rollover distribution paid as a direct rollover to only one eligible retirement plan.

(B) A distributee may elect to have part of an eligible rollover distribution be paid directly to the distributee, and to have part of the distribution paid as a direct rollover only if the distributee elects to have at least \$500 transferred to the eligible retirement plan.

(c) A direct rollover election shall be in writing and must be signed by the distributee or by his or her authorized representative pursuant to a valid power of attorney. The direct rollover election may be on forms furnished

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by the Deferred Compensation Program, or on forms submitted by recipient plan which must include:

- (A) The distributee's full name;
- (B) The distributee's social security number;
- (C) The distributee's account number with recipient plan, if available;
- (D) The name and complete mailing address of recipient plan; and
- (E) If the distributee is a non-spouse beneficiary of the member, the title of the recipient IRA account.

(d) The distributee is responsible for determining that the recipient plan's administrator will accept the direct rollover for the benefit of the distributee. Any taxes or penalties that are the result of the distributee's failure to ascertain that the recipient plan will accept the direct rollover shall be the sole liability of the distributee.

(3) Direct rollover from an eligible retirement plan. On or after January 1, 2002, the Deferred Compensation Program shall only accept rollover contributions from participants and direct rollovers of distributions from an eligible retirement plan on behalf of a participant. Section (3) of this rule shall be interpreted and administered in accordance with Code Section 402(c) and all applicable regulations.

(a) The Deferred Compensation Program shall only accept pre-tax assets. After-tax employee contributions are not eligible for rollover into the Deferred Compensation Program.

(A) The Deferred Compensation Program may require that a direct rollover from an eligible deferred compensation plan described in Code Section 457(b) plan include or be accompanied by a statement by the participant's previous employer or the plan administrator that the distribution is eligible for rollover treatment.

(B) A direct rollover from an eligible retirement plan other than a Deferred Compensation Plan described in Code Section 457(b) must be an eligible rollover distribution. It is the participant's responsibility to determine that the assets qualify for rollover treatment. Any taxes or penalties that are the result of the participant's failure to ascertain that the distributing plan assets qualify for a direct rollover to a deferred compensation plan described in Code Section 457(b), shall be the sole liability of the distributee.

(b) Subject to the requirements of subsections (3)(b)(A) and (B) below, eligible rollover distribution(s) shall be credited to the participant's Deferred Compensation account established pursuant to the Plan and Agreement on file with the Deferred Compensation Program and shall be subject to all the terms and provisions of the Plan and Agreement. Account assets received from the distributing plan will be invested by the Deferred Compensation Plan record keeper in accordance with the terms and conditions of the Deferred Compensation Program according to the asset allocation the participant has established for monthly contributions unless instructed otherwise in writing on forms provided by the Deferred Compensation Program.

(A) Assets from an eligible deferred compensation plan account described in Code Section 457(b) will be aggregated with the participant's accumulated Deferred Compensation Plan account.

(B) Assets from an eligible retirement plan other than a Deferred Compensation Plan described in Code Section 457(b) will be segregated into a separate account established by the Deferred Compensation Program for tax purposes only, but not for investment purposes. For investment purposes, the participant's assets are treated as a single account. If a participant changes the allocation of existing assets among investment options within the plan, the transfer or reallocation shall apply to and will occur in all accounts automatically.

(c) Assets directly rolled over to the Deferred Compensation Program may be subject to the 10 percent penalty on early withdrawal to the extent that the funds directly rolled over are attributable to rollovers from a qualified plan, a 403(b) annuity, or an individual retirement account.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 2-2002(Temp), f. & cert. ef. 1-11-02 thru 6-28-02; PERS 9-2002, f. & cert. ef. 6-13-02; PERS 5-2007(Temp), f. & cert. ef. 2-16-07 thru 8-14-07; PERS 9-2007, f. & cert. ef. 7-26-07

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Rule Caption: Modifications to make the agency record filing process more definite and certain.

Adm. Order No.: PERS 10-2007

Filed with Sec. of State: 7-26-2007

Certified to be Effective: 7-26-07

Notice Publication Date: 5-1-07

Rules Amended: 459-005-0220

Subject: Changes provisions dealing with having a document deemed to be received by PERS in response to the agency converting to workflows and digital document handling.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0220

Receipt Date for Reports, Documents, Remittances, and Payments

(1) As used in this rule:

(a) "Imaged date" means the date on which a report, document, remittance, or payment is imaged and stored electronically to a dedicated network server.

(b) "Private express carrier" has the same meaning as in ORS 293.660(2).

(c) "Settlement date" means the date on which the participating Depository Financial Institution (DFI) or its correspondent is scheduled to be debited or credited by the Federal Reserve.

(2) If the due date of a report, document, remittance, or payment falls on a weekend or legal holiday, the due date is deemed to be the next business day.

(3) Any report, document, remittance, or payment required by PERS shall be deemed filed and received based on the receipt stamp affixed to the report, document, remittance, or payment when received by PERS.

(4) Any report, document, remittance, or payment that does not display a PERS receipt stamp shall be deemed filed and received on the imaged date. If the imaged date is later than the due date, the report, document, remittance, or payment shall be deemed filed and received five business days before the imaged date.

(5) Any report, document, remittance, or payment required by PERS which is lost or delayed in transmission through USPS or by a private express carrier, shall be deemed filed and received on the date it was mailed or deposited for transmittal if the sender:

(a) Can establish by evidence satisfactory to PERS, which includes but is not limited to documentation provided by USPS or the private express carrier, that the report, document, remittance, or payment was deposited in the USPS or with a private express carrier before the date due for filing, and was correctly addressed to PERS;

(b) Files with PERS a duplicate of the lost report, document, remittance, or payment, in accordance with the transmittal requirements of OAR 459-005-0210 or 459-005-0215; and

(c) Satisfies the requirements of subsections (a) and (b) of this section within 30 days after PERS notifies the sender in writing of failure to receive the report, document, remittance, or payment.

(6) An electronic funds transfer (EFT) shall be deemed received on the settlement date of the transfer. A settlement date specified by an employer for an EFT shall be no later than the due date specified by PERS for a remittance or a payment.

(7) Any report or document that PERS accepts by fax as provided in OAR 459-005-0210 or 459-005-0215 which is:

(a) Transmitted by a fax device to any office of PERS shall be deemed filed or received on the date of transmission as inscribed by the PERS fax device.

(b) Lost in transmission through a fax communication shall be deemed filed and received when originally transmitted if the sender can establish by affidavit the proof of sending and correct addressing, together with a copy of any activity report from the sender's fax device, and a duplicate of the original report or document.

(8) A fax shall be accepted on weekends and holidays as long as the fax is otherwise in compliance with due dates specified in administrative rule.

(9) Any report or document that PERS accepts by e-mail transmission as specified in OAR 459-005-0210(5) which is:

(a) Transmitted by e-mail to any office of PERS shall be deemed received as of the date PERS receives the transmission.

(b) Lost in transmission by e-mail shall be deemed filed and received when originally transmitted if the sender can establish by affidavit the proof of sending and correct addressing, together with a copy of any activity report from the sender's electronic device, and a duplicate of the original report or document.

(10) A report or document transmitted by fax or e-mail must be transmitted in accordance with the provisions of this rule and OAR 459-005-0215 and must be received by PERS before midnight on the due date.

(11) When transmitting a document or report by use of fax or e-mail, the sender bears the risk of failure of the transmission.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238, 238A

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Hist.: PERS 6-1999, f. & cert. ef. 11-22-99; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 10-2007, f. & cert. ef. 7-26-07

Rule Caption: Adopt rules to administer judge member retirement.

Adm. Order No.: PERS 11-2007

Filed with Sec. of State: 7-26-2007

Certified to be Effective: 7-26-07

Notice Publication Date: 5-1-07

Rules Adopted: 459-040-0001, 459-040-0010, 459-040-0020, 459-040-0030, 459-040-0040, 459-040-0050, 459-040-0060, 459-040-0070, 459-040-0080

Subject: Legislation in 1983 (ORS 238.500 to 238.585) created the PERS Judge Member Program and transferred all sitting judges covered under the Judges Retirement Fund to the Judge Member Program. The Judge Member Program now includes any judge of the Oregon Supreme Court, Court of Appeals, Oregon Tax Court, and Circuit Courts. These rules explain the benefit program more completely and inform the program's members of how PERS administers certain provisions.

Effective June 20, 2007, Senate Bill 872 amended ORS 238.565 to provide that a judge member may designate a portion of the pension payable to a surviving spouse to be paid to a former spouse. Modifications in the rules presented for adoption reflect compliance with the recent statutory changes.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-040-0001

Definitions

The words and phrases used in this Division have the same meaning given them in ORS Chapter 238, particularly as defined in ORS 238.500 to 238.585. Additional terms are defined as follows unless context requires otherwise:

(1) Former spouse" means a person whose spousal relationship with the judge member terminated before the date of the judge member's death.

(2) "Life pension" means an allowance paid monthly for:

(a) The life of a retired judge member as either a service or disability retirement allowance, as described in ORS 238.535 and 238.555;

(b) The life of a surviving spouse of a deceased judge member or a deceased retired judge member as described in ORS 238.565; or

(c) The life of a former spouse of a deceased judge member or a deceased retired judge member as described in ORS 238.565.

(3) "Plan A" means the service retirement allowance payable under ORS 238.535(1)(a).

(4) "Plan B" means the service retirement allowance payable under ORS 238.535(1)(b).

(5) "Pro tem judge" means a retired judge member performing temporary service as a judge without pay as a condition of retirement under the Plan B retirement option.

(6) "Surviving spouse" means the spouse of the judge member at the date of the judge member's death.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.500 - 238.585

Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

459-040-0010

General Administration

(1) A person younger than age 72 becomes a judge member on the date that the person takes office as a judge. A judge member does not serve a waiting period.

(2) A judge member may retire under:

(a) Plan A, as provided in OAR 459-040-0030; or

(b) Plan B, as provided in OAR 459-040-0040.

(3) Before attaining age 60, a judge member must elect in writing, on forms furnished by the Judicial Department, whether to retire under Plan A or Plan B. A judge member who fails to make the election must retire under Plan A.

(4) A judge member who has service as other than a judge member must elect a retirement option available for service in other classifications for that portion of the benefit.

(5) Lump sum options are not available for judge member retirement benefits.

(6) For purchases of creditable service, a judge member is subject to the same requirements as a general service member.

(7) A judge member's contributions to PERS must cease at the end of the calendar year that the judge member attains age 75. The judge member shall be retired from judicial office and receive a service retirement allowance effective January 1 of the following calendar year.

(8) A person age 72 or older who becomes a judge is not eligible to become a judge member. The judge may establish membership in PERS as a general service member; see generally OAR chapter 459, divisions 10, 75, and 80 for membership eligibility guidelines for the PERS Plan.

Stat. Auth: ORS 238.650

Stats. Implemented: ORS 238.500 - 238.585

Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

459-040-0020

Judge Member Disability Retirement

A judge member who meets the requirements of ORS 238.555 may apply for disability retirement. The provisions of OAR chapter 459, division 15 apply to judge member disability retirement with the following exceptions:

(1) The terms "member" and "employee member" in Division 15 mean a judge member as defined in ORS 238.500.

(2) "Normal retirement age" means the age at which a judge member may retire without a reduced benefit as set forth under ORS 238.535.

(3) "Qualifying position" as defined in OAR 459-015-0001(18) does not apply to judge members.

(4) A judge member's effective disability retirement date is the first day of the month following the month in which the judge member's disability retirement application is approved.

(5) A judge member must have six years of service as a judge member to be eligible for non-duty disability retirement.

(6) If a judge member meets the eligibility criteria for disability retirement, the member's disability retirement allowance shall be based on creditable service time as though the member had continuously worked as a judge pursuant to ORS 238.555(1) or (2).

(7) PERS judge membership is terminated by withdrawal of the member account balance as provided in ORS 238.545. Former PERS judge members who have terminated their membership through withdrawal are not eligible to receive PERS disability retirement allowances.

(8) OAR 459-015-0060 does not apply to judge members.

Stat. Auth: ORS 238.650

Stats. Implemented: ORS 238.555

Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

459-040-0030

Plan A Service Retirement Allowance

(1) The Plan A service retirement allowance is a life pension calculated in accordance with ORS 238.535(1)(a).

(2) A judge member is not eligible to receive a service retirement allowance under Plan A before the judge member turns age 60.

(3) A judge member may retire under Plan A upon written application on a form furnished by PERS:

(a) At age 65 or thereafter with an unreduced service retirement allowance.

(b) At or after age 60 but before age 65, with an actuarially reduced service retirement allowance. The service retirement allowance shall be reduced by 8% for each full year and 8% prorated for each partial year the effective retirement date precedes the date the judge member attains age 65.

(4) If a judge member, retiring at age 70 or thereafter, was formerly contributing to the Judges' Retirement Fund and established membership in PERS pursuant to ORS 237.215(3) (1989 Edition), the judge member shall be entitled to a service retirement allowance as provided for in ORS 238.535(4).

Stat. Auth: ORS 238.650

Stats. Implemented: ORS 238.535

Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

459-040-0040

Plan B Service Retirement Allowance

(1) The Plan B service retirement allowance is a life pension calculated in accordance with ORS 238.535(1)(b).

(2) A judge member is not eligible to receive a service retirement allowance under Plan B before age 60.

(3) A judge member may retire under Plan B at age 60 or thereafter upon written application on forms furnished by PERS.

(4) A judge member who retires under Plan B must serve as a pro-tem judge for 35 days per calendar year for five years following the judge member's retirement date. Days of service in excess of 35 days in a calendar year may be carried over and applied to the pro tem service obligation in future years. Appointment and service as a pro-tem judge is administered

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by the Office of the State Court Administrator under rules adopted by order of the Chief Justice of the Oregon Supreme Court.

(5) If a judge member, retiring at age 70 or thereafter, was formerly contributing to the Judges' Retirement Fund and established membership in PERS pursuant to ORS 237.215(3) (1989 Edition), the judge member shall be entitled to a service retirement allowance as provided for in ORS 238.535(4).

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.535
Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

459-040-0050

Variable Annuity Adjustments for Judge Members

(1) A judge member may have elected to have a portion of the judge member's contributions paid into the Variable Annuity Account in the Fund as provided in ORS 238.260(3) before June 30, 2003. A judge member who was participating in the Variable Annuity Account on that date may continue to make contributions to the Variable Annuity Account for service as a judge member performed on or after January 1, 2004.

(2) The retirement allowance of a judge member with a variable account, whether receiving a service or disability retirement, shall be adjusted in accordance with ORS 238.260(12). The adjustment may result in a benefit greater than 75% of final average salary.

(3) A retiring judge member participating in the Variable Annuity Account must elect at retirement to transfer the variable account balance to the judge member's regular account in the fund, as of the effective date of retirement under the provisions of ORS 238.260(9), or to maintain an account in the Variable Annuity Account under the provisions of ORS 238.260(10) and (11).

(4) A judge member who meets the criteria of ORS 238.260(14)(a) may elect at any time before retirement to make a one-time transfer of the balance of the judge member's variable account to the judge member's regular account in accordance with ORS 238.260(14).

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.260 & OL 2003 Ch. 625, Sec.19
Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

459-040-0060

Judge Member Death Before Retirement

If a judge member dies before retiring, benefits shall be distributed and calculated as follows:

(1) For a surviving spouse:

(a) If the judge member has six or more years of service as a judge and the judge member is not an inactive judge member performing pro tem service under the provisions of ORS 238.545(4), the surviving spouse shall receive a life pension equal to two-thirds of the retirement allowance the judge member would have received under Plan A, had the judge member retired on the date of death.

(b) If the judge member has six or more years of service as a judge and the judge member is an inactive judge member performing pro tem service under the provisions of ORS 238.545(4) at the time of death, the surviving spouse shall receive a life pension equal to two-thirds of the service retirement allowance the judge member would have received under Plan B, had the judge member retired on the date of death.

(c) If the judge member has less than six years of service as a judge, the surviving spouse shall receive a lump sum payment equal to the amount credited to the judge member account in the Fund on the first of the month following the date of death.

(d) If a surviving spouse receiving a life pension under this section dies and the total amount of pension payments received by the surviving spouse is less than the amount that had been credited to the deceased judge member's account as of the date of death of the judge member, the designated beneficiary of the judge member shall receive a lump sum payment equal to the remainder.

(2) For purposes of computing a surviving spouse's life pension in section (1) of this rule, a judge member who dies before age 60 is deemed to have died at age 60.

(3) If the judge member has six or more years of service as a judge has no surviving spouse, the designated beneficiary shall receive a lump sum payment equal to the amount credited to the judge member account in the Fund on the first of the month following the date of death.

(4) If the judge member has no surviving spouse and no designated beneficiary at death, a lump sum payment equal to the amount credited to the judge member's account on the date of death shall be paid to the judge member's estate.

(5) If the judge member, under the provisions of ORS 238.565(8), elects to have a portion of the pension payable to a surviving spouse paid

to a former spouse, the designated portion shall be paid to the former spouse as a life pension. The portion of the pension not paid to the former spouse shall be paid to the surviving spouse, if any.

(a) The life of the first former spouse designated to receive a pension under ORS 238.565(8) will be the measuring life of the pensions payable to the surviving spouse and to any other former spouse.

(b) Upon the death of the first designated former spouse, the pensions payable to the surviving spouse and to any other former spouse shall cease.

(c) If, at the death of the first designated former spouse, the total amount of the payments received by the surviving spouse and former spouse(s) is less than the amount that had been credited to the deceased judge member's account as of the date of the judge member's death, the judge member's designated beneficiary shall receive a lump sum payment equal to the remainder.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.565
Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

459-040-0070

Judge Member Death After Retirement

If a judge member dies after the effective retirement date, benefits shall be distributed and calculated as follows:

(1) Surviving Spouse Standard Two-thirds Benefit. The surviving spouse of a judge member shall receive a life pension equal to two-thirds of the service retirement allowance the judge member is receiving or is entitled to receive on the date of death.

(2) Additional benefit for surviving spouse. The surviving spouse may be entitled to an addition to the pension described in section (1) of this rule if:

(a) The judge member selected a reduced retirement allowance under ORS 238.565(4); and

(b) The surviving spouse is the spouse of record on the effective date of retirement.

(3) No surviving spouse. If the judge member has no surviving spouse and the total amount of retirement allowance received by the retired judge member is less than the amount credited to the judge member account on the judge member's effective retirement date, the designated beneficiary shall receive a lump sum payment equal to the remainder.

(4) Death of surviving spouse. If a surviving spouse receiving a pension under section (1) of this rule dies and the total amount received as retirement allowance by the retired judge member and as pension by the surviving spouse is less than the amount credited to the judge member account on the effective date of retirement of the judge member, the designated beneficiary of the judge member shall receive a lump sum payment equal to the remainder.

(5) Default beneficiary. If the judge member has no valid written designation of beneficiary filed with the PERS Board before the judge member's death, the beneficiary of the judge member shall be the personal representative of the judge member's estate.

(6) Unpaid accrued retirement allowance. Any accrued retirement allowance due a retired judge member that is unpaid at the time of death of the judge member shall be paid as follows:

(a) To the surviving spouse of the judge member;

(b) If there is no surviving spouse of the judge member, to the beneficiary of the judge member; or

(c) If there is no surviving spouse or beneficiary of the judge member, in the manner provided for payments under ORS 238.390(2).

(7) If the judge member, under the provisions of ORS 238.565(8), elects to have a portion of the pension payable to a surviving spouse paid to a former spouse, the designated portion shall be paid to the former spouse as a life pension. The portion of the pension not paid to the former spouse shall be paid to the surviving spouse, if any.

(a) The life of the first former spouse designated to receive a pension under ORS 238.565(8) will be the measuring life of the pensions payable to the surviving spouse and to any other former spouse.

(b) Upon the death of the first designated former spouse, the pensions payable to the surviving spouse and to any other former spouse shall cease.

(c) If, at the death of the first designated former spouse, the total amount of the payments received by the retired judge member and the payments received by the surviving spouse and former spouse(s) is less than the amount credited to the deceased judge member's account on the judge member's effective retirement date, the judge member's designated beneficiary shall receive a lump sum payment equal to the remainder.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.565
Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

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459-040-0080

Required Minimum Distribution of Judge Member Death Benefits

(1) In the event an active or inactive judge member dies before retiring, the required minimum distribution of death benefits attributable to the deceased judge member shall be made in accordance with OAR 459-014-0100.

(2) In the event a retired judge member dies, the required minimum distribution(s) to a surviving spouse and/or to a beneficiary of the deceased judge member shall be made in accordance with OAR 459-005-0560. For the purposes of this rule, a former spouse is a non-spouse beneficiary of the deceased judge member.

(3) A lump sum distribution of death benefits of a deceased judge member may be eligible for a rollover in accordance with OAR 459-005-0590 to 459-005-0599.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.565
Hist.: PERS 11-2007, f. & cert. ef. 7-26-07

Oregon University System
Chapter 580

Rule Caption: To protect information assets of OUS students, faculty, customers, and research partners.

Adm. Order No.: OSSHE 4-2007

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07

Notice Publication Date: 6-1-07

Rules Adopted: 580-055-0000, 580-055-0010, 580-055-0020, 580-055-0030, 580-055-0040, 580-055-0050, 580-055-0060, 580-055-0070, 580-055-0080

Subject: To responsibly protect information entrusted to the Department of Higher Education and its member institutions, ensure the effective operation of business critical processes, and abide by the security policies established by the State Board of Higher Education as well as laws and regulation at the federal, state, and local level relating to information security.

Rules Coordinator: Marcia M. Stuart—(503) 346-5749

580-055-0000

Executive Summary

(1) OUS has a responsibility to protect its Information Assets, business processes, and follow appropriate laws and regulation relating to information security.

(2) OUS will meet its obligations by each member institution implementing an ongoing information security program.

(3) Each Institution's President (or designee) will have overall responsibility for institution's program.

(4) Each Institution will assign Chief Information Security Officer (CISO) duties to a qualified person.

(5) Each Institution's CISO or equivalent will be responsible for the security program and for ensuring that institutional policies, procedures, and standards are developed, implemented, and maintained

(6) Each Institution will create Information Systems Policies that cover at a minimum: Classification Standards that at least identify Essential and Highly Sensitive data, processes, and systems; security baselines commensurate with classification; and labeling and handling standards for Highly Sensitive data, processes, and systems.

(7) Each Institution will create Personal Information and User Policies that cover at a minimum: Securing Personally Identifiable Information; Acceptable Use of Computing Resources; employee policies for security-sensitive personnel; and account management policies.

(8) Each Institution will create Security Operations policies that cover at a minimum: a notification and escalation plan for breaches of personally identifiable information, a risk assessment program; and an incident response plan.

(9) Each Institution will create Network and Telecommunications Policies that at a minimum ensure that Highly Sensitive Information Assets are in a secured zone on the network and are not transmitted outside of secured zones in clear text.

(10) Each Institution will establish physical security standards that protect Essential or Highly Sensitive Information Assets that are critical to the functioning of the institution and ensure that disposal procedures remove or render sensitive data irretrievable from hard drives, compact disks, external memory, PDAs, etc.

(11) Each Institution will establish a Disaster Recovery Plan for Essential Information Assets.

(12) Each Institution will develop awareness and training programs for all Information Asset users regarding Information Security.

(13) OUS Internal Audit will conduct periodic Information Security Policy Audits.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0010

Purpose

(1) The Oregon University System and its member institutions, collectively referred hereinafter as OUS, have a responsibly to protect information entrusted to them, ensure the effective operation of business critical processes, and must abide by the security policies established by the State Board of Higher Education as well as laws and regulation at the federal, state, and local level relating to information security. OUS must meet a standard of due care regarding the protection of institutional information assets as well as those belonging to OUS students, faculty members, customers, and research partners.

(2) OUS "Information Assets" include information and systems that are owned by OUS, information that OUS is obligated to keep secure by applicable law or by contract, and information exempt from disclosure under public records laws. OUS Information Assets are found in written, spoken, electronic, printed, magnetic, optical, and other mediums.

(3) The purpose of this policy is to document OUS management's intent regarding the protection of these Information Assets. It is to be used by each OUS institutions' management to develop, document, implement, and maintain local information security policy and programs.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0020

Goals

OUS member institutions will develop and implement ongoing information security programs, and assign clear and appropriate roles and responsibilities to the administration, IT personnel, and institutional community members. The basic objectives are to achieve and maintain:

(1) TRUST — Ensure that institutions establish a baseline of security that will serve as a basis for the ongoing trust of OUS' information systems, engender confidence between OUS and its students, faculty members, customers, research partners, and the citizens of the State of Oregon.

(2) INTEGRITY — Establish the concepts of due care, best practice, and security baselines as the basis for protecting the Information Assets of OUS in a manner commensurate with their sensitivity, value, and criticality to ensure they meet expectations of form, fit, and function.

(3) ACCOUNTABILITY — Maintain the accountability of information users, preserve management options if there is asset misuse or abuse, ensure security of OUS's physical assets, and provide for business continuity.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0030

Authority and Scope

(1) This policy applies to the Oregon University System as organized and empowered by ORS chapters 351 and 352 and is specifically authorized under ORS 351.087. This policy is applicable to all OUS member institutions as well as all employees, students, contractors, consultants, agents, and vendors working on their behalf. It is applicable to all OUS Information Assets, regardless of form or media. It applies to information gathering, protection, use, processing, storage, communications, and transit.

(2) OUS Member Institution policies, procedures, standards, and work instructions are required to comply with this policy.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0040

Roles and Responsibilities

(1) The OUS Chancellor shall have overall oversight responsibility for the provisions of this policy.

(2) The OUS Chief Information Security Officer (CISO) shall have responsibility to develop, implement, maintain, and monitor compliance with this policy.

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(3) Each member institution's President shall have overall oversight responsibility for institutional provisions set forth in this policy.

(4) Each member institution's Chief Information Officer (CIO), or equivalent, shall be responsible for ensuring that institutional policies are developed in accordance with this policy.

(5) Each member institution shall designate a CISO or equivalent. The institutions' CISO shall be responsible for the member institution's security program and for ensuring that institutional policies, procedures, and standards are developed, implemented, and maintained.

(6) All university community members have a responsibility to help ensure security of the Institution's Information Assets.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0050

Institutional Policy Requirements

(1) Security Management:

(a) Each member institution shall establish an ongoing information security program and assign clear and appropriate roles and responsibilities to their Administration, CIOs (or equivalent), CISO (or equivalent), and all local University community members. The President of each member institution (or their designee) will be responsible for establishing the program and ensuring that it is effective.

(b) Each member institution should create clear and consistent policy in accordance with their information security program, that outline general information security operations including such things as risk assessment procedures, incident response responsibilities, security testing, and day to day security compliance. The specifics of those policy requirements are outlined in the following sections.

(2) Information Systems Security:

(a) Information Systems are composed of three major components: data, applications, and infrastructure systems. All three must be addressed in order to ensure overall security of these assets. OUS Member institutions should establish policy, procedures, security controls, and standards that govern these assets. These policies should ensure that fundamental security principles, such as those documented as pervasive principles in the Generally Accepted Information Security Principles or those generally incorporated into the COBIT framework, are established and maintained.

(b) At a minimum each member institution shall establish:

(A) Information system classification standards. These standards shall ensure that Essential and/or Highly Sensitive data, applications, and infrastructure systems are identified and standards for handling them are developed. Member institutions may deem it appropriate to establish multiple levels of sensitivity or criticality.

(B) Security baselines for information systems. Security baselines are minimum set of operational guidelines that affect the relative security of an Information Asset. Baselines shall be appropriate to the level of sensitivity and criticality of the systems and ensure that the due care and best practice principles are met.

(3) User and Personal Information Security:

(a) Everyone interacting with information assets has a responsibility to ensure the security of those assets. Each member institution must create policies that articulate the rights, responsibilities, and roles of anyone interacting with Information Assets. Policies must take into account federal, state, and local laws, as well as other institutional policies. For example, FERPA requirements will require attention when dealing with student records and HIPPA requirements will require attention when dealing with health information. Policies should be made readily available to all interested parties.

(b) At a minimum, each member institution shall establish:

(A) Personal Information Policies. Member institutions are required to specifically define procedures for dealing with personally identifiable information. Information, such as social security numbers, credit card numbers, and driver's license information, is naturally sensitive and appropriate steps should be taken to protect the privacy of this type of information.

(B) Acceptable Use Policies. Member institutions are required to develop policies that define the parameters of acceptable use for all users of information resources within the organization. These policies must ensure that the use of Information Assets is consistent with standard security practices, ensures that those resources operate effectively, and that appropriate laws relating to Information Assets are followed. For example, these policies may include user resource use limitation, definitions of inappropriate behavior, copyright restrictions, commercial use restrictions, and confidentiality requirements. These policies should also include definitions of enforcement mechanisms in case of violation. Member institutions shall

make it clear that prior notification is not a requirement for applicability of the policy and they shall clearly state that there should be no expectation of privacy while using institutional resources.

(C) Security Sensitive Personnel Policies. Employees that have access to essential or highly sensitive data and processes should be designated as serving in critical or security-sensitive capacities as per OAR 055.055 and be subject to the appropriate employment policies of the institution.

(D) Account management Policies. Member institutions are required to develop policies that ensure appropriate management of user accounts. These policies shall: establish and maintain accountability, timely notification of access changes and terminations, timely response to these notifications; and periodic reconciliation of accounts to active users, privileges, and separation of duty requirements. This includes students, employees, contractors, vendors.

(4) Security Operations:

(a) OUS member institutions have a responsibility to construct operational standards and policies that ensure due care is taken to secure Information Assets. These operational standards and policies should include reasonable and appropriate proactive and reactive measures to protect Information Assets from unauthorized access, disruption of normal operations, and that comply with appropriate laws and regulations. In particular, member institutions should provide anti-virus software, a system to distribute current anti-virus definitions, and a security patch management system for commonly used operating systems.

(b) At a minimum each member institution shall establish:

(A) An incident response plan. This plan shall include a threat containment strategy, an intrusion detection system, and a mechanism for tracking and reporting security breaches.

(B) A notification and escalation plan for security breaches involving personally identifiable information. This plan shall include clearly defined criteria used to determine that personally identifiable information has been exposed and has been, or it is reasonably believed to have been, obtained by an unauthorized person. This plan shall also include clear escalation and notification steps when such an event occurs and the means by which the member institution's administration, OUS' administration, appropriate law enforcement agencies, and the people that could be identified by the information in question, are notified of the breach.

(C) An ongoing risk assessment program. This program should regularly identify and track all Essential and/or Highly Sensitive Information Assets, and verify that the appropriate security baseline is in place and being followed with respect to those Information Assets.

(5) Network and Telecommunications Security:

(a) OUS member institutions have a responsibility to ensure secure management of their local networks. Member institutions should have the ability to control who connects to their networks, the ability to create secure zones with restricted access on their networks, and be able to ensure the effective operation of their networks.

(b) At a minimum each member institution shall establish:

(A) Secured Zones for Essential and Highly Sensitive Information Assets. These zones shall be created by employing standard network technology to restrict access at the network level to authorized personnel only.

(B) Policies that prohibit transmission of unencrypted Highly Sensitive data outside of secured zones.

(6) Physical and Environmental Security:

(a) Each member Institution should establish procedures for the physical protection of its Information Assets. Protection of physical equipment or of software and data residing on storage media, from theft, loss, damage, or improper use should be addressed. Particular attention must be paid where access to or function of Essential or Highly Sensitive Information Assets is concerned; however, member institutions should also consider physical security for computers and other local Information Assets housed in departmental work areas or under departmental control, such as laptop computers, PDAs, etc. Member institutions should adopt policies that only allow Highly Sensitive data to be permanently retained on portable equipment if protective measures, such as encryption, are implemented that safeguard the confidentiality and integrity of the data in the event of theft or loss of the portable equipment.

(b) At a minimum, member Institutions shall develop policies and procedures to:

(A) Protect physical areas containing Information Assets that represent Essential or Highly Sensitive information systems that are critical to the functioning of the institution.

(B) Ensure that disposal procedures remove or render sensitive data irretrievable from hard drives, compact disks, external memory, PDAs etc.

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(c) In addition, physical inventories of equipment should be completed and maintained in accordance with section 55.100 of the OUS Fiscal Policy Manual.

(7) Disaster Recovery:

(a) As part of ongoing business continuity planning, member institutions are responsible for preparing, periodically updating, and regularly testing a campus Disaster Recovery Plan. This plan should address recovering from a disaster that renders Essential Information Assets unavailable for an unacceptable period of time. Such a Disaster Recovery Plan should establish the frequency of testing member institution disaster recovery procedures. Member institutions should ensure that any local operations procedures are coordinated with overall institutional disaster preparedness plans.

(8) Awareness, Education, and Training:

(a) Member institutions are required to develop methods for increasing the level of awareness of information security issues among their constituents. Awareness and training programs may be carried out using a number of different approaches, including document distribution, software distribution, web publishing, and internal or external training sessions. These programs should be carried out on a regular basis and they should be periodically reevaluated in order to assess their effectiveness.

(b) At a minimum, users should be made aware of their roles and responsibilities within the organization as they relate to the security of Information Systems. Users should also be informed of all policies and procedures that may apply to them. Contact information for central IT Security personnel, as well as department IT personnel, should be made available. Users should be informed of whom to contact and appropriate measures to take in the event of a security incident. Policies and procedures should be made readily available in accessible locations.

(c) Educational or training materials should be made available in order to educate users on standard security practices. Training on basic computer security concepts should be provided. These concepts include the following: operating system patching, built-in firewalls, anti-virus software, password management, and browser and e-mail security. Additional training should be offered in areas that are of particular concern to the institution.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0060

Policy Review Process

The OUS CISO will review this policy annually to ensure that it complies with applicable law and Board Policies. Should this policy be revised, the CIOs (or equivalent) of each member institution will be notified to ensure local policies are reviewed and revised as appropriate.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0070

Audit

The OUS internal audit office has the authority to conduct periodic information security policy audits using the COBIT framework or suitable substitute to ensure compliance and notify each member institution of any noted deficiencies.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

580-055-0080

Glossary

(1) Anti-Virus — Programs that identify malicious code installed on computers without the owner/operator's knowledge or consent.

(2) Applications — Computer programs that collect, process, or otherwise manipulate data.

(3) Best Practice — Generally accepted industry practices that have been broadly adopted and considered standard.

(4) Built-in Firewall — Functions within the local operating system of a computer that limit what other machines on the network can connect to it.

(5) Business Continuity — The ability for business processes and functions to continue and for an organization to continue to function despite emergencies, major disruptions, etc.

(6) CIO — Chief Information Officer. The executive level position in an organization that is generally in charge of the Information Technology division and is responsible for the overall IT operations of an organization.

(7) CISO — Chief Information Security Officer. Generally, the CISO function is one of being responsible for the Information Security Program.

(8) Data — Information stored electronically, or in print.

(9) Due Care — The conduct that a reasonable man or woman will exercise in a particular situation in looking out for the safety of others. If one uses due care, then an injured party cannot prove negligence. This is one of those nebulous standards by that negligence is tested. Each juror has to determine what a "reasonable" man or woman would do.

(10) Essential Information Assets — Those Information Assets that are critical to the function of the member institution and without which the normal business functions of the member institution cannot occur.

(11) FERPA — Family Educational Rights Privacy Act. This federal act protects student records, other than directory information, as private information available only to those with an educational need to know.

(12) HIPPA — Health Information Protection and Privacy Act. This federal act protects health records as private information.

(13) Highly Sensitive Information Assets — Those Information Assets that OUS is obligated by law or contract to protect or that represent obviously confidential data that, if released, would represent some actual legal liability to the member institution.

(14) Incident Response — The planned reaction to a breach of security that includes identifying the breach, closing it, and mitigating its effect.

(15) Information Assets — Information and systems that are owned by OUS, information that OUS is obligated to keep secure by applicable law or by contract, and information exempt from disclosure under public records laws. OUS Information Assets are found in written, spoken, electronic, printed, magnetic, optical, and other mediums.

(16) Information Systems — A collection of computers and processes that interact with each other to manipulate, transmit, and store data.

(17) Infrastructure Systems — Computers and network devices and the operating systems that run them.

(18) Institutional Community Members — faculty, staff, students, vendors, visitors, affiliates, courtesy faculty, etc. In short, all persons who have a relationship with the Institution and therefore may interact with Information Assets of the Institution.

(19) Intrusion Detection System — A program or series of programs that watch network traffic and other activities to identify intrusion attempts and compromised machines.

(20) Risk Assessment — In the context of information security, risk assessment is the determination of both the importance of all Information Assets and their likelihood of being accessed by an unauthorized person or of their function being intentionally impaired by someone.

(21) Security Baseline — A minimum set of operational guidelines that affect the relative security of an Information Asset. These guidelines would typically cover such things as firewall settings and network access controls, local permissions, password change policy, operating system patch management, anti-virus policy, and physical access controls.

(22) Security Breach — Theft or unauthorized acquisition of Information Assets by a person that harms or poses an actual threat to the security, confidentiality, or integrity of those assets.

(23) Security Controls — Procedures to follow that help establish and maintain Authentication, Authorization, and Access to Information Assets. These controls include such things as verifying identity, giving access to Information Assets based on job function or duties, network appliances that restrict connections coming from the Internet or unsecured zones, etc.

(24) Threat Containment — Reactive measure to ensure that a security breach is contained to affected systems and that those systems are not able to be used to launch successful intrusion attempts to other systems.

(25) Operating System — The series of programs loaded on a computer that operates it. Common operating systems include Windows, MacOS, and Unix.

(26) OUS Member Institutions — The Chancellor's Office, Eastern Oregon University, Oregon Institute of Technology, Oregon State University, Portland State University, Southern Oregon University, University of Oregon, and Western Oregon University.

(27) Password Management — The practice of creating and maintaining passwords on a system that are not easily guessed, programmatically determined, or otherwise obtained by unauthorized persons. This generally means requiring a base level of complexity in the password, and that it is changed on a regular basis.

(28) Personally Identifiable Information — A combination of name and one or more other data elements that could uniquely identify an individual for the purpose of providing restricted access. This term may be formally defined shortly in anti "ID Theft" legislation. Common data elements used in combination with name are: Social Security number, driver's

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license numbers, date of birth, account number (such as credit or debit card number), account passwords (including pass phrases such as mother's maiden name), identification number issued by a foreign nation, passport number, biometric data, etc.

Stat. Auth.: ORS 351.065, 351.070
Stats. Implemented: ORS 351.070
Hist.: OSSHE 4-2007, f. & cert. ef. 7-23-07

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

Adm. Order No.: OSSHE 5-2007(Temp)

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07 thru 1-18-08

Notice Publication Date:

Rules Adopted: 580-043-0100

Rules Amended: 580-043-0060, 580-043-0065, 580-043-0070, 580-043-0075, 580-043-0085, 580-043-0090, 580-043-0095

Subject: The 2005 Legislative Assembly enacted SB 853, which enabled each institution to establish a venture development fund to provide qualified grant applicants with monies to facilitate the commercialization of the institution's research; OSBHE adopted rules effective July 2006. However, the Dept of Revenue interpreted certain tax credit provisions of the bill differently from OUS, and the Chancellor sought an opinion from DOJ. This delayed the establishment of venture development funds by the institutions. In addition, there were other concerns about SB 853 that delayed implementation, including that the institutions' affiliated foundations could not hold and manage contributions made to a venture development fund. Ultimately, the Board determined that clarifying amendments should be pursued in the 2007 Legislative Assembly. That assembly enacted SB 582, which amended portions of SB 853. These temporary rules are the first step in implementing the changes made by SB 582.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-043-0060

Purpose; Definitions

(1) Purpose. chapter 580, division 043, authorizes each Institution to establish one Venture Development Fund for the purpose of facilitating the commercialization of research and development. The purpose of an Institution's Fund shall be to provide qualified grant applicants with moneys to facilitate the commercialization of the Institution's research and development. Within the scope of this purpose and subject to these administrative rules, an Institution may use moneys in its Fund to provide:

- (a) Capital for university entrepreneurial programs;
- (b) Opportunities for students to gain experience in applying research to commercial activities;

(c) Proof-of-concept funding for transforming research and development concepts into commercially viable products and services; and

(d) Entrepreneurial opportunities for persons interested in transforming research into viable commercial ventures that create jobs in this state. Contributors to an Institution's Fund are eligible for Oregon income tax credits to the extent set forth in the Act and these rules.

(2) Definitions

(a) Act: Oregon Laws 2005, ch. 592, as amended by Senate Bill 582 (2007).

(b) Entity: any governmental body or agency, association, partnership, corporation, limited liability company, or other organization, however described or named and regardless of legal status, other than a Person.

(c) Person: a natural person or sole proprietorship.

(d) Venture Development Fund or Fund: A fund authorized by the Act.

(e) Venture Grant Program or Program: A grant program authorized by the Act.

(f) Institution: An institution of the Oregon University System.

(g) Department of Revenue: the Oregon Department of Revenue.

(h) General Fund: the general fund of the State of Oregon.

(i) Remain in Oregon: maintaining the Entity headquarters in Oregon; or employing a majority of employees (on a full-time equivalent, headcount, or payroll basis) in Oregon.

(j) State Board of Higher Education or Board: the Board created by ORS 351.010.

(k) Tax Credit Certificate: a certificate authorized by the Act and in a form designated by the Board that evidences a contribution to a Venture Development Fund.

(L) Donor: a person or entity that makes a contribution to a Fund authorized by the Act and these rules.

(m) Taxpayer: a person or entity that makes a contribution to a Fund authorized by the Act and these rules and that applies for a tax credit certificate authorized by the Act and these rules.

(n) Gross Royalty Income: cash realized by the Board from royalties, milestone and license fee payments and from the sale of equity as a result of grants made under the Program.

Stat. Auth.: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist.: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06; OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

580-043-0065

Establishment of a Venture Development Fund by an Institution

(1) An institution may establish a Fund in accordance with the Act and these rules.

(2) Each Institution that establishes a Fund shall:

(a) Notify the Board and the Department of Revenue of the establishment of the Fund;

(b) Either directly or through its affiliated foundation solicit contributions to the Fund and receive, manage, and disburse any such contributions and the earnings thereon;

(c) Subject to the Act and these rules, issue tax credit certificates to contributors to the Fund;

(d) Establish a grant program that meets the requirements for a Venture Grant Program under the Act and these rules;

(e) Subject to available moneys from the Fund, provide qualified grant applicants with moneys for the purpose of facilitating the commercialization of university research and development; and

(f) Report to the Department of Revenue the amounts of tax credit certificates issued by the Institution and maintain records of licensing and royalty revenue received by the Institution as the result of grants made from the Fund and records of amounts paid to the General Fund under the Act.

(3) An Institution may deposit moneys received for its Fund in the Higher Education Donation Fund established under ORS 351.130. Interest earned by such moneys shall be credited to the Fund. The State Treasurer, as payment for expenses, may deduct a fee pursuant to ORS 293.718 from a Fund administered by an Institution.

(4) The use of moneys donated under these rules may not be directed by a Donor. Rather, all moneys shall be available for the purposes set forth in the Act and these rules without regard to specific Donor instructions, except that an Institution or its affiliated foundation may charge its customary administrative assessment to manage the Fund as permitted by the Act. Except as authorized by law, no other fees or indirect costs may be charged against the Fund or any associated grants or other disbursements from the Fund.

(5) At the election of an Institution, moneys in a Fund may be held in the form of an endowment. An Institution may discontinue endowment treatment at any time.

Stat. Auth.: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist.: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06; OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

580-043-0070

Allocation of Authority to Institutions to Raise Funds and Issue Tax Credits

(1) The Board will not allocate fundraising or tax credit certificate issuance authority to an Institution until the Institution has established a Venture Development Fund in accordance with the Act and these rules.

(2) Oregon State University, Portland State University, and University of Oregon: The Board allocates fundraising authority and commensurate authority to issue tax credit certificates among Oregon State University, Portland State University, and the University of Oregon as follows:

(a) Portland State University: \$88 million;

(b) Oregon State University: \$5.35 million;

(c) University of Oregon: \$3.27 million.

Such authority shall be contingent on the establishment of a Fund in accordance with the Act and these rules and subject to the rule on redistribution of authority to raise funds and issue tax credits.

(3) Eastern Oregon University, Oregon Institute of Technology, Southern Oregon University, and Western Oregon University: The Board by order or resolution shall allocate \$500,000 in fundraising authority and

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commensurate authority to issue tax credit certificates among Eastern Oregon University, Oregon Institute of Technology, Southern Oregon University, and Western Oregon University. An allocation of authority shall be contingent on the establishment of a Fund in accordance with the Act and these rules and subject to the rule on redistribution of authority to raise funds and issue tax credits.

(4) Notwithstanding sections (2) and (3) of this rule, immediately upon deposit into the General Fund of amounts transferred by an Institution in repayment of tax credits previously issued, the Institution may issue new tax credits in an amount not to exceed the transferred amount.

(5) The amount owed to the General Fund by the Institutions, collectively, may not exceed \$6 million at any one time.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06; OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

580-043-0075

Redistribution of Authority to Raise Funds and Issue Tax Credits

No earlier than two years from the effective date of this rule, the Board, by order or resolution, may, to further the purposes of the Act, reallocate unused fundraising authority and commensurate authority to issue tax credit certificates from one Institution to another. An Institution may receive additional authority only if it has exhausted its existing authority or can demonstrate that it would likely do so. Reallocation of authority shall not require amendment of section 0070.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06; OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

580-043-0085

Issuance of Tax Credit Certificates

(1) Taxpayers making a contribution to an Institution's Fund and wishing to receive a tax credit certificate evidencing that contribution must submit the contribution, together with an application for tax credit certificate, in a form designated by the Institution, to the Institution or, if directed by the Institution, to its affiliated foundation.

(2) An Institution or its affiliated foundation may begin accepting contributions and applications after the Institution's Fund has been established in accordance with the Act and these rules.

(3) An Institution shall consider applications for tax credit certificates in the chronological order in which the applications were received.

(4) An Institution shall act on an application for a tax credit certificate within 60 days of its receipt unless unanticipated or extraordinary circumstances reasonably prevent the Institution from acting within that time-frame, in which case the Institution shall act on the application as soon as reasonably possible thereafter.

(5) Subject to section 6 of this rule, an Institution shall approve an application for a tax credit certificate if the application is complete and the Institution has verified receipt of the contribution. Within 45 days of application approval, an Institution shall issue to the Taxpayer a tax credit certificate that specifies the amount of the contribution.

(6) An Institution shall deny an application for a tax credit certificate and may not issue a tax credit certificate to the Taxpayer if:

(a) The Taxpayer's contribution to the Fund, together with the amounts specified on all tax credit certificates previously issued by the Institution less amounts transferred into the General Fund, exceeds the Institution's then-current tax credit certificate issuance authority;

(b) The Taxpayer's application is incomplete; or

(c) The Institution cannot verify receipt of the Taxpayer's contribution.

(7) If an Institution denies a Taxpayer's application for a tax credit certificate, the Institution shall notify the Taxpayer in writing within 45 days of the denial.

(8) A Taxpayer who receives a notice of denial of an application for a tax credit certificate may request, in writing and within 90 days after the receipt of the denial, a refund of its contribution to the extent the contribution was actually received. The Institution shall ensure that the refund is issued within 60 days after its receipt of the request for the refund.

(9) Eligibility for a tax credit (as distinguished from the receipt of a tax credit certificate from an Institution) shall be subject to the Act, the rules of the Department of Revenue, and other applicable law.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06; OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

580-043-0090

Tax Credit Certificate and Grant Record-Keeping and Reporting

(1) Each Institution shall retain copies of all tax credit certificates that it issues. Upon every issuance of a tax credit certificate by the Institution, upon transfer of moneys into the General Fund, and promptly after Board adoption of an order or resolution establishing or modifying the Institution's allocation of tax credit certificate issuance authority, the Institution shall calculate and record in its records the amount, if any, of its fundraising and tax credit certificate issuance authority then remaining unused.

(2) As requested by the Board from time to time but no less often than annually, each Institution shall submit a written report to the Board summarizing its fundraising activity, amounts transferred to the General Fund, and issuance of tax credit certificates since its most recent report to the Board under this section and specifying its fundraising tax credit certificate issuance authority and the amount of that authority remaining unused as of the date of the report. The report shall include the number of tax credit certificates issued, the amount of funds raised by the Institution, and the amounts transferred to the General Fund since its most recent prior report to the Board under this section.

(3) As requested by the Board from time to time but no less often than annually, each Institution shall submit a written report to the Board summarizing the grants made by the Institution under its Program and how they serve the goals of the Act and these rules.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06; OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

580-043-0095

Recoupment of Tax Credits

An Institution that has established a Fund and has made grants under a Program shall monitor the use of such grants and identify sources of Gross Royalty Income received by the Institution as the result of the use of the grants. Gross Royalty Income results from the use of a grant when it is traceable to the grant. The Institution shall cause the transfer of 20 percent of such Gross Royalty Income to the General Fund but not to exceed the amount of the tax credits issued by the Institution as a result of contributions to the Fund. This does not preclude transfers from other sources. Immediately upon deposit of the transferred amount into the General Fund, the Institution may issue new tax credits in an amount not to exceed the transferred amount. The Institution shall maintain records of all transfers to the General Fund.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 1-2006(Temp), f. & cert. ef. 2-9-06 thru 8-8-06; OSSHE 5-2006, f. & cert. ef. 7-24-06; OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

580-043-0100

Reports to the Legislative Assembly

An Institution that has established a Fund shall report annually to the Legislative Assembly or, if the Legislative Assembly is not in session, to the interim legislative committees on revenue. The report shall be at the end of the fiscal year of the Institution or of its affiliated foundation and provide information for that fiscal year. The Institution shall include in the report the following information pertaining to its Fund:

(1) The amount of donations received for the Fund;

(2) The amount of income received from the Fund;

(3) The amount of disbursements and grants paid from the Fund;

(4) The amount of income and royalties received from disbursements from the Fund; and

(5) The amount of moneys transferred from the Fund to the General Fund.

Stat. Auth: OL 2005, ch. 592, sec. 2.

Stats. Implemented: OL 2005, ch. 592, sec. 1, 2.

Hist: OSSHE 5-2007(Temp), f. & cert. ef. 7-23-07 thru 1-18-08

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**Oregon University System,
Eastern Oregon University
Chapter 579**

Rule Caption: Revisions to the Eastern Oregon University Student Code of Conduct.

Adm. Order No.: EOU 2-2007

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07

Notice Publication Date: 7-1-07

ADMINISTRATIVE RULES

Rules Amended: 579-040-0005, 579-040-0007, 579-040-0010, 579-040-0013, 579-040-0015, 579-040-0020, 579-040-0030, 579-040-0045

Subject: The proposed amendments to the rules of the Student Code of Conduct are to accommodate institutional changes and modifications for clarity and consistency. The proposed changes reflect current verbiage within the field of Student Services and will streamline the disciplinary process at Eastern Oregon University.

Rules Coordinator: Lara Moore—(541) 962-3368

579-040-0005

Student Code of Conduct

(1) Eastern Oregon University is dedicated to a campus culture that upholds the highest standards of individual, interpersonal and academic excellence. The college experience involves a fusion of the learning process with the development of positive attitudes and standards of behavior. In addition to growing intellectually and academically, students should form attitudes of scholarship, personal responsibility, and respect for others by:

- (a) Exemplifying personal and academic integrity;
- (b) Respecting the dignity, rights and property of all persons;
- (c) Opposing bigotry and prejudice and striving to be open to differences in people, ideas and opinions, encouraging community support of these differences;

(d) Demonstrating concern for others, their safety and their need for conditions which support their work and development.

(e) Commitment to these ideals requires students to refrain from and discourage behaviors which threaten the freedom and respect every individual deserves.

(2) Definitions:

(a) The term "University" means Eastern Oregon University.

(b) The term "student" includes all persons taking courses at Eastern Oregon University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the Student Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the University or who have been notified of their acceptance for admission are considered "students" as are persons who are living in University residence halls. This Student Code of Conduct does apply at all locations of the University, including Distance Education students.

(c) The term "faculty" means any person hired by the University to conduct classroom or teaching activities or who is otherwise considered by the University to be a member of its faculty.

(d) The term "University official" includes any person employed by the University, performing assigned administrative or professional responsibilities.

(e) The term "member of the University community" includes any person who is a student, faculty member, University official or any other person employed by the University. A person's status in a particular situation shall be determined by the Senior Hearings Officer.

(f) The term "University premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University.

(g) The term "organization" means any number of persons who have complied with the formal requirements for University recognition or registration.

(h) The term "Campus Hearings Officer" means any person or persons authorized by the Senior Hearings Officer to determine whether a student has violated the Student Code of Conduct and to implement sanctions that may be imposed when a Student Code of Conduct violation has been committed.

(i) The term "Senior Hearings Officer" is that person designated by the University President to be responsible for the administration of the Student Code of Conduct.

(j) The term "Student Conduct Coordinator" means a University official authorized by the Senior Hearings Officer to insure procedural fairness for all Accused Students, is responsible for scheduling disciplinary hearings and/or establishing records, and serves as Secretary to the Hearings Officer(s) and Student Hearings Committee.

(k) The term "Student Hearings Committee" means a committee of persons authorized by the Senior Hearings Officer to determine whether a student has violated the Student Code of Conduct and to recommend sanctions that may be implemented when a Student Code of Conduct violation has been committed.

(l) The term "shall" is used in the imperative sense.

(m) The term "may" is used in the permissive sense.

(n) The term "policy" means the written regulations of the University as found in, but not limited to, the Student Code of Conduct, Residence Life Handbook, the University web page(s), computer use policy, and Undergraduate/Graduate Catalogs.

(o) The terms related to Academic Honesty "cheating, fabrication, facilitation, plagiarism or tampering" are defined in the Academic Honesty Code.

(p) The term "Complainant" refers to any person who submits a charge alleging that a student has violated the Student Code of Conduct. When a student believes that he/she has been a victim of another student's misconduct, that student enjoys the same rights under the Student Code of Conduct as those enjoyed by the accused, even if another member of the University community submitted the charge itself.

(q) The term "Accused Student" means any student accused of violating the Student Code of Conduct.

(r) The term "Findings of Fact" means that the facts of the case are those events, circumstances, incidents, or actions which are believed to be true based upon the evidence and statement(s) heard.

(3) The following are offenses subject to disciplinary action: Code. The University may initiate disciplinary action and impose sanctions against any student, officially recognized student organization, or academic department/group which commits any of the following acts proscribed by the State Board of Higher Education and the University:

(a) Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other institutional activities, including the institution's public service functions or other authorized activities on institutionally owned or controlled property.

(b) Obstruction or disruption which interfered with the freedom of movement, both pedestrian and vehicular, on institutionally owned or controlled property.

(c) Possession or use of fire arms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on institutionally owned or controlled property, in contravention of law or institutional regulations.

(d) Detention or physical abuse of any person, or conduct which is intended to threaten imminent bodily harm or endanger the health of any person or any institutionally owned or controlled property.

(e) Malicious damage or misuse or theft of institutional property, or the property of any other person where such property is located on institutionally owned or controlled property, or, regardless of location, is in the care, custody, or control of an institution.

(f) Refusal by any person, while on institutional property, to comply with an order of the institutional executive or appropriate authorized official or officials, to leave such premises because of conduct proscribed by the code when such conduct constitutes a danger to personal safety, property, or educational or other appropriate institutional activities on such premises.

(g) Unauthorized entry to or use of institutional facilities, including the buildings and grounds.

(h) Use, possession, or distribution of illegal drugs on institutionally owned or controlled property.

(i) Inciting others to engage in any of the conduct or to perform any of the acts prohibited herein. Inciting means that advocacy or proscribed conduct which calls upon the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the institution, including the safety of its students, faculty, and officials, and the protection of its property.

(j) Academic Dishonesty: cheating, fabrication, facilitation, plagiarism or tampering in connection with an academic program of the institution.

(k) Forging, altering, misusing, or mutilating University documents, records, identification, educational materials, or other University property.

(l) Sexual assault, sexual harassment, or any other non-consensual verbal or physical sexual activity including the support or assistance of such activities. For specific definitions please see the Sexual Assault Policy.

(m) Stalking, defined as repeatedly contacting another person when:

(A) The contacting person knows or should know that the contact is unwanted by the other person;

(B) The contact causes the other person reasonable apprehension of imminent physical harm; or

(C) The contacting person knows or should know that the contact causes substantial impairment of the other person's ability to perform the activities of daily life. Contacting includes but is not limited to communicating with or remaining in the physical presence of the other person.

(n) Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private

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property, or which endangers or harms animals, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are a violation of this code.

(o) Disorderly conduct includes but is not limited to: threats; intimidation; vulgar, indecent, defamatory, or obscene conduct or expression on University-owned or controlled property or at University-sponsored or supervised functions or events; any use of electronic or other devices to make an audio or video record of any person while on University premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(p) Possession or consumption of alcohol beverages by persons under 21 years of age, or furnishing of alcoholic beverages to persons under 21 years, on University owned or controlled property or at University sponsored or supervised activities. Individuals of legal drinking age in recognized student housing may possess and consume alcoholic beverages only in their private rooms, and dispensing devices such as kegs and taps, and large containers such as "party balls," are not permitted. Use of alcohol in any other campus location is prohibited unless specifically authorized in OAR 845-006-0347, which governs the conditions under which alcoholic beverages may be consumed in areas other than housing units on the University campus. Regulations concerning use of alcoholic beverages by students in University housing units and by recognized student organizations on or off campus are detailed in the Eastern Oregon University Drug and Alcohol Policy, the Alcohol Beverage Use Policy and the Tailgating Policy.

(q) Use of tobacco products in unauthorized locations on campus in violation of state law, University, or public health regulations.

(r) Violating University parking regulations or other misuse of a vehicle, which violates the law or University policy.

(s) Intentionally furnishing false information, including false identification.

(t) Distributing, publishing or posting materials, soliciting funds, selling items, engaging in commercial activity, erecting structures, exhibiting items, displaying films and videos, recording or filming, using official University insignias or materials, or participating in performances and activities without proper authorization or not in accordance with the University Open Forum (Time, Place, Manner) Policy.

(u) Attempted or actual theft or misappropriation of property, equipment, materials, services, or data of the University, faculty, staff, students or guests.

(v) Attempted or actual theft or other abuse of computer facilities and resources, including but not limited to: unauthorized entry into a file, to use, read, or change the contents, or for any other purpose; unauthorized transfer of a file; use of another individual's identification and/or password; use of computing facilities and resources to interfere with the work of another student, faculty member or University official; use of computing facilities and resources to send obscene or abusive messages; use of computing facilities and resources to interfere with normal operation of the University computing system; use of computing facilities and resources in violation of copyright laws; any violation of the University Acceptable Use Policy.

(w) Knowingly possessing stolen property, equipment, materials, services, or data.

(x) Violation of any University policy, rule, or regulation published or posted in hard copy or available electronically on the University website.

(y) Abuse of the Student Conduct System, including but not limited to: failure to obey the notice from the Senior Hearings Officer, Student Conduct Coordinator, a Campus Hearings Officer, or University official to appear for a meeting or hearing as part of the Student Conduct System; falsification, distortion, or misrepresentation of information before a Campus Hearings Officer or Student Hearings Committee; disruption or interference with the orderly conduct of a hearing proceeding; participation in a student conduct code proceeding in bad faith; attempting to discourage an individual's proper participating in, or use of, the student conduct system; attempting to influence the impartiality of a member of a Student Hearings Committee or a Campus Hearings Officer prior to, and/or during the course of, the hearing proceedings; harassment (verbal or physical) and/or intimidation of a member of a Student Hearings Committee or a Campus Hearings Officer prior to, during, and after a hearing proceeding; failure to comply with the sanction(s) imposed under the Student Code of Conduct; influencing or attempting to influence another person to commit an abuse of the Student Conduct System.

(z) Violation of any federal or state law or city or local ordinance or University rule.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 351.088

Hist.: EOSC 5(Temp), f. 3-31-77, ef. 4-1-77; EOSC 10, f. & ef. 8-15-77; EOSC 5-1992, f. 11-16-92, cert. ef. 1-1-93; EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

579-040-0007

Jurisdiction

(1) The provisions of OAR 579-040-0005 apply to all students and activities on University owned or controlled property; during any University-sponsored activity or the activity of a University-sponsored or recognized organization, regardless of location; or when the behavior poses a clear threat to any persons or to property on campus. "Activities" include, but are not limited to field trips, athletic events, and all extra-curricular activities or theatre/music productions. Examples of behaviors which pose a clear threat may include, but are not limited to, physical or sexual assault, rape, sexual harassment, stalking or illegal weapons use.

(2) In general, the off-campus activities of students are viewed as their personal business. When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being processed under the Student Code of Conduct, the University may advise off-campus authorities of the existence of the Student Code of Conduct and of how such matters are typically handled within the University community. The University will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual students and other members of the University community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate. When a student violates local, state, or federal laws and, at the same time, violates the Student Code of Conduct, either on or off campus, the University reserves the option of initiating disciplinary action on its own.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 351.088

Hist.: EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

579-040-0010

Student's Rights and Responsibilities

(1) Eastern Oregon University students retain and enjoy all rights guaranteed to citizens by the Constitution and laws of both the United States and the state of Oregon. Examples of such rights include but are not limited to the following:

(a) The right of reasonable access to University facilities and programs, and the right to learn free from unlawful discrimination or other arbitrary and impulsive treatment.

(b) The right of free inquiry, expression, and assembly subject to constitutional limitations regarding time, place, and manner.

(2) Students charged with violations of University regulations have the following rights in accordance with Due Process (OAR 579-040-0013):

(a) The opportunity to select whether a Campus Hearings Officer or the Student Hearings Committee will hear the allegation(s) of complaint.

(b) Written notice to include:

(A) Copies of all documents or complaints that have led to charges being brought forward or a hearing being scheduled;

(B) Name of the Hearings Officer and names of Student Hearing Committee members (when appropriate);

(C) Reference to the particular section(s) of the Student Code of Conduct that is/are alleged to have been violated;

(D) Time, location and other relevant information regarding the conduct violation(s);

(E) A copy of the Student Code of Conduct and the procedures to ensure Due Process.

(c) The consequences and/or sanctions will be consistent with the Student Code of Conduct.

(d) To be advised by counsel at the hearing if the student makes all arrangements for counsel to be present at the student's expense. The student who is advised by counsel is still obligated to represent him/her self at the hearing.

(e) Opportunity to review all information being considered at a disciplinary hearing.

(f) Opportunity to have witnesses or documents in support of his/her defense.

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(g) Opportunity to appeal the decision rendered as a result of the disciplinary hearing.

(h) In the case of suspension or expulsion/dismissal, the Senior Hearings Officer must review the Hearings Officer's decision and/or the Student Hearings Committee's recommendation.

(3) Students complained against have the following responsibilities:

(a) To appear at the designated time and place for a hearing to answer the charges filed. Failure to appear at the disciplinary hearing will result in the Hearings Officer or Student Hearings Committee issuing an order based on the information available.

(b) To meet with the Student Conduct Coordinator to review disciplinary hearing policies and procedures.

(c) To provide a list of all witnesses who will appear in his/her behalf to the Hearings Officer or Student Hearings Committee at least 48 hours prior to the scheduled disciplinary hearing.

(d) To maintain civil decorum during the hearing process.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 351.088

Hist.: EOSC 5(Temp), f. 3-31-77, ef. 4-1-77; EOSC 10, f. & ef. 8-15-77; EOSC 5-1992, f. 11-16-92, cert. ef. 1-1-93; EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

579-040-0013

Due Process

Procedural fairness is basic to the proper enforcement of all University regulations. Accordingly, no disciplinary action shall be initiated or sanction imposed against students or student organizations until they have been notified in writing of the charges against them and their rights under this Code, and given the opportunity to be heard (except in the event of potential harm to the welfare of self or others as indicated in OAR 579-040-0035):

(1) The Student Conduct Coordinator shall insure that the best interests of students and student organizations are served, regardless of whether disciplinary action is taken.

(2) Students shall have an opportunity to participate in the formulation of all regulations and policies pertaining to student discipline at Eastern Oregon University.

(3) All University regulations and policies pertaining to student discipline shall be published, distributed, or posted in such a manner as to furnish adequate notice of their contents to students or student organizations.

(4) Regulations and disciplinary sanctions affecting the conduct of students shall be based on general principles of equal treatment.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 351.088

Hist.: EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

579-040-0015

Disciplinary Hearing Procedures

University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and Eastern Oregon University's Student Code of Conduct (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under the Student Code of Conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the Senior Hearings Officer. Determinations made or sanctions imposed under the Student Code of Conduct shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant. Disciplinary hearing proceedings at Eastern Oregon University need not mirror courtroom proceedings. At a disciplinary hearing, civil and criminal technical rules of evidence, applicable to such cases, shall not apply. Any recording of proceedings will be held until the appeal date has expired, at which time the recording will be destroyed.

(1) The Senior Hearings Officer, appointed by the President, is responsible for coordination of the University's student disciplinary proceedings. University housing discipline is administered by the Residence Life staff, but such matters will also be referred to the Office of Student Affairs when a student's status at the University must be reviewed or when the conduct is of an egregious nature. The Senior Hearings Officer shall designate a Student Conduct Coordinator who will coordinate the activities of the Hearings Officers and Student Hearings Committee in regard to student conduct procedures. The Student Conduct Coordinator shall be responsible for maintaining disciplinary hearings and/or issues records. These records shall include a summary of the disciplinary proceedings and results and the appointed hearings officer acting on the case. The Student

Conduct Coordinator shall serve as Secretary to the Hearings Officers and Student Hearings Committee.

(2) Any member of the University community may file a complaint against a student for violation(s) of the Student Code of Conduct. A Complaint may be submitted in writing on a University Complaint Form, in person, via email or telephone, or on an incident report form to the Office of Student Affairs and/or the Student Conduct Coordinator. Any complaints should be submitted as soon as possible after the event takes place, preferably within 24 hours. Upon receipt of a complaint, the Student Conduct Coordinator, in consultation with the Senior Hearings Officer, will determine whether or not the complaint is deemed sufficient as to facts or laws and whether or not it should be forwarded for a hearing. If the complaint is forwarded for a hearing, the Student Conduct Coordinator will afford the student the opportunity to meet with the Coordinator for the purposes of discussing the options for disposition of the case and discuss the student's rights and responsibilities as proscribed in OAR 579-040-0010. At the meeting with the accused student, the Student Conduct Coordinator will describe the hearing options available to the student. These options are:

(a) Campus Hearings Officer Presiding; or

(b) Student Hearings Committee Presiding (a subcommittee of the Assembly Student Affairs Committee).

(3) The complaint will be assigned to a Hearings Officer or the Student Hearings Committee. A time shall be set for a hearing, not less than five or more than fifteen calendar days after the student has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the Student Conduct Coordinator. The Student Conduct Coordinator will work with the Hearings Officer and/or the Student Hearings Committee to arrange for a hearing to review the complaint, and determine the subsequent appropriate institutional response.

(4) Disciplinary Sanctions. The following decisions may be rendered as a result of a disciplinary hearing:

(a) Dismissal of the complaint.

(b) An informal settlement including mandated counseling referral(s).

(c) Restitution: Reimbursement by dollar amount, by transfer of property, or by provision of services to the University or a member of the University community in accordance with the nature of the violation in an amount not in excess of actual expenses, damages, or losses incurred.

(d) Required Educational Activities: Mandatory participation in educational activities or programs of community service.

(e) Restrictions: Removal from a living group, or from the use of specific University facilities, or denial of the use of a vehicle on campus, or other restrictions consistent with the violation committed.

(f) Warning: Official notice, in writing, to a student that his or her conduct or actions are in violation of the Student Code of Conduct. The continuation of such conduct or actions may result in further disciplinary action.

(g) Reprimand — severe or formal reproof.

(h) Probation: A written reprimand for violation of specified regulations. Probation will be for one to three academic quarters, and may include loss of privileges, restitution, and/or required educational activities. Placement on probationary status includes observation and review of behavior and the student must demonstrate compliance with the Student Code of Conduct. A student on probation is not in "good standing" with the University. Students on probation are subject to suspension if found in violation of the Student Code of Conduct during the probationary period.

(i) Loss of Privileges: Denial of specified privileges for a designated period of time.

(j) Discretionary Sanctions: Work assignments, essays, service to the University, or other related discretionary assignments.

(k) Residence Hall Suspension: Separation of the student from the residence halls for a designated period of time, after which the student is eligible to return. Conditions of readmission may be specified.

(l) Residence Hall Expulsion: Permanent separation of the student from the residence halls.

(m) Disciplinary Suspension:

(A) Suspension:

(i) Exclusion from the University for a specific period of time. Suspended students are normally denied the privileges and services provided to currently enrolled students, including residing in University-owned or recognized student housing, attending class, or using other University services or facilities. Suspension is generally for one year; however, the period of suspension may be specified for any period;

(ii) The conditions of suspension typically take effect immediately after the student has been informed of the decision. If an appeal is filed, the imposition of the suspension will be delayed until the conclusion of the

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appeal process. However, if a pending disciplinary hearing or appeal may result in suspension, as determined by the Student Code of Conduct, awarding of the academic degree sought will be postponed pending the outcome of the disciplinary hearing.

(B) **Deferred Suspension:** Placement on deferred suspension status during which there is observation and review of behavior. If the student is found to further violate University regulations during this period, the student is suspended without further hearings. Deferred suspension may be for a period of one term up to and including the remainder of a student's enrollment at the University.

(n) **Expulsion:** Permanent removal of eligibility to attend Eastern Oregon University.

(o) **Revocation of Admission and/or Degree:** Should the University discover that a student, or former student, has received an Eastern Oregon University degree, or has been admitted, under false pretenses (i.e., academic dishonesty, falsifying transcripts), or has pending Student Code of Conduct violations, attempts will be made to adequately correct the situation. If the student is uncooperative or unwilling to meet requirements consistent with institutional, college and departmental graduation requirements, her/his degree may be revoked until all requirements are met.

(p) **Withholding Degree:** The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Code of Conduct, including the completion of all sanctions imposed, if any.

(q) **Students whose behavior violates the Academic Honesty Code** are subject to additional academic sanctions, including failing the course, removal from an academic department, and removal from a college, that may be imposed by the instructor, department chair or dean.

(r) **Mediation:** Participation in a facilitated discussion with the complainant.

(s) **At the President's discretion,** the President or designated representative may notify law enforcement agencies of potentially illegal acts on campus or at University sponsored activities. Criminal or other charges arising from acts on campus or at University sponsored activities will proceed independently of on-campus disciplinary proceedings but may arise out of findings of said proceedings.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 351.088

Hist.: EOSC 5(Temp), f. 3-31-77, ef. 4-1-77; EOSC 10, f. & ef. 8-15-77; EOSC 5-1992, f. 11-16-92, cert. ef. 1-1-93; EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

579-040-0020

Disciplinary Hearing

Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in Disciplinary Hearings at Eastern Oregon University. Contested Case procedures in ORS Ch 183 do not apply to these hearings.

(1) **Disciplinary Hearings** with a Hearings Officer are intended to determine a factual basis for assertions in complaints filed. Disciplinary Hearings shall not be open to the public. The Hearings Officers are empowered to:

- (a) Make findings of fact;
- (b) Dismiss the case;
- (c) Refer the student for counseling;
- (d) Impose any sanction listed in OAR 579-040-0015 of this Code.

(A) **The Complainant, the Accused Student and the Student Conduct Coordinator** may arrange for witnesses to present pertinent information to the Hearings Officer. The University will try to arrange the attendance of possible witnesses who are members of the University community, if reasonably possible, and who are identified by the Complainant and/or Accused Student at least two weekdays prior to the hearing. Witnesses will provide information to and answer questions from the Hearings Officer. The person(s) complained against shall appear along with witnesses and other parties requested by the Hearings Officer to be in attendance. All parties may have counsel or an advocate to serve as advisors at their own expense. Questions may be suggested by the Accused Student and/or Complainant to be answered by each other or by other witnesses. This will be conducted by the Hearings Officer. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. Questions of whether potential information will be received shall be resolved in the discretion of the Hearings Officer.

(B) **A secretary** may record information presented, accept information, statements, and prepare a summary of the Hearings Officer's findings. No transcription of a disciplinary hearing will be made. After the portion of the hearing concludes in which all pertinent information has been received,

the Hearings Officer will determine whether the Accused Student has violated each Code of Conduct which the student is charged with violating. Every effort will be made to issue a written decision within two business days by the Hearings Officer after the conclusion of the hearing. However, no fixed deadline is imposed.

(2) **Disciplinary Hearings** before the Student Hearings Committee. The Complainant, the Accused Student and the Student Conduct Coordinator may arrange for witnesses to present pertinent information to the Student Hearings Committee. The University will try to arrange the attendance of possible witnesses who are members of the University community, if reasonably possible, and who are identified by the Complainant and/or Accused Student at least two weekdays prior to the hearing. Witnesses will provide information to and answer questions from the Student Hearings Committee. The Student Hearings Committee has the power to:

- (a) Make findings of fact;
- (b) Determine whether or not the student has violated the Code;
- (c) Recommend to dismiss the case;
- (d) Recommend any sanction listed in 579-040-0015 of the Student Code of Conduct to the Senior Hearings Officer.

(A) **The person(s) complained against** shall appear along with witnesses and other parties requested by the Student Hearings Committee to be in attendance. All parties may have counsel or an advocate to serve as advisors at their own expense. Questions may be suggested by the Accused Student and/or Complainant to be answered by each other or by other witnesses. This will be conducted by the Student Hearings Committee.

(B) **A secretary** may record information presented, accept information, statements, and prepare a summary of the Student Hearings Committee's findings. No transcription of a disciplinary hearing will be made. Every effort will be made to issue a written decision within two business days by the Senior Hearings officer after the conclusion of the hearing. However, no fixed deadline is imposed.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 351.088

Hist.: EOSC 5(Temp), f. 3-31-77, ef. 4-1-77; EOSC 10, f. & ef. 8-15-77; EOSC 5-1992, f. 11-16-92, cert. ef. 1-1-93; EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

579-040-0030

Appeals

Following a disciplinary hearing, the student complained against has the right to an appeal.

(1) **A decision of a disciplinary hearing** may be appealed to the Vice President for Student Affairs in writing within five working days after notice. The Vice President will review all information presented at the hearing and may interview witnesses who appeared. The Vice President will make a decision within five working days after review. The Vice President's decision shall be final.

(2) **The request for an appeal** must include specific justification, including: errors, failure to consider all of the information presented, or any other action, including any new information not known at the time of the original hearing, which denied the student a fair hearing.

(3) **Appeals related to the sanction of Deferred Suspension, Suspension or Expulsion** will be considered by the Student Hearings Committee, a subcommittee of the Eastern Oregon University Assembly Student Affairs Committee. The Student Hearings Committee will make a recommendation to the Vice President for Student Affairs. The Vice President will review the recommendation and make a decision within five working days after review. The Vice President's decision shall be final. Procedures to be followed are available from the Office of Student Affairs.

(4) **Any recording of a hearing** will be destroyed at the expiration of the appeal date.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 351.088

Hist.: EOSC 5(Temp), f. 3-31-77, ef. 4-1-77; EOSC 10, f. & ef. 8-15-77; EOSC 5-1992, f. 11-16-92, cert. ef. 1-1-93; EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

579-040-0045

Student Records

(1) **All complaints** include the creation of a disciplinary file secured in the Office of Student Affairs. For those sanctions at the level of "Probation" and those more severe than "Probation," the student will be considered outside of "good standing" with the University for the duration of the sanction. Multiple sanctions may be imposed where appropriate.

(2) **Disciplinary Probation** shall involve written notice that is to be kept in the student's disciplinary file. There shall also be a Disciplinary Probation Hold entered in Banner on the students record with the wording:

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“contact Student Affairs.” After the period of Probation has expired and the student has met all proscribed obligations, the Disciplinary Probation Hold will be removed from the student’s Banner record.

(3) Disciplinary Suspension shall involve removal of privileges to enroll at the University for a specified period of time and there shall be a written notice that is to be kept in the student’s disciplinary file. There shall also be a Disciplinary Suspension Hold entered in Banner on the student’s record with the wording “contact Student Affairs.” After the period of suspension has expired and the student has met all proscribed obligations, the Disciplinary Suspension Hold will be removed from the students Banner record. A student suspended for misconduct and wishing to return to the University after the suspension period must notify the Office of Student Affairs in writing. The notification should include a description of the student’s activities since the suspension went into effect.

(4) Disciplinary Expulsion shall involve permanent removal of privileges to enroll at the University and there shall be a written notice that is to be kept in the student’s disciplinary file. There shall also be a Disciplinary Expulsion Hold entered in Banner on the student’s record with the wording: “contact Student Affairs” followed by the date of the disciplinary action.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070 & 351.088
Hist.: EOSC 5(Temp), f. 3-31-77, ef. 4-1-77; EOSC 10, f. & ef. 8-15-77; EOU 4-2005, f. & cert. ef. 7-7-05; EOU 2-2007, f. & cert. ef. 8-15-07

Rule Caption: Amend parking and vehicular traffic regulations.

Adm. Order No.: EOU 3-2007

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07

Notice Publication Date: 7-1-07

Rules Amended: 579-070-0005, 579-070-0010, 579-070-0015, 579-040-0030, 579-070-0035, 579-070-0041, 579-070-0042, 579-070-0043, 579-070-0045

Subject: The amendments to this OAR are to accommodate changing needs brought on by the growth of the University over the last decade. The changes reflect current nomenclature and practices in implementing the University’s parking and traffic regulations.

Rules Coordinator: Lara Moore—(541) 962-3368

579-070-0005

Purpose

(1) Campus parking and vehicular traffic regulations are designed to minimize congestion, maintain safety, enhance security, and maximize the use of existing parking facilities.

(2) “The Board of Higher Education is empowered under ORS 352.360 and 351.070 to enact such regulations as it shall deem convenient or necessary to provide for the policing, control, and regulation of traffic and parking of vehicles on the property of any institution under the jurisdiction of the Board,” and to “prescribe and collect charges for services rendered to any person or entity.” The fees and charges are set at levels sufficient to support fully annual operating expenses of maintaining parking facilities and to meet obligations for bonded indebtedness incurred for the acquisition of property and/or the construction of parking facilities.

(3) These regulations and fees will be reviewed annually by the Vice President of Administration, Finance, and Facilities and the Parking Advisory Committee

(4) Oregon State Police, the Union County Sheriff, and the La Grande City Police are authorized to issue citations for violations of vehicular traffic regulations occurring anywhere within approved campus boundaries. If a citation is issued by one of these enforcement agencies, the person cited should post bail or appear at the time and place stated on the citation. The university exercises no authority or responsibility over these actions.

(5) All signs and curb markings will meet established state standards. Curb Colors: Yellow — No parking; Handicapped — Blue; Green — 30 minute parking.

(6) A vehicle is any conveyance requiring a state or city license to operate in any public area. This includes motorcycles and mopeds.

(7) The University assumes no responsibility for damage to or loss of vehicles or their contents when parking within the campus boundaries.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070 & 352.360
Hist.: EOSC 11, f. & ef. 11-17-77; EOSC 3-1979, f. & ef. 6-27-79; EOSC 1-1982, f. & ef. 6-11-82; EOSC 4-1984, f. & ef. 10-25-84; EOSC 2-1986, f. & ef. 7-28-86; EOSC 4-1992, f. & cert. ef. 8-24-92; EOSC 2-1994, f. & cert. ef. 3-7-94; EOSC 5-1994, f. & cert. ef. 9-6-94; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0010

Permit Parking

(1) All vehicles parking on campus must display a current permit by hanging it from the rear view mirror with permit numbers clearly visible from the front of the vehicle. If this is not possible, then permit must be clearly visible on the driver’s side of vehicle dash with permit numbers visible. Motor cycle permits are to be affixed near the handlebars and clearly visible. Vehicles may not remain in parking lots for more than a 24-hour period with the following exceptions: vehicles of dormitory residents and vehicles of those traveling off-campus on University business. Vehicles towing trailers of any kind are not permitted to park on campus except in the Community Stadium parking lot. Permits can be purchased at the Student Accounts Office, Inlow Hall #119. Parking Regulations are enforced Monday-Friday 7am-5pm.

(2) General Parking Permits — allows permit holder to park in general parking spaces only, excludes parking in reserved and handicapped spaces.

- (a) The cost for a General Parking Permit:
- (b) Academic school year (September 15 – June 16) \$75
- (c) One term only \$30
- (d) One Day General Permit — \$1 (purchased at the Parking Pay Station)

(3) Designated Reserved Parking Permits — allows the permit holder to park in their designated reserved parking space or in a general parking space. Excludes parking in handicapped spaces.

- (a) The cost for a Reserved Parking Permit:
- (b) Calendar year (September 15 — September 14) — \$350.
- (c) Academic year (September 15 — June 16) — \$280
- (4) “No Fee” Parking:

(a) The parking lot west of the Community Stadium is a “no fee” parking lot.

(b) The Information Booth parking lot at 6th and “H” avenue is a 2 hour no fee parking lot.

(5) Motorcycle Parking:

(a) The cost of a motorcycle parking permit is \$20 for the academic year (September 15 – June 16) if purchased separately. There is no additional cost for a motorcycle parking permit if a General Parking or Reserved permit is purchased.

Stat. Auth.: ORS 351.070 & 352.360
Stats. Implemented: ORS 351.070 & 352.360
Hist.: EOSC 11, f. & ef. 11-17-77; EOSC 3-1979, f. & ef. 6-27-79; EOSC 1-1982, f. & ef. 6-11-82; EOSC 4-1984, f. & ef. 10-25-84; EOSC 2-1986, f. & ef. 7-28-86; EOSC 2-1991, f. & cert. ef. 6-24-91; EOSC 4-1992, f. & cert. ef. 8-24-92; EOSC 2-1994, f. & cert. ef. 3-7-94; EOSC 5-1994, f. & cert. ef. 9-6-94; EOSC 2-1996, f. & ef. 8-15-96, cert. ef. 9-16-96; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0015

Visitor Parking

Campus events such as meetings and conferences may obtain “Free” One Day Visitor Permits upon the approval of the University President, a Vice President or Dean, prior to the event. Visitor permits must be displayed by hanging the permit from the rear view mirror of the vehicle and must have the current date showing.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070 & 352.360
Hist.: EOSC 11, f. & ef. 11-17-77; EOSC 3-1979, f. & ef. 6-27-79; EOSC 1-1982, f. & ef. 6-11-82; EOSC 4-1984, f. & ef. 10-25-84; EOSC 2-1986, f. & ef. 7-28-86; EOSC 2-1991, f. & cert. ef. 6-24-91; EOSC 4-1992, f. & cert. ef. 8-24-92; EOSC 2-1994, f. & cert. ef. 3-7-94; EOSC 5-1994, f. & cert. ef. 9-6-94; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0030

State Vehicles

Vehicles with government issued plates may park only in General Parking space without a permit. Excludes parking in Reserved and Handicapped spaces.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070 & 352.360
Hist.: EOSC 11, f. & ef. 11-17-77; EOSC 3-1979, f. & ef. 6-27-79; EOSC 1-1982, f. & ef. 6-11-82; EOSC 4-1984, f. & ef. 10-25-84; EOSC 2-1986, f. & ef. 7-28-86; EOSC 4-1992, f. & cert. ef. 8-24-92; EOSC 2-1994, f. & cert. ef. 3-7-94; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0035

Citations and Fines

(1) Parking Regulations are enforced Monday — Friday 7am — 5pm and citations and fines will be issued for the following violations:

- (a) Parking in a General Parking space without a valid current permit — \$15

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(b) Parking in a Reserved Parking space without a valid current Reserved Permit — \$50;

(c) Parking in a designated Handicapped Space without a current DMV permit — \$100;

(d) Parking in a designated loading zone (marked yellow) — \$20;

(e) Violation of 30 minute and 2 hour parking limits — \$20;

(f) Parking in a designated "Fire" zone — \$50;

(g) Parking Improperly (backing into spaces, parking against the flow of traffic, parking over the lines) — \$15;

(h) Possession of altered permit or misuse of permit — \$100;

(i) Improper display of permit — \$15;

(j) Driving or parking on or over sidewalks/lawns, pedestrian malls — \$20;

(k) Blocking traffic — \$20;

(l) Parking/chaining bicycle in unauthorized area — \$15;

(m) Boot Fee — \$50;

(2) Fines for violations can be paid at the Student Accounts Office in Inlow Hall #119. (EOU Business Office, One University Blvd. La Grande OR 97850).

(3) The fine of one \$15 violation may be applied to the purchase of a General or Reserved Parking Permit.

(4) Non Payment of Fines: A student who fails to tender payment in full to the University for any parking violations received, or fails to appeal as specified on or before the date specified in the traffic citation, will have the fine deducted from any credits/refunds and may be subject to vehicle boot or tow.

(a) Students may have their transcripts withheld or may have their registrations canceled or may be denied graduation if any fines or fees under these regulations are unpaid.

(b) A faculty or staff member who receives a parking citation will have the fine posted to the accounts receivable system at the EOU Business Office.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 352.360

Hist.: EOSC 11, f. & ef. 11-17-77; EOSC 3-1979, f. & ef. 6-27-79; EOSC 1-1982, f. & ef. 6-11-82; EOSC 4-1984, f. & ef. 10-25-84; EOSC 2-1986, f. & ef. 7-28-86; EOSC 2-1991, f. & cert. ef. 6-24-91; EOSC 4-1992, f. & cert. ef. 8-24-92; EOSC 2-1994, f. & cert. ef. 3-7-94; EOSC 5-1994, f. & cert. ef. 9-6-94; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0041

Appeal

(1) A person wishing to appeal a parking citation must do so in writing by preparing a Parking Citation Appeal Form, stating the reasons for appealing and present any verifiable facts which will substantiate the appeal. An appellant may, but is not required to, appear in person before the Committee, but must indicate the request on the Parking Citation Appeal Form. Appeal forms may be picked up at the Student Accounts Office or at the Information Booth at 6th and "H" avenue. The Parking Appeals Committee will review the appeal and its decision is final.

(2) All appeals must be submitted within 10 days from date of the citation. Appeals submitted after 10 days will not be considered for review. Appeals will be considered by the committee at the next regularly scheduled meeting.

(3) The following types of reasons are not acceptable grounds for appeal:

(a) Lack of knowledge of the regulations: i.e., new to campus or not read regulations;

(b) Other vehicles were also parked improperly;

(c) Disagree with or inability to pay the amount of the fine(s);

(d) Lack of space;

(e) Unread or misunderstood signs.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 352.360

Hist.: EOSC 5-1994, f. & cert. ef. 9-6-94; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0042

Parking Appeals Committee

(1) The Parking Appeals Committee is established to provide an expedient method of handling appeals for parking citations issued by Eastern Oregon University personnel.

(2) The Parking Appeals Committee will consist of two unclassified staff members and two classified staff members appointed by the Vice President of Administration, Finance, and Facilities, two students appointed by the ASEOSC Committees Chairperson, one Faculty member, with the Parking Program Coordinator chairing the Committee meetings, voting

only as a tie breaker. A Campus Security/Public Safety officer will serve ex-officio without vote.

(3) Each member of the Parking Appeals Committee will serve for a period of 2 years, with a maximum of two consecutive terms. Terms of office will be staggered to help insure continuity and consistency in the appeals review process.

(4) The Parking Appeals Committee will meet regularly each month.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 352.360

Hist.: EOSC 5-1994, f. & cert. ef. 9-6-94; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0043

Parking Appeals Committee Authority

The Parking Appeals Committee shall have the authority to:

(1) Find the individual not guilty of the violation and dismiss the citation.

(2) Find the individual guilty of the violation and impose the appropriate fine.

(3) Find the individual guilty and issue a warning without imposing a fine.

(4) Defer the citation, meaning that the citation will be treated as a warning unless the individual receives another citation at which time the person will be charged for both.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & 352.360

Hist.: EOSC 5-1994, f. & cert. ef. 9-6-94; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

579-070-0045

Towing/Immobilizing Vehicles

(1) A vehicle may be towed off the campus and impounded and the owner subject to towing and storage fees in addition to designated penalties under the following circumstances:

(a) A vehicle causing imminent danger to people or University property, i.e., fire lanes, bus zones or close to fire hydrants;

(b) A vehicle left parked or standing in an area not normally used for vehicular traffic. This includes parking on a sidewalk, or the grass.

(c) A vehicle that is no longer operational or appears to be non-operational for an extended period of time.

(2) A vehicle may also be immobilized by using a mechanical boot device

(a) The above listed violations

(b) Vehicles that have three or more unpaid citations

(c) Vehicles that are misusing or displaying an altered permit

(3) Release of the vehicle will be made upon payment of the fines or by satisfactory arrangements for payment with the Accounts Receivable office.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070 & 352.360

Hist.: EOSC 1-1982, f. & ef. 6-11-82; EOSC 4-1984, f. & ef. 10-25-84; EOSC 2-1986, f. & ef. 7-28-86; EOU 5-2005, f. & cert. ef. 9-2-05; EOU 3-2007, f. & cert. ef. 8-15-07

Rule Caption: Amend special student and course fees.

Adm. Order No.: EOU 4-2007(Temp)

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07 thru 1-15-08

Notice Publication Date:

Rules Amended: 579-020-0006

Subject: Amend fees charged to students for special uses of facilities, services or supplies at Eastern Oregon University.

Rules Coordinator: Lara Moore—(541) 962-3368

579-020-0006

Special Student Fees

Eastern Oregon University intends to adopt by reference Special Student Fees for the 2007-08 school year.

[ED NOTE: Fee list referenced is available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: EOSC 3, f. & ef. 6-23-76; EOSC 8, f. & ef. 6-16-77; EOSC 6-1978, f. & ef. 10-2-78; EOSC 1-1979, f. & ef. 6-27-79; EOSC 1-1981, f. & ef. 1-12-81; EOSC 3-1981, f. & ef. 7-1-81; EOSC 2-1983, f. & ef. 12-16-83; EOSC 2-1984, f. & ef. 10-25-84; EOSC 1-1986, f. & ef. 2-13-86; EOSC 2-1988, f. & cert. ef. 10-28-88; EOSC 2-1989, f. & cert. ef. 7-31-89; EOSC 2-1990, f. & cert. ef. 10-9-90; EOSC 3-1991, f. & cert. ef. 9-20-91; EOSC 5-1990, f. & cert. ef. 12-20-91 (and corrected 1-2-92); EOSC 1-1992, f. & cert. ef. 5-13-92; EOSC 2-1992, f. & cert. ef. 8-24-92; EOSC 4-1993, f. & cert. ef. 8-2-93; EOSC 4-1994, f. & cert. ef. 7-25-94; EOSC 1-1996, f. & cert. ef. 8-15-96; EOU 1-2001, f. & cert. ef. 9-28-01; EOU 1-2003, f. & cert. ef. 7-31-03; EOU 1-2005, f. & cert. ef. 5-16-05; EOU 1-2006, f. & cert. ef.

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4-14-06; EOU 1-2007, f. & cert. ef. 5-14-07; EOU 4-2007(Temp), f. & cert. ef. 8-15-07 thru 1-15-08

**Oregon University System,
Southern Oregon University
Chapter 573**

Rule Caption: Parking Enforcement and Appeals.

Adm. Order No.: SOU 3-2007

Filed with Sec. of State: 7-23-2007

Certified to be Effective: 7-23-07

Notice Publication Date: 2-1-07

Rules Amended: 573-050-0010, 573-050-0025, 573-050-0030, 573-050-0035, 573-050-0040, 573-050-0045

Subject: This amendment in Div. 050 increases parking fees and fines and clarify other regulations such as types of permits.

Rules Coordinator: Treasa Sprague—(541) 552-6319

573-050-0010

Application of Motor Vehicle Laws of the State of Oregon and the City of Ashland

All motor vehicle laws of the State of Oregon and City of Ashland, including specifically, but not by way of limitation, ORS Chapters 810, 811, 814, 815, and 816, together with amendments hereafter adopted, are applicable and enforceable on the campus of Southern Oregon University to the same extent as if this campus and its streets were public highways.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOCS 5, f. & ef. 9-2-76; SOCS 4-1979, f. 8-8-79, ef. 9-1-79; SOCS 5-1980, f. & ef. 8-19-80; SOCS 3-1990, f. & cert. ef. 5-31-90; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2007, f. & cert. ef. 7-23-07

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. Permits may be purchased during normal office hours at the Enrollment Services Center (ESC) located in Britt 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. Permit is defined as any Parking Services sanctioned or issued permit. Examples include: decal, hangtag, guest, special, metered, temporary, courtesy, media, or other placard or device issued or developed by Parking Services as needed to facilitate parking of vehicles on Southern Oregon University property.

(2) Parking permits and faculty/staff hangtags are serialized for use on specific vehicle(s) with a license plate designated by the purchaser at the time of purchase. Permits (decals) 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 permit must be the attaching mechanism. Hangtags are to be hung from the rear-view mirror; serialized numbers facing out. Parking Services (at the Enrollment Services Center in Britt Hall) must be informed of changes in vehicles; re-registering the hangtags to the appropriate vehicle(s). If a vehicle is disposed of, the permit must be removed and returned to Parking Services.

(3) Parking permits may be purchased for the remainder of the academic year or for each term. The academic year begins and ends in September. Parking permits purchased during the winter, spring, or summer terms are at a proportionately reduced rate.

(4) Faculty/Staff parking permits (or hangtags) will be sold to classified employees, graduate assistants, temporary employees who are half-time or more, and faculty. Faculty/staff employees working less than half-time will be eligible for a permit at a reduced rate. Hangtags are issued for a three-year period. Vehicles displaying a Faculty/Staff permit (or hangtag) are authorized to park in designated Faculty/Staff (yellow) parking areas.

(5) Student Commuter parking permits will be sold to students who live off campus and wish to bring vehicles on campus. Vehicles displaying a Student Commuter permit are authorized to park in designated Student Commuter (green) parking areas.

(6) Residence Hall parking permits will be sold to students living in campus residence halls. Vehicles displaying a Residence Hall permit are authorized to park in designated Residence Hall (red) parking areas.

(7) Second parking permits 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 permit (the original or second permit) is valid in 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 permit may not be purchased for a car if the first permit is for a vehicle used in a Residence Hall Parking area, a motorcycle, moped, or scooter.

(8) A replacement permit may be obtained for a damaged, unreadable permit or for a replacement vehicle. The replacement vehicle must be registered to the same owner as the original vehicle. The permit which is being replaced will be considered void and should be returned to Parking Services (at the Enrollment Services Center in Britt Hall) upon purchase of a replacement permit.

(9) Guest permits are available at Parking Services and departmental offices. Guest permits are issued for one day only. Guest permits may not be used in timed or visitor pay meter 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 a citation may be issued for failure to display permit if any of the following information is illegible or omitted:

(a) Both license number and make or color of vehicle;

(b) Date that permit is valid;

(c) Name and telephone extension of departmental personnel issuing the permit.

(10) Carpool parking permits will be sold for the 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. They may not purchase a second permit. However, replacement permits are available if requirements as stated in the regulations for replacement permits are met.

(11) Temporary replacement vehicles for a vehicle with a permit 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 (30 days or less).

(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 Parking Services (at the Enrollment Services Center in Britt Hall) or may be available in departments that have purchased them for use in special programs on campus.

(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. Media representatives will receive dated and numbered hangtags.

(15) Vendor or Volunteer permits may be obtained through Parking Services:

(a) 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;

(b) Volunteer parking permits will be sold to departments for use by volunteers. Departments can purchase long-term permits for one year, short-term permits for less than one month or term-by-term. These permits will be billed by Parking Services to the issuing department.

(16) Disabled parking is 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 (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 (as provided by ORS 811.606 and 811.640). The requirements for parking on campus apply for all disabled parking listed above;

(b) Vehicles with an 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, in a parking space reserved for other vehicles, or visitor pay meter lots.

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(17) Refunds for a parking permit will be made only for whole year (fall, winter, and spring) remaining and upon return of the permit or fragments thereof showing the permit number. Refund schedules are on file in Parking Services.

(18) Faculty/Staff, Residence Hall, and Commuter permits may be purchased for a single term. There is no refund on single-term permits. Rules regarding use of decals shall apply to single-term and yearly permits.

(19) Vehicles displaying valid permits are not guaranteed a parking space on the campus.

(20) Vehicles displaying valid permits are not exempt from timed parking restrictions. Vehicles may park in a timed space or in a metered parking space but must comply with the time limits or metered fee payment of the specific space.

(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 in plain view on the left side of the vehicle's dashboard will result in a citation for failure to display a permit. There is no grace period to obtain change for the permit machine.

(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. & ef. 9-19-89; SOSC 3-1990, f. & ef. 5-31-90; SOSC 4-1991, f. & ef. 6-11-91; SOSC 2-1994, f. & ef. 6-10-94; SOSC 2-1996, f. & ef. 8-2-96; SOU 2-1997, f. & ef. 8-26-97; SOU 2-1998, f. & ef. 7-16-98; SOU 1-1999, f. & ef. 5-7-99; SOU 2-2000, f. & ef. 6-9-00; SOU 1-2001, f. & ef. 4-4-01; SOU 2-2002, f. & ef. 6-28-02; SOU 1-2004, f. & ef. 4-5-04; SOU 3-2006, f. & ef. 6-29-06; SOU 3-2007, f. & ef. 7-23-07

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 (TPPC), 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 or community events must contact the Parking Services event coordinator online or contact Parking Services (at the Enrollment Service Center in Britt Hall) to arrange for parking and fee payment as appropriate. Unless otherwise arranged, participants will be restricted to Lot 1 during the aca-

demical school year. Event is defined as any activity occurring on Southern Oregon University property in which the sponsors or attendees pay a fee, collectively utilize more than 5 permit area spaces, or requires services from 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 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. & ef. 9-19-89; SOSC 2-1994, f. & ef. 6-10-94; SOU 2-1997, f. & ef. 8-26-97; SOU 2-1998, f. & ef. 7-16-98; SOU 1-1999, f. & ef. 5-7-99; SOU 2-2002, f. & ef. 6-28-02; SOU 1-2004, f. & ef. 4-5-04; SOU 3-2006, f. & ef. 6-29-06; SOU 3-2007, f. & ef. 7-23-07

573-050-0035

Transportation Planning and Parking Committee and Traffic Appeals Board

(1) The Transportation Planning and Parking Committee (TPPC), 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 economical 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 TPPC 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 TPPC 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 TPPC. 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. & ef. 9-19-89; SOSC 4-1991, f. & ef. 6-11-91; SOSC 3-1993, f. & ef. 5-21-93; SOU 2-1997, f. & ef. 8-26-97; SOU 1-2001, f. & ef. 4-4-01; SOU 2-2002, f. & ef. 6-28-02; SOU 1-2004, f. & ef. 4-5-04; SOU 3-2006, f. & ef. 6-29-06; SOU 3-2007, f. & ef. 7-23-07

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 \$85.
- (3) Permit not affixed: Fine \$25.
- (4) Improper permit: Fine \$20.
- (5) Parking in disabled space: Maximum fine \$300.
- (6) Overtime parking: Fine \$25.
- (7) Blocking wheel chair ramp: Fine \$100.
- (8) Improper parking: Fine \$30.
- (9) Parking in reserved space: Fine \$75.

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(10) Blocking traffic: Fine \$50.

(11) Boot vehicle: Fine \$25.

(12) Abandoning a vehicle: Fine \$100.

(13) A vehicle may be towed off campus property and impounded at the owner's expense (including additional fines) under the following circumstances:

(a) Any vehicle is causing imminent danger to people or University property;

(b) Any vehicle is without a valid yellow, green, or red parking permit and has records of \$100 or more in unpaid citations (may be towed or booted);

(c) Any vehicle is left parked or standing in an area not normally used for parking, including parking on a sidewalk or on grass;

(d) Any vehicle is improperly parked in a disabled space;

(e) Any vehicle is blocking traffic another vehicle, any door or fire exit, access to any trash container, fire lane, crosswalk, driveway, or it poses any other safety hazard (may also be cited for blocking traffic);

(f) Any vehicle is determined to be abandoned on University property.

(14) 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 and so forth.

(15) 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; SOU 3-2007, f. & cert. ef. 7-23-07

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 (at the Enrollment Services Center in Britt Hall) 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 email 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 imposes 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 (TPPC) 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 TPPC. 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. Non-students who fail to pay any outstanding fines may be subjected to University collection policies and practices of 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: \$54 each pool;

(b) Faculty and staff decal for first-registered vehicle:

(A) Fall term through summer term: \$81;

(B) Winter term through summer term: \$67;

(C) Spring term through summer term: \$54;

(D) Term decals: \$44.

(c) Faculty/staff hangtags are issued for a three-year period: \$243;

(A) This fee is for a one-time purchase;

(B) Payroll deduction is available, plus applicable increases in permit fees.

(d) Student Commuter and Residence Hall decal for first-registered vehicle:

(A) Fall term through summer term: \$79;

(B) Winter term through summer term: \$62;

(C) Spring term through summer term: \$49;

(D) Term decals: \$37.

(e) Motorcycles, mopeds, and scooters, one vehicle only:

(A) Fall term through summer term: \$32;

(B) Winter term through summer term: \$29;

(C) Spring term through summer term: \$27;

(D) Term decals: \$25.

(f) Second Vehicle permit: \$17:

(A) Second permits will be sold only to Faculty/Staff and Commuter permit holders. Red permit holders may not purchase a second permit;

(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) Replacement permits or hangtags: \$17;

(h) Lost/stolen permits: \$17;

(i) Departmental Reserved Parking spaces (nonrefundable): \$100 over and above price for regular parking permit and a \$50 fee for each subsequent sign-change after a sign is posted;

(j) Commercial permit, each vehicle:

(A) Long-term, twelve months: \$108;

(B) Long-term, six months: \$64;

(C) Short-term, one month: \$17;

(D) Short-term, daily: \$6.

(k) Weekly parking permits (for red and green lots only): \$17 per week (available at Housing, and Parking Services);

(l) Daily parking permits (for red and green lots only): \$6 per day (available at Housing, and Parking Services);

(m) Evening and weekend parking in designated lots: \$1;

(n) Visitor pay parking in specified lots: \$1 per hour (lot 12, and lot 29; in lot 1, pay \$0.25 per hour);

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- (o) Volunteer permit:
- (A) Volunteer, each vehicle, long-term, one year: \$5;
- (B) Volunteer, each vehicle, short-term, less than one month: \$1.
- (p) 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; SOU 3-2007, f. & cert. ef. 7-23-07

Oregon University System, University of Oregon Chapter 571

Rule Caption: Updates immunization policy as recommended by Center for Disease Control & Prevention.

Adm. Order No.: UO 12-2007

Filed with Sec. of State: 7-20-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Amended: 571-004-0016

Subject: The University of Oregon requires that all entering students eligible for services at the University Health Center demonstrate evidence of immunity to measles and mumps. This amendment will require entering students to have documentation of two doses of MMR (Measles/Mumps/Rubella) vaccine. This is identical to the rule changes adopted September 1, 2006 and temporary rules adopted February 14, 2007.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-004-0016

Required Immunization

(1) All individuals born after December 31, 1956 and who enter the University of Oregon after this rule is promulgated, must show proof of two measles and mumps vaccinations:

(a) Students will not be permitted to register for a second term without proof of measles and mumps immunization, consistent with the requirements of this rule, on record at the Student Health Center;

(b) After the beginning of a term, registered students may be vaccinated at the Student Health Center for a charge.

(2) Acceptable evidence of immunity to measles and mumps shall consist of one of the following for each disease:

(a) Documentation of two doses of MMR (Measles/Mumps/Rubella) vaccine with the first dose on or after their first birthday and the second dose no less than 28 days following the first. Documentation of immunization must consist of an official immunization record or be signed by a health care provider to meet this requirement;

(b) Physician-documented measles and mumps infection. A letter or other documentation signed by a health care provider is required to meet this requirement;

(c) Documented laboratory evidence of immunity to measles and mumps; or

(d) Birth prior to January 1, 1957.

(3) Notwithstanding any other provision of this rule, beginning September 1, 2007, for students who are attending the University of Oregon pursuant to a non-immigrant visa, documentation of measles and mumps vaccination must be provided prior to the student attending classes. If the student's first dose of measles and mumps vaccine was received less than 30 days prior to attendance, the student has until the beginning of the second term or semester to provide documentation of the second dose.

(4) Students seeking exemption from this requirement because of age, medical condition, or sincerely held religious belief shall complete and present to the designated Student Health Center official an exemption form. Forms are available at no cost upon request at the Student Health Center main desk. Forms also will be available during registration.

(5) Students without evidence of immunity to measles or mumps may be excluded from classes and other university activities in the event of an

outbreak of measles or mumps involving University of Oregon students and/or staff.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.070

Hist.: UOO 2-1991, f. & cert. ef. 1-30-91; UO 2-2006, f. 8-29-06, cert. ef. 9-1-06; UO 2-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 12-2007, f. 7-20-07, cert. ef. 8-1-07

Rule Caption: Update and amend student medical leave rule to represent best practices for responding to students' need for medical leave.

Adm. Order No.: UO 13-2007

Filed with Sec. of State: 7-20-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Adopted: 571-023-0000, 571-023-0100, 571-023-0105, 571-023-0110, 571-023-0115, 571-023-0120

Rules Amended: 571-023-0005, 571-023-0025

Rules Repealed: 571-023-0010, 571-023-0015, 571-023-0020, 571-023-0030, 571-023-0035, 571-023-0040

Subject: Revise and update outdated student medical policy to ensure rules represent best practices for responding to students' need for medical leave for serious health conditions. Identical to permanent rule changes adopted September 20, 2005, and temporary rule adopted February 14, 2007.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-023-0000

Definitions

For purposes of OAR 571-023-0000 et seq.

(1) "Dean's Consultation" occurs when the Vice President convenes a group of professionals to recommend actions and strategies to respond to a student's failure to meet the University's Standards of Responsibility and Self Care.

(2) "Medical Leave" means leave during an academic term, resulting from a student's medical or mental health condition that requires the student to interrupt their enrollment.

(3) "Professional Assessment" means an assessment of a student's mental capacity, emotional functioning and psychological well-being across all major bio-psycho-social domains performed by one or more mental health professionals trained to perform such an assessment. The objective of a "Professional Assessment" will be to determine a student's current level of dangerousness to self or others by understanding the student's ability to think, reason, care adequately for self and current suicidality. It is limited to gaining information and will not involve treatment interventions such as use of medication or psychotherapy. "Professional Assessment" may also mean gathering information to recommend steps to restore the health and safety of the student or to protect the university community.

(4) "Suicidal" means potentially self-injurious to oneself with the intent to imminently end one's life. "Suicidal" could include suicidal gesturing (mild to moderate attempts to commit suicide) or active suicidal attempts (any deliberate action with potentially life-threatening consequences).

(5) "Suicide Assessment Team" means a group of professional staff members who have expertise in the area of suicide assessment and referral selected under the sole discretion of the Vice President. Suicide Assessment Team members will include the Director of the University Counseling and Testing Center, the Director of the University Health Center, the Director of Student Life, and, if when appropriate, the Director of Residence Life, or the designees or successors.

(6) "Vice President" means Vice President for Student Affairs or successor or designee.

Stat. Auth.: ORS 352.004, 351.010, 351.060

Stats. Implemented: ORS 352.004

Hist.: UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

571-023-0005

Voluntary Leave

A student who wishes to be placed on medical leave from the University shall present a recommendation to that effect from a physician or psychologist to the Vice President for Student Affairs. The Vice President will request the Director of the University Health Center (if the request for leave is based on a medical condition) or the Director of the University Counseling Center (if the request for leave is based on mental health conditions) or both (if the Vice President believes information from

ADMINISTRATIVE RULES

both Directors would be useful) evaluate the information provided. Upon the affirmative written recommendation of the Director conducting the evaluation, the Vice President shall immediately grant the student's request.

Stat. Auth.: ORS 352.004, 351.010, 351.060

Stats. Implemented: ORS 352.004

Hist: UOO 4, f. 8-13-73, ef. 9-1-73; UOO 7(Temp), f. & cert. ef. 2-26-74; UOO 9, f. & cert. ef. 7-15-74; UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

571-023-0025

University Duties of Refund and Notification

If a student is placed on leave from the University pursuant to the provisions of OAR 571-023-0005 or 571-023-0115, the Vice President shall instruct the Registrar to withdraw the student immediately and to initiate the appropriate tuition and fee refund. If the leave occurs late in the term and incompletes are more appropriate for the student's work, the Vice President, in the Vice President's sole discretion, may seek that action rather than withdrawals from all courses.

Stat. Auth.: ORS 352.004, 351.010, 351.060

Stats. Implemented: ORS 352.004

Hist: UOO 4, f. 8-13-73, ef. 9-1-73; UOO 7(Temp), f. & cert. ef. 2-26-74; UOO 9, f. & cert. ef. 7-15-74; UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

571-023-0100

Standards of Responsibility and Self Care

(1) Standards of Responsibility and Self Care. A student in the university community who is experiencing a serious medical or mental health condition or emergency that substantially threatens the welfare of self or others, significantly disrupts the functioning of university operations or significantly interferes with a student's ability to complete their educational goals does not meet University standards of responsibility and self care and may be mandated for a professional assessment.

(2) Procedures. The following procedures shall be followed when the Vice President has reason to believe that a student may not meet University standards of responsibility and self care:

(a) The Vice President will consult with the Director of the Health Center (for behavior based on medical conditions or emergencies) or the Director of the Counseling Center (for behavior based on mental health conditions or emergencies) or both (if the Vice President believes information from both Directors would be useful).

(b) Request for a Dean's Consultation. If a student is not meeting the University's standards of responsibility and self care but is not suicidal, the Vice President may convene a dean's consultation to recommend appropriate actions.

(c) Request for evaluation in cases of suicidal ideation or behavior. When a student's behavior suggests it is warranted, the Suicide Assessment Team may conduct a review. Based on its review, the Suicide Assessment Team will recommend appropriate actions, which may include a mandatory professional assessment.

Stat. Auth.: ORS 352.004, 351.010, 351.060

Stats. Implemented: ORS 352.004

Hist: UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

571-023-0105

Mandatory Professional Assessment Appointment

(1) Mandatory professional assessment. If based on the Suicide Assessment Team's recommendation, the Vice President determines that the student should be required to attend a mandatory professional assessment appointment completed by an individual or individuals identified by the Suicide Assessment Team, the Suicide Assessment Team will attempt to reach the student by phone and will send a letter to the student requiring the student to attend the appointment within 3 days of the date of the letter. A student who is required to attend a mandatory professional assessment appointment may choose, consistent with the provisions of the rule, to have the mandatory assessment completed by an individual or individuals identified by the Suicide Assessment Team or, instead, by a psychologist, psychiatrist or other qualified, credentialed mental health professional, approved by the Suicide Assessment Team.

(a) A student who chooses to have a mandatory professional assessment performed by a mental health professional other than the individual or individuals selected by the Suicide Assessment Team as provided in this rule, must sign a release to allow information to be shared between the person performing the assessment and the Suicide Assessment Team. The information provided must be adequate to allow the Suicide Assessment Team to report to the Vice President the nature of any substantial threat to the welfare of the individual, other members of the University community, or the educational processes of the University.

(b) The Suicide Assessment Team will report to the Vice President regarding the student's ability to maintain their own safety and well-being, any threat to other members of the University community or the educational processes of the University. The report shall also contain recommendations concerning the necessity for medical leave for the student.

(2) Weekly Professional Assessment Appointments. Any student who is required to attend a mandatory professional assessment appointment must, if recommended as an outcome of the initial assessment, subsequently attend three professional assessment appointments after their initial appointment. Any student who fails to attend a professional assessment appointment, either the initial appointment or a subsequent one, will have failed to meet the University's standards of responsibility and self care.

Stat. Auth.: ORS 352.004, 351.010, 351.060

Stats. Implemented: ORS 352.004

Hist: UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

571-023-0110

Emergency Interventions

(1) Transfer to Institutional Care. If a physician or psychologist on the staff of the University Health Center or University Counseling and Testing Center, after conferring with the Vice President, determines that a student's medical or mental health condition poses an immediate emergency warranting institutional care, such physician or psychologist shall act as the representative of the University in emergency cases requiring immediate action to transfer a student pursuant to Oregon Laws, to an appropriate community or state health agency. Upon transfer to institutional care, the student shall be placed on medical leave from the University. If, within seven days of taking action to initiate such a transfer, the emergency has abated and the Director of the University Health Center or University Counseling and Testing Center so recommends to the Vice President, the Vice President may cancel the medical leave, require a mandatory medical assessment or, if the student elects and the Vice President concurs, place the student on voluntary medical leave for the remainder of the current term.

(2) Refusal to Participate. If, after requested by the Suicide Assessment Team, a student fails to attend any mandatory professional assessment appointment, the student will not meet the University's standards of responsibility and self care and will be subject to emergency procedures.

(3) Involvement of Family Members. The Vice President may seek the cooperation and involvement of family members of students who are experiencing medical or mental health emergencies. Involvement may include requesting family members to assist in persuading the student to seek appropriate professional assistance, such as an evaluation from a psychologist or other appropriate mental health professional. The decision to notify a student's family members in the case of a medical or mental health emergency will be weighed carefully against the student's privacy rights.

(4) Mandatory Leave. If the Vice President believes the medical or mental health condition of a student substantially threatens the welfare of self or others, significantly disrupts the functioning of university operations or significantly interferes with a student's ability to complete their educational goals or if a student fails to attend a mandatory professional assessment, the Vice President may place a student on mandatory leave after following the procedures identified in OAR 571-023-0115.

Stat. Auth.: ORS 352.004, 351.010, 351.060

Stats. Implemented: ORS 352.004

Hist: UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

571-023-0115

Mandatory Leave Procedure

(1) If the Director of the University Health Center or the Director of the University Counseling and Testing Center believes a student's medical or mental health condition meets the standard for mandatory leave, the Director will recommend to the Vice President that the Vice President initiate mandatory leave. The Director may confer with any individuals the Director believes can assist in making a recommendation.

(2) Prior to placing a student on mandatory leave, the Vice President will request the Director prepare a report containing a summary of the steps already taken to respond to the student's medical or mental health condition, a list of individuals who have relevant information regarding the student's medical or mental condition, and the basis for recommending mandatory leave.

(3) The Director will set a date and time for a meeting with the student prior to making a final recommendation regarding mandatory leave and provide the student written notice. The notice shall include:

(a) The date, time and place of the meeting;

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(b) That the purpose of the meeting is to consider if the student should be placed on mandatory leave;

(c) That the standards for making the final decision are whether the student's medical or mental health condition substantially threatens the welfare of self or others, significantly disrupts the functioning of university operations or significantly interferes with a student's ability to complete their educational goals;

(d) That the student has the opportunity to attend, to participate in the meeting, and to be accompanied by a personally-selected representative.

(4) The Director shall conduct the meeting in an informal manner that provides the Director with an opportunity to gather information relevant to the final decision and provides the student with an opportunity, if the student wishes, to provide information the Director believes will be useful in making a final recommendation. The student's opportunity to participate in the meeting shall include the opportunity to provide information from others who may have knowledge regarding whether the student's medical or mental health condition substantially threatens the welfare of self or others, significantly disrupts the functioning of university operations or significantly interferes with a student's ability to complete their educational goals.

(5) If, following the meeting with the student, the Director concludes that the student's medical or mental health condition does not substantially threaten the welfare of self or others, significantly disrupt the functioning of university operations or significantly interfere with the student's ability to complete their educational goals, the Director will so inform the student and the Vice President in writing, and no further action will be taken.

(e) If, following the meeting with the student, the Director concludes that the student's medical or mental health condition substantially threatens the welfare of self or others, significantly disrupts the functioning of university operations or significantly interferes with the student's ability to complete their educational goals, the Director will so inform the student and advise the Vice President in writing, and may recommend the student be placed on mandatory leave.

(f) The Vice President will review the Director's recommendation and will notify the University General Counsel or designee or successor, prior to placing the student on mandatory leave. The Vice President shall notify the student of the Vice President's decision and of the requirements for resumption of student status contained in this rule. The Vice President's decision is final.

Stat. Auth.: ORS 352.004, 351.010, 351.060
Stats. Implemented: ORS 352.004
Hist: UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

571-023-0120

Resumption of Student Status

(1) Prior to returning to the University or enrolling at the University, a student who has been placed on leave as a result of emergency procedures must produce a plan in writing that delineates how the student will resume their status at the University.

(2) The plan must respond to the condition that gave rise to the need for the student's leave (i.e., need for ongoing psychological or medical care; ability to maintain a standard of responsibility and self care; ability to assume class participation.) If the student will reside in the residence halls, the plan must also state how the student will transition back into this community.

(3) The Suicide Assessment Team will review the student's plan. After the Suicide Assessment Team has reviewed the student's plan, the Director of the Health Center (for behavior based on medical conditions or emergencies) or the Director of the Counseling and Testing Center (for behavior based on mental health conditions or emergencies) or both (if the Vice President believes information from both Directors would be useful) will make a recommendation to the Vice President who will decide if the student's request to re-enroll at that time shall be granted or denied. The Vice President's decision is final.

Stat. Auth.: ORS 352.004, 351.010, 351.060
Stats. Implemented: ORS 352.004
Hist: UO 1-2005, f. & cert. ef. 9-21-05; UO 3-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 13-2007, f. 7-20-07, cert. ef. 8-1-07

Rule Caption: Revise and update the student conduct code to represent best practices for responding to student conduct matters.

Adm. Order No.: UO 14-2007

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

Subject: Revises and updates the student conduct code to represent best practices for responding to student conduct matters. Identical to permanent rule changes adopted October 18, 2006 and temporary rules adopted February 14, 2007.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-021-0100

Mission

(1) The primary mission of the Student Conduct Code is to set forth the community standards and procedures necessary to maintain and protect an environment conducive to learning and in keeping with the educational objectives of the University of Oregon. Founded upon the principle of freedom of thought and expression, an environment conducive to learning is one that preserves the freedom to learn — where academic standards are strictly upheld and where the rights, safety, dignity and worth of every individual are respected.

(2) Learning is a process defined by the exchange of ideas and the advancement of knowledge. As such, learning entails a community of scholars united by their participation in, and commitment to, intellectual exchange. The University is, first and foremost such a community. Learning also involves reflecting on decisions and improving decision-making in the future. By establishing the standards of this community, the Student Conduct Code serves not just as a disciplinary system, but also as a part of the educational system. Hence, a corollary mission of the Student Conduct Code is to teach students to live and act responsibly in a community setting, with respect for the rights of other students and members of that community, and for the property, common resources, code of conduct, and laws associated with that community, and to encourage the development of good decision-making and personal integrity.

(3) Students are simultaneously members of the University community and the broader community (e.g. city, state, nation, and world). The Student Conduct Code, and the processes of its administration and enforcement, is directed specifically toward maintaining the standards of the University community. Within its jurisdiction the University may impose disciplinary sanctions against students or student organizations when their conduct materially interferes with the educational objectives of the University or university community member.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0105

Definitions

For purposes of the Student Conduct Code, OAR 571-021-0100 et seq.,

(1) "Academic Misconduct" means the violation of university policies involving academic integrity. Examples include, but are not limited to:

(a) Intentional tampering with grades, resubmitting assignments for more than one class without the permission of the professor; and

(b) Intentionally taking part in obtaining or distributing any part of a test that has not been administered;

(c) Cheating, as defined in OAR 571-021-0105(3);

(d) Plagiarism, as defined in OAR 571-021-0105(26);

(e) Knowing furnishing false information to a University Official; and

(f) Fabrication, as defined in OAR 571-021-0105(14).

(2) "Accused Student" means any student accused of violating the Student Conduct Code.

(3) "Cheating" means any act of deception by which a student misrepresents or misleadingly demonstrates that he or she has mastered information on an academic exercise that he or she has not mastered. Examples include but are not limited to:

(a) Giving or receiving unauthorized help in an academic exercise;

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(b) Use of sources or resources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;

(c) Acquisition, without permission, of tests or other academic material belonging to a member of the University faculty or staff; and

(d) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

(4) "Community Standards Administrator" means the University official, as designated on a case-by-case basis by the Director of Student Conduct and Community Standards, authorized to impose sanctions upon any student found to have violated the Student Conduct Code.

(5) "Community Standards Committee" means the Committee established pursuant to OAR 571-021-0110, comprised of persons appointed by the President with the responsibility for formulating, approving or recommending changes related to the Student Conduct Program.

(6) "Community Standards Hearing Board" means the board established pursuant to OAR 571-021-0160, comprised of persons authorized by the Community Standards Committee to determine if a student has violated the Student Conduct Code and to recommend sanctions when a violation has occurred.

(7) "Complainant" means any person who submits a complaint alleging that a student violated the Student Conduct Code. The Complainant need not be a person who was the target or victim of the alleged violation.

(8) "Contacting" has its common meaning. It includes, but is not limited to, communicating with or remaining in the physical presence of the other person.

(9) "Contact of a Sexual Nature" for purposes of Sexual Misconduct in the Student Conduct Code means the touching of the genitalia, anus, buttocks or breasts of a person or causing such person to touch the genitalia, anus, buttocks or breasts of another.

(10) "Contempt" means disregard of, or disobedience to, the rules or orders of any tribunal under this Code or an interruption of its proceedings by disorderly behavior or insolent language in a way or place that disturbs the proceedings or ignores the authority of the tribunal.

(11) "Director of Student Conduct and Community Standards" is the person designated by the University Senate and University President or designee to be responsible for the administration of the Student Code.

(12) "Drug" means a controlled substance or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C.811 to 812 or as defined in ORS 475.005 or modified in ORS 475.035.

(13) "Explicit Consent" for purposes of Sexual Misconduct in the Student Conduct Code means voluntary, non-coerced and clear communication indicating a willingness to engage in a particular act. "Explicit consent" includes an affirmative verbal response or voluntary acts unmistakable in their meaning.

(14) "Fabrication" means the intentional use of information that the author has invented when he or she states or implies otherwise, or the falsification of research or other findings with the intent to deceive.

(15) "Faculty Member" means a person hired by the University to conduct classroom, research or teaching activities or who is otherwise considered by the University to be a member of its faculty, including officers of instruction, officers of research and officers of administration.

(16) "Gambling" means an activity in which a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include those activities expressly excluded by ORS 167.117.

(17) "Harassment" means

(a) Intentionally subjecting a person to offensive physical contact;

(b) Unreasonable insults, gestures, or abusive words, in the immediate presence, and directed to, another person that may reasonably cause emotional distress or provoke a violent response (including but not limited to electronic mail, conventional mail and telephone) except to the extent such insults, gestures or abusive words are protected expression; or

(c) Other types of prohibited discrimination, discriminatory harassment, and sexual harassment as defined by law.

(18) "Hazing" means any initiation rites, on or off campus, involving any intentional action or situation that a reasonable person would foresee as causing mental or physical discomfort, embarrassment, or ridicule. Individual acceptance of or acquiescence to any activity that occurs during an initiation rite does not affect a determination of whether the activity constitutes hazing. Activities and situations that may occur as part of hazing include, but are not limited to:

(a) Sleep deprivation or causing excessive fatigue;

(b) Physical or psychological shock;

(c) Public stunts or jokes;

(d) Compelled ingestion of any substance;

(e) Degrading or humiliating games or activities;

(f) Activities that have an adverse effect on academic progress;

(g) Forced servitude;

(h) Activities which are not consistent with the parent organization's rules and regulations; or

(i) Other activities which violate Federal, State, or local laws.

(19) "Institution" means the University of Oregon and all of its undergraduate, graduate and professional schools, divisions, activities and programs and may be used interchangeably with "University."

(20) "May" is used in the permissive sense.

(21) "Mental Disorder" for purposes of Sexual Misconduct in the Student Conduct Code means that a person suffers from a mental disease or disorder that renders that person incapable of appraising the nature of the conduct of another person.

(22) "Mental Incapacitation" for purposes of Sexual Misconduct in the Student Conduct Code means that a person is rendered incapable of appraising or controlling one's own conduct at the time of the alleged offense because of the influence of a controlled or intoxicating substance or because of any act committed upon the person without consent.

(23) "Member of the University Community" includes any person who is a student, faculty member, University official or any person employed by the University.

(24) "Penetration" for purposes of Sexual Misconduct in the Student Conduct Code means any degree of insertion, however slight, of the penis or any object into the vagina or anus, or the penis into the mouth.

(25) "Physical Helplessness" for purposes of Sexual Misconduct in the Student Conduct Code means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to engage in an act.

(26) "Plagiarism" means using the ideas or writings of another as one's own. It includes, but is not limited to:

(a) The use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment; and

(b) The unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(27) "Policy" means the written regulations of the University. Examples of where written policies may be found include, but are not limited to:

(a) The Student Conduct Code;

(b) Residence Life Contract;

(c) Information posted by the University on its web pages;

(d) Computer Acceptable Use Policy;

(e) Living Group Alcohol policy;

(f) Greek Social Policy;

(g) Graduate/Undergraduate Catalog;

(h) Student Handbook; and

(i) University and Oregon University System Oregon Administrative Rules.

(28) "President" means the University President.

(29) "Shall" and "will" are used in the imperative sense.

(30) "Sexual Misconduct" means:

(a) Unwanted Penetration is Penetration of another person, or causing the Penetration of another person, when one:

(A) Does not first obtain Explicit Consent from that person; or

(B) Knows or should have known the person was incapable of consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.

(b) Nonconsensual personal contact occurs when a student subjects another person to contact of a sexual nature when a reasonable person would know that such contact would cause emotional distress:

(A) Without having first obtained Explicit Consent; or

(B) When he or she knows or should have known the person was incapable of consent by reason of Mental Disorder, Mental Incapacitation, or Physical Helplessness.

(c) Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that interferes with work or academic performance because it has created an intimidating, hostile, or degrading environment and would have such an effect on a reasonable person of the alleged complainant's status when the conduct is unwelcome and suffi-

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ciently severe or pervasive that it deprives that person of benefits of the University's educational environment.

(31) "Student" means any person who has student status pursuant to OAR 571-021-0115.

(32) "Student Organization" means any group of University of Oregon students meeting criteria for group recognition established by the University.

(33) "University" means the University of Oregon and all of its undergraduate, graduate and professional schools, divisions, activities and programs and may be used interchangeably with "institution."

(34) "University Appeals Board" means the person or persons authorized by this Code pursuant to OAR 571-021-0165 to consider an appeal from a determination by Community Standards Hearings Panel that a student has violated the Student Code.

(35) "University Official" means a person having assigned University responsibilities who is performing their University assignment.

(36) "University Premises" includes all land, buildings or grounds owned, leased, operated, controlled or supervised by the University including adjacent sidewalks and streets.

(37) "University Sponsored Activity" means any activity, including activities sponsored or organized by recognized student organizations, on or off University premises that is directly initiated or supervised by the University.

(38) "Unwanted Contact" means repeated or persistent contact or attempts to contact another person when the contacting person knows or should know that the contact is unwanted by the other person; and

(a) The contact would cause a reasonable person fear of physical harm; or

(b) The contacting person knows or should know that the contact substantially impairs the other person's ability to perform the activities of daily life.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0110

Delegations and Authority

Pursuant to ORS 352.010, the faculty is responsible for student discipline. The faculty of the University delegates authority for administering this Code and the Student Conduct Program as provided below:

(1) The Director of Student Conduct and Community Standards shall develop policies for the administration of the student conduct system and procedural rules for the conduct of Community Standards Hearing Board hearings that are consistent with provisions of the Student Conduct Code.

(a) The Director of Student Conduct and Community Standards and the Community Standards Committee may authorize a Community Standards Administrator to serve simultaneously as a Community Standards Administrator and as a member of the Community Standards Hearing Board. The Director may authorize the same Community Standards Administrator to impose sanctions in all cases.

(b) Consistent with OAR 571-021-0205(1)(d), the Vice President for Student Affairs or designee may serve ad hoc in place of the Director of Student Conduct and Community Standards.

(2) The Community Standards Committee shall be responsible for formulating or approving, prior to implementation, regulations and enforcement procedures pertaining to student conduct matters at the University of Oregon, and recommending to the faculty policy or administrative changes in any aspect of the Student Conduct Program.

(a) The Committee shall be appointed by the President and shall consist of four faculty members to be recommended by the Committee on Committees and four student members to be recommended by the ASUO. Faculty and student members shall serve staggered, two-year terms and may be reappointed, up to three consecutive terms, or a maximum of six consecutive years. The President may appoint temporary members to assure full Committee membership during summer session or at such other times as are necessary.

(b) The Director of Residence Life or designee, the Director of Student Conduct and Community Standards and the Director of the Office of Student Advocacy shall be non-voting, ex-officio members of the Community Standards Committee.

(3) Sub-delegation of Authority to Minor Tribunals and hearing officers.

(a) With the consent of the President of the University, the Community Standards Committee may sub-delegate jurisdiction to handle violations of the Student Conduct Code to University officials, committees

or minor tribunals. In all instances such sub-delegation shall be defined by the Committee in terms of specific jurisdiction, enforceable regulations, and maximum disciplinary sanctions that may be imposed.

(b) Subject to approval by the President, the Community Standards Committee sub-delegates to the Interfraternity Council, Panhellenic Council, Club Sports Executive Committee, and Residence Hall Association the authority to formulate:

(A) Regulations governing the conduct of their respective organization members;

(B) Hearing procedures and administrative practices to be followed by their respective tribunals;

(C) Disciplinary sanctions exclusive of expulsion, suspension, eviction or negative notation on transcript appropriate to the enforcement of their respective regulations; and

(D) Procedures for publication and notification to affected students of such regulations, hearing procedures and disciplinary sanctions.

(c) All such regulations, hearing procedures, and disciplinary sanctions shall be reduced to writing and approved by the Community Standards Committee prior to implementation.

(d) The authority granted to minor tribunals and their respective governing bodies is conditional and may be withdrawn at any time by the Community Standards Committee when a minor tribunal is either unable or unwilling to assume its responsibilities as part of the University's Student Conduct Program.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0115

Jurisdiction

(1) Jurisdiction over types of actions and events. The Student Conduct Code applies to actions by Students that materially interfere with:

(a) An educational opportunity of a University community member;

(b) The health and safety of a University community member or campus visitor;

(c) The maintenance or protection of University property or personal property located on campus;

(d) University record keeping;

(e) University living accommodations and other services; or

(f) University sponsorship or supervision of non-classroom activities such as lectures, concerts, athletic events and social functions.

(2) Jurisdictional boundaries.

(a) On-Campus. The Student Conduct Code routinely applies to actions which occur on University Premises or at a University Sponsored Activity.

(b) Off-Campus. The University shall have discretion to extend jurisdiction over conduct that occurs other than on University Premises or at a University Sponsored Activity. In determining whether or not to extend jurisdiction, the University will consider its ability to gather information, including testimony of witnesses. The University may extend jurisdiction if the alleged conduct:

(A) Adversely and significantly affects the learning environment;

(B) Would have violated the Student Conduct Code if the conduct had occurred on campus; and

(C) Involved violence or produced a reasonable fear of physical harm;

or

(D) Involved academic work or any records, documents, or identifications of the University.

(3) Student Status. An individual's status as a "student" is established by:

(a) An application for admission, housing, financial aid, or any other service provided by the University which requires student status;

(b) Registration for one or more credit hours; or

(c) Enrollment in a special non-credit program approved by the University.

(4) Jurisdiction over non-enrolled students. Jurisdiction is maintained between periods of enrollment unless the accused individual's official record in the Office of the Registrar shows a complete withdrawal prior to the expiration of the published deadline for registration for the succeeding period of enrollment. For students enrolled in the spring term, jurisdiction is maintained until the expiration on the published deadline for registration for the succeeding fall term. Complaints of academic dishonesty or fraudulently obtaining a degree may be filed at any time, whether or not the student is currently enrolled or registered.

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(5) In all cases except academic dishonesty or fraudulently obtaining a degree, the University must file disciplinary complaints under the Student Conduct Code within six months of:

(a) The University's discovery of the student's or student organization's involvement in the alleged violation; and no later than

(b) The student's last date of enrollment or registration, or an organization's recognition.

(6) Allegations of academic dishonesty or fraudulently obtaining a degree may be considered at any time regardless when the alleged misconduct occurred.

(7) Students may be accountable both to civil and criminal authorities and to the University for behavior that constitute violations of the law and the Student Conduct Code. Since the action of civil and criminal authorities is independent from University action, the University may decide whether to initiate or consider an alleged violation of the Student Conduct Code while criminal charges are pending or before they are filed or after they are resolved.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0120

Violations of Community Standards by Individual Students

The following conduct violates the community standards that are essential to the core educational mission of the University of Oregon and subjects a Student or Student Organization to sanctions under the Student Conduct Code:

(1) Standards Relative to Academic and Personal Integrity. Integrity is a bedrock value of the University community and includes respect for open and honest intellectual exchange as well as respect for University records and for the Student Conduct Code itself. The following conduct violates standards of academic integrity:

(a) Cheating as defined in OAR 571-021-0105(3);

(b) Fabrication as defined in OAR 571-021-0105(14);

(c) Plagiarism as defined in OAR 571-021-0105(26);

(d) Academic misconduct as defined in OAR 571-021-0105(1);

(e) Intentionally furnishing false information to a University Official;

(f) Forgery, alteration or unauthorized use of University documents, records, keys student identification, keycards or services;

(g) Creation or distribution of false identification;

(h) Failure to comply with the terms of any sanction imposed in accordance with the Student Conduct Code; or

(i) Contempt of adjudicative proceedings including impairing or interrupting the due course of proceedings in the presence of any tribunal created under this Code. Adjudication of contempt and imposition of sanctions may be imposed summarily consistent with OAR 571-021-0240.

(2) Standards Relative to Respect for Property and for Shared University Resources. The following conduct violates standards of respect for property and shared University resources:

(a) Engaging in behavior that could reasonably be foreseen to cause disruption of, obstruction of, or interference with the process of instruction, research, administration, student discipline, or any other service or activity provided or sponsored by the University;

(b) Damage, destruction, theft, or unauthorized use of property located on the University campus or property owned or controlled by the University;

(c) Unauthorized entry into or use of University property or University-recognized living units, facilities, residence halls, equipment, or resources;

(d) Disorderly conduct (including that resulting from the use of alcohol), unreasonable noise, or conduct that results in unreasonable annoyance;

(e) Failure to comply with the reasonable directions of public officials acting in performance of their duties on University Premises or at a University Sponsored Activity when such conduct poses a danger to personal safety or property or obstructs or impairs educational or other Institutional activities;

(f) Violation of University Policy on the acceptable use of computing resources. Unacceptable uses of computing resources include, but are not limited to:

(A) Use of electronic forums to violate other sections of the Student Conduct Code;

(B) Sharing of accounts or computer lab passes;

(C) Violation of electronic privacy;

(D) Interference with computer use or operations;

(E) Commercial or illegal use of electronic or computer resources;

(F) Violation of copyright law; or

(G) Threats, abuse or Harassment, as defined in OAR 571-021-0105, conduct made or transmitted via electronic forums or electronic mail.

(3) Standards Relative to the Rights of Individuals and to the Welfare of the University Community. An environment conducive to learning is one where the rights, safety, dignity and worth of every individual are respected. The following conduct endangers such an environment, and threatens the welfare of the University community as a whole:

(a) Physical contact that endangers, threatens, or harms the health or safety of any person or behavior that causes a reasonable person to fear such contact;

(b) Hazing, as defined in OAR 571-021-0105(18);

(c) Possession, use, or threatened use of a weapon, ammunition, or any object or substance used as a weapon on University Premises or at a University Sponsored Activity unless expressly authorized by law or University Policy. A concealed weapons permit does not constitute authorization;

(d) Unauthorized possession, use, or threatened use of dangerous chemical or biological substances or explosives;

(e) Tampering with fire-fighting equipment, turning in a false alarm, or engaging in conduct that constitutes a significant fire hazard;

(f) Harassment, as defined in OAR 571-021-0105(17), because of another person's race, ethnicity, color, gender, gender identification, national origin, age, religion, marital status, disability, veteran status, sexual orientation, or for other reasons, including but not limited to harassment prohibited by University Policy;

(g) Unwanted Contact, as defined in OAR 571-021-0105(38);

(h) Sexual Misconduct. A mission of the Student Conduct Code is to encourage good decision-making, personal integrity, and interpersonal behavior that is cooperative rather than coercive and that respects the rights of others. Sexual misconduct violates these values, and is committed when a student engages in sexual behavior described in OAR 571-021-0105(30).

(A) A complaint alleging Sexual Misconduct may be filed whenever Sexual Misconduct:

(i) Materially interferes with another person's academic performance or participation in a University Sponsored Activity, or performance of University employment;

(ii) Is committed on University Premises or at a University Sponsored Activity; or

(iii) Demonstrates reasonable threat to the health or safety of a Member of the University Community or the alleged student survivor.

(B) Sexual gratification or pleasure of any party involved is not relevant to a determination of whether Sexual Misconduct occurred.

(C) A violation of provisions of the alcohol or drug policy in the Student Conduct Code does not affect a person's ability to file a complaint regarding another person's Sexual Misconduct on the same occasion.

(D) Consent to one form of sexual activity does not automatically operate as consent to any other form sexual activity. A "no" always means that consent is not present, whereas a "yes" to one act at one time does not mean "yes" to other acts or to the same act at other times. Voluntarily making oneself incapacitated does not mean one is giving consent to any form of sexual activity.

(j) Prohibited alcohol use, which includes:

(A) Possession or consumption of alcohol by those under 21 years of age on University Premises or at a University Sponsored Activity;

(B) Furnishing of alcohol to a person under 21 years of age; or

(C) Consumption of an alcoholic beverage by a person at least 21 years of age or furnishing of an alcoholic beverage by or to a person at least 21 years of age, except in such areas and at such times as the University authorizes.

(k) Prohibited drug use, which includes:

(A) Manufacture, processing, distribution, or cultivation of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity, except as expressly permitted by law;

(B) Sale of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity; or

(C) Possession of a Drug, including but not limited to marijuana or narcotics, on University Premises or at a University Sponsored Activity except as expressly permitted by law.

(l) Lewd or indecent conduct on University Premises or at a University Sponsored Activity. Lewd or indecent conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record that would be an invasion of privacy pursuant to

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ORS 163.700. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(m) Gambling, as defined and prohibited in ORS 167.108 to 167.164 except as authorized by ORS 464.270 to 464.530.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0125

Violations of Community Standards by Student Organizations

When members of a Student Organization act together in a way that violates University Student Conduct Code, the Student Organization is expected to hold its members responsible for those violations.

(1) When a potential violation of the Student Conduct Code by a Student Organization comes to the University's attention, the Office of Student Conduct and Community Standards may review the incident to determine the appropriate process for resolution. Generally, the University will expect a Student Organization to hold itself accountable for the acts of its members when those acts are related to the Student Organization's activities.

(a) The Student Organization or its governing body will notify the Office of Student Conduct and Community Standards and keep it informed at all stages of the process.

(b) The University, through the Office of Student Conduct and Community Standards, reserves the right to take immediate jurisdiction at its discretion. The student organization or governing body may still hold its members accountable in the situation, but must do so in conjunction with the Office of Student Conduct and Community Standards.

(2) If sufficient action is not taken in a timely manner by the student organization to correct a violation of University standards, individuals may file grievances with the appropriate governing body, or, if none exists, with the Office of Student Conduct and Community Standards.

(3) If, in the judgment of the Vice President of Student Affairs, sufficient action is not taken in a timely manner by the governing body, the case will be referred to the Office of Student Conduct and Community Standards.

(4) In deciding whether the group is responsible for the violation, the University will consider whether the following factors are present:

(a) The violation arises out of a group-sponsored, organized, financed, or endorsed event;

(b) The organization provides the impetus for the violation;

(c) The violation occurs on the premises owned or operated by the group;

(d) A group leader has knowledge of the violation being likely to occur before it occurs and fails to take corrective action; or

(e) A pattern of individual violations is found to have existed without proper and appropriate group control, remedy, or sanction.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0130

Sanctions

The University utilizes an educational sanctioning model; hearing officers or panels will make every attempt to provide an educational sanction that will help a student to make better choices in the future. The educational sanction applied will become progressively more demanding if the student repeats violations, demonstrating that learning has not taken place. An accumulation of a variety of violations may result in severe sanctions such as suspension, expulsion or negative notation on a transcript. Academic dishonesty and violations affecting the health, safety and well being of the community are deemed the most severe and may result, upon the first violation, in a negative notation being placed on a transcript, suspension, or expulsion.

(1) Forms of Sanctions

(a) Expulsion. Student status is severed permanently. A Student who has been expelled from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises.

(b) Suspension.

(A) Individual Suspension. Student status is severed for a specified period. A student who has been suspended from the University shall not be permitted to participate in any University Sponsored Activity or allowed to reside on University Premises during the period the student is suspended.

(B) Group Suspension. A Student Organization loses University recognition and all privileges associated with such recognition for a specified period. Imposition of this sanction against the ASUO or a recognized Student Organization requires approval by the Vice President for Student Affairs.

(c) Negative Notation on Transcript. Entry of the fact of violation on the Student's permanent academic record as the sole or an additional sanction may be imposed at the discretion of the hearing officer or panel. After the expiration of the period of time, if any, set by the hearing officer or panel, the notation shall be removed upon the request of the Student or former Student.

(d) Revocation of Degree. An academic degree previously awarded by the University may be revoked if it was obtained by fraud or a significant part of the work submitted in fulfillment of, and indispensable to, the requirements for such degree constitutes Plagiarism. The Academic Requirements Committee may, upon appeal of a University graduate subjected to degree revocation, stipulate the requirements for obtaining a degree.

(e) Grade Penalty. A Student admitting Academic Misconduct or found responsible for Academic Misconduct is subject to a grade penalty as determined by the instructor in the course in which the violation occurred.

(f) Disciplinary Probation. In lieu of another sanction, a period of probation may be imposed during which any violations of the Student Conduct Code will result in more serious sanctions than might be otherwise imposed. A Student or Student Organization on probation may or may not lose designated privileges during the period of probation. During the time on probation, a Student or Student Organization may, by demonstrating good conduct, avoid additional sanctions. Imposition of this sanction against the ASUO or an ASUO-recognized group requires approval by the Vice President for Student Affairs.

(g) Restitution. The Student or Student Organization is required to replace or restore damaged, stolen, or misappropriated property.

(h) Educational Activity. The Student or Student Organization is required to complete a project or activity designed to help the Student or Student Organization understand why the behavior was inappropriate and encourage future compliance with the Student Conduct Code. The educational activity is designed to correspond to the severity and nature of the violation and to clarify the impact of that behavior on Members of the University Community. Educational activities may include, but are not limited to, assessments of substance abuse and other behaviors, community service, workshops, papers and similar assignments.

(i) Loss of Privileges. The Student or Student Organization is denied specified privileges normally associated with Student Status or recognized Student Organization status, such as participation in or sponsorship of University activities, use of University facilities or services, or living in University-owned or supervised housing. Imposition of this sanction against the ASUO or an ASUO-recognized group requires approval by the Vice President of Student Affairs.

(j) Conduct Reprimand. The Student or Student Organization is given written notice that the conduct engaged in is inconsistent with University standards and expectations and informed that future violations of the Student Conduct Code may result in the imposition of more serious sanctions.

(k) Suspended Sanction. The execution of any sanction authorized under the Student Conduct Code may be suspended. When suspending a sanction, a time limit for the suspension period shall be designated, and subsequent violations of the Student Conduct Code that will terminate the suspension and result in the imposition of the original sanction shall be specified. In the absence of any such violation, the original sanction shall be deemed completed at the end of the suspension period.

(2) Medical Leave. Actions taken pursuant to University policies on medical leave shall not be deemed disciplinary sanctions within the meaning of the Student Conduct Code.

(3) Failure to complete a sanction will be handled pursuant to OAR 571-021-0240(3).

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0140

Student Rights

Procedural fairness is basic to the proper enforcement of all University regulations. Accordingly, no disciplinary action shall be initiated or sanction imposed against a Student or Student Organization until they

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have been notified in writing of the complaints against them and their rights under this Code, and given the opportunity to be heard.

(1) Regulations and disciplinary sanctions affecting the conduct of all Students shall be based on general principles of equal treatment.

(2) The Director of Student Conduct and Community Standards shall insure that the best interests of Students and Student Organizations are served, regardless of whether disciplinary action is taken, by making full use of appropriate medical, counseling and other professional services at the University, or if necessary by making referrals to community resources. For purposes of this Division, the Director may authorize another staff member to carry out any of the Director's responsibilities unless expressly prohibited from doing so.

(3) Students shall have an opportunity to participate in the formulation of all regulations and policies pertaining to the Student Conduct Code at the University of Oregon.

(4) All University regulations and policies pertaining to student discipline shall be published, distributed, or posted in such a manner as to furnish adequate notice of their contents to Students or Student Organizations.

(5) Students accused of violations of the Student Conduct Code can expect the following procedural protections:

(a) To be informed of the complaint and alleged misconduct upon which the complaint is based;

(b) To request that the Director of Community Standards resolve the case in an administrative disciplinary conference or to request a panel hearing.

(c) To be allowed reasonable time to prepare for the hearing or conference.

(d) To be informed of the information upon which a complaint is based and accorded an opportunity to offer a relevant response;

(e) To call and confront relevant witnesses;

(f) To be assured of confidentiality, in accordance with the terms of the federal Family Educational Rights and Privacy Act and Oregon law.

(g) To request that any person conducting a disciplinary conference or serving as a hearings board member or hearing officer be disqualified on the ground of personal bias.

(h) To be considered not responsible for the alleged conduct until proven responsible by a preponderance of the information. If expulsion is a possibility, the standard of proof must be clear and convincing information.

(i) To have an adviser of their choice present at the hearing provided that advisor's schedule does not unreasonably delay the hearing. The hearings panel shall determine what constitutes an "unreasonable" delay.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0150

Administration of the Conduct System

(1) Disciplinary Records and Files. Case referrals will result in the development of a disciplinary file in the name of the accused student. If the Student is found not responsible for the complaints, the disciplinary file will become void.

(a) Voided files will be so marked and shall not result in a disciplinary record. Voided files will normally be destroyed after one year. Where a Student files a conduct complaint against another Student, a file shall be created for both Students.

(b) Disciplinary records may be voided by the Director of Conduct and Community Standards for good cause, upon written petition from the student. Factors to be considered in review of such petitions shall include:

(A) The conduct of the Student subsequent to the violation; and

(B) The nature of the violation and the severity of any damage, injury, or harm resulting from it.

(2) Student Conduct Reports.

(a) The Community Standards Committee shall require from University officials, hearings boards, referees, committees and tribunals periodic written reports of the disposition of all student conduct cases dealt with under their jurisdiction. The Committee shall examine such reports for consistency with existing policies and, when necessary, review the reports with the appropriate officials or tribunals.

(b) At the end of each academic year, the Committee shall submit to the President, University Senate, Deans, Department Heads, the ASUO President, and the Office of Student Advocacy, a written report covering the entire Student Conduct Program, including an evaluation of the existing rules, policies, and enforcement procedures. This report shall also detail all Code revisions approved during the previous year and shall be available to any person upon request.

(3) Director of Student Conduct and Community Standards.

(a) The President of the University shall designate a Director of Student Conduct and Community Standards who shall have primary responsibility for administering the Student Conduct Program and coordinating the activities of all University officials, hearing officers, referees, committees, or tribunals that are concerned with the Community Standards Program.

(b) The Director shall be responsible to the Community Standards Committee for maintaining complete records pertaining to the activities of the Community Standards Program. Those records shall include a summary of the business of the Community Standards Committee and a report of the disposition of each disciplinary case handled by any person or group authorized to impose disciplinary sanctions in the name of the University. For record keeping purposes, the Director may prescribe reporting procedures to be followed, in addition to those in paragraph (2) above by those authorized to impose disciplinary sanctions.

(c) The Director shall serve as non-voting Secretary of the Community Standards Committee and as advisor to all individuals and groups authorized to impose disciplinary sanctions. The Director shall serve as a non-voting, ex-officio member of the Residence Hall Governance Committee and of the residence hall Peer Judicial Board.

(d) The Director shall be responsible for gathering and presenting to the Community Standards Committee the reports required by this code.

(4) Student Conduct Code Adoption, Amendment and Revision.

(a) Code establishment. Upon approval by the University Senate and adoption as an Oregon Administrative Rule, this Student Conduct Code becomes effective and supersedes all previous regulations and policies pertaining to student discipline at the University of Oregon.

(b) Code Amendment. This Code may be amended by the faculty except that the sections on delegation to minor tribunals may also be amended by the Community Standards Committee. Amendments to this Code are effective when adopted as Oregon Administrative Rules.

(c) Code Revision. This Code shall be continuously reviewed in its entirety to make sure it is consistent with best practices.

(d) This Code is adopted as Oregon Administrative Rules. The provisions contained in these rules take precedence over any other versions of the Student Conduct Code regardless of where promulgated.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0160

University Hearings Board; Student Conduct Hearings Panel

(1) University Hearings Board Membership. The University Hearings Board (Hearings Board) shall consist of eighteen members, all of whom must be appointed by the University President. The Hearings Board shall consist of:

(a) Ten registered students at the University of Oregon that have been recommended to the President by the ASUO. Each student member is appointed for a one-year term and may be reappointed for additional terms;

(b) Four University officers of instruction, all of whom the Committee on Committees of the University Senate shall recommend to the President. Two officers of instruction will serve a one-year term, and the other two will serve a two-year term; and

(c) Four University officers of administration all of whom the Committee on Committees of the University Senate shall recommend to the President. Two officers of administration will serve a one-year term, and the other two will serve a two-year term.

(2) Recruitment and selection of student nominees.

(a) The Office of Student Conduct and Community Standards and Office of Student Advocacy will take responsibility during spring term for the recruitment and receipt of applications for new student members to the Hearings Board. The Office of Student Conduct and Community Standards and Office of Student Advocacy will ensure that the nominated students are representative of the diversity of the University of Oregon. Particular efforts will be made to recruit law students.

(b) A review committee consisting of one member of the Office of Student Conduct and Community Standards, one member of the Office of Student Advocacy, one student from the Residence Hall Association, and two members of the ASUO, one of which will be the University Affairs Director, will review the applications for the Hearings Board. The review committee will make every attempt to ensure that the nominated students are representative of the diversity of the applicant pool.

(c) Preference will be given to up to 5 recommended students wishing to return to the Hearings Board for reappointment.

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(d) Names of nominated students will be forwarded to ASUO for formal nomination to the University President pursuant to (1)(a).

(e) New student members of the Hearings Board, once appointed by the President, will be trained by the Office of Student Conduct and Community Standards and the Office of Student Advocacy before the end of the academic year in which they are appointed.

(f) New student members shall be ready and available to assume responsibilities for the Hearings Panel at the beginning of the next academic year after they are appointed.

(3) Student Conduct Hearings Panel (Hearings Panel). Student Conduct Code panel hearings, pursuant to OAR 571-021-0205, are heard by a panel on which officers of instruction, officers of administration and students are represented, drawn from members of the Hearings Board. A Hearings Panel cannot proceed with fewer than four members present.

(a) A party may challenge a Hearings Panel member or the chair on the ground of personal bias. Any member who is incapable of rendering a fair and objective decision based solely upon the facts, information and arguments presented during the hearing with no influence based on the member's familiarity with people, facts or the situation arising from outside the hearing is disqualified from hearing the case.

(b) If a Hearings Panel member is disqualified, the chair of the Hearings Panel will determine whether to fill the position by appointment of another member of the Board or to proceed with fewer members so long as the Hearings Panel consists of no fewer than four qualified members.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0165

University Appeals Board

(1) The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. As set forth in OAR 571-021-0250, the Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions of a Hearings Panel.

(2) Membership. The Appeals Board shall consist of three faculty members, recommended by the Committee on Committees of the University Senate, and three student members, recommended by the ASUO. Board members shall be appointed by the President and serve for one-year terms. They may be reappointed, but no member may serve for more than two consecutive terms. Temporary members may be appointed to assure full Appeals Board membership during summer session or at such other times as are necessary. The President shall designate one of the members as pro tem chair of the Appeals Board.

(3) The Appeals Board will elect its permanent chair at its first meeting. A quorum shall consist of two students and two faculty members. The Appeals Board shall establish its own rules of procedure.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0200

Conduct Procedures

(1) Complaint. Any Member of the University Community may file a complaint against a Student for a violation of the Student Conduct Code. A complaint shall be prepared in writing and directed to the Director of Student Conduct and Community Standards. Any complaint should be submitted as soon as possible after the alleged violation takes place, preferably within one year. Jurisdiction is determined pursuant to OAR 571-021-0115. The longer one waits to file a complaint the less information is likely to be available for the hearing, therefore it is important to file a complaint as soon as possible. Once the Office of Community Standards receives a complaint, the Office has six months to send written notice to the accused Student of the complaint.

(2) Notice. Upon receiving a complaint or notice that a Student may have violated the Student Conduct Code, the Director of Student Conduct and Community Standards shall serve a written notice upon the Student, either by electronic mail or by mailing to the latest address of the Student on file at the Office of the Registrar of the University, or, if necessary, by registered or certified mail or by personal service. Such notice shall inform the student of:

(a) The alleged Code violation;

(b) The opportunity for the student to meet with the Director for purposes of discussing the options for disposition of the case;

(c) The Student's right to assistance. At an administrative conference with the Director, or a hearing by a Hearings Panel or before the Appeals

Board, a Student may, but need not represent his or her own interests, or be assisted by someone including but not limited to one of the following representatives:

(A) The Office of Student Advocacy;

(B) Another Student;

(C) A member of the faculty or administration;

(D) A member of the Oregon Bar.

(d) The requirement to respond within 14 calendar days, excluding breaks between terms or when the student is not registered, to arrange a meeting with the hearing officer. The hearing officer will proceed as provided in (3)(b) if the Student does not arrange to meet or fails to meet with the hearing officer as arranged.

(3) Response.

(a) After proper service of written notice as provided in (2), the Student may arrange to meet with the Director for the purpose of selecting an option for the disposition of the case, either through conference with the Director or staff or through hearing by a Hearings Panel pursuant to OAR 571-021-0210.

(b) If after receiving notice, pursuant to this rule, the Student does not arrange to meet with the Director to select an option for disposition of the case within 14 days, excluding breaks between quarters or when the student is not registered, or if the Student arranges to meet with the Director to select an option to dispose of the case but does not attend such a meeting, the Director of Student Conduct and Community Standards may take any of the actions specified in OAR 571-021-0205 or 571-021-0210 for disposition of the case without consultation with or agreement by the Student.

(c) Immediate Referral to Hearings Panel. If the Director of Student Conduct and Community Standards finds that under the circumstances of the case, an immediate referral to a Hearings Panel would be in the best interest of the University or the best interest of the Student, the Director of Student Conduct and Community Standards may make such referral before service of notice upon the student. In such case, the letter sent to the student shall notify the student of the referral to the Hearings Panel and contain the information required in (2)(c).

(4) Conference and Hearing Board Referrals

(a) The Director of Student Conduct and Community Standards or a designee will conduct a preliminary review to determine whether the alleged misconduct might result in negative notation on transcript, expulsion or suspension from the University. Students not subject to suspension, expulsion or negative notation will be entitled to an administrative disciplinary conference with the Director of Student Conduct and Community Standards pursuant to OAR 571-021-0205 or a hearing with a Hearings Panel pursuant to OAR 571-021-0210. Students who are subject to suspension, expulsion or negative notation will be entitled to a hearing before a Hearings Panel pursuant to OAR 571-021-0210.

(b) Students referred for a hearing by the Director of Student Conduct and Community Standards may elect to have their cases resolved in accordance with OAR 571-021-0210. Such an election must be in writing, affirming that the Student has had an opportunity to consult with an adviser of their choosing, is aware a hearing is being waived and that the full range of sanctions may be imposed, including negative notation on transcript, suspension or expulsion or from the University.

(5) With the consent of an Accused Student, the Director of Student Conduct and Community Standards may defer proceedings for alleged minor violations of this Code for a period not to exceed ninety days. Pending complaints may be withdrawn thereafter at the discretion of the Director of Student Conduct and Community Standards or designee.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0205

Administrative Conferences

(1) Students accused of violations that may result in penalties less severe than suspension, expulsion or negative notation may choose an administrative conference with the Director of Student Conduct and Community Standards, or designee. The following procedural protections are provided to accused students in disciplinary conferences:

(a) Reasonable access to the case file prior to and during the conference, except to the extent access to such material is prohibited by law. The case file may contain materials that are considered "education records" pursuant to the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended and personal notes of University staff members and complainants. Access to these materials may be prohibited by law. Otherwise,

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to the extent allowed by law, copies of the case file will be provided upon request.

(b) An opportunity to respond to all information provided and to ask the Director or designee hearing the case to contact relevant and necessary witnesses.

(c) The right to be accompanied and assisted by an adviser

(d) The right to have the case referred outside the Office of Community Standards if the Student can articulate a reasonable basis from which to conclude that the Office of Community Standards is biased for some reason that would prevent the student from receiving a fair hearing by the office. Such cases are referred to the Vice President for Student Affairs or his or her designee.

(2) In cases where the Director of Student Conduct and Community Standards concludes that a Student accused of any offense under the Student Conduct Code lacks the mental capacity to respond to the complaint, the Director shall stay the proceeding until such time that the Director concludes that the Student may adequately respond. A stay granted pursuant to this section shall not in any manner preclude a proceeding for medical leave under OAR chapter 571, division 23. If the student has been accused of Academic Misconduct, no academic sanction may be imposed during a stay granted pursuant to this section, but the faculty member for the coursework out of which the complaint of Academic Misconduct arose shall request the Registrar to assign a grade of "I" until the disciplinary proceeding has been completed.

(3) No sanctions shall be imposed against a Student who acknowledges engaging in the specific conduct alleged and who submits a written statement from a Student Health Center psychiatrist or a Counseling Center psychologist stating that, as a result of mental disorder at the time of the offense, the Student did not appreciate the wrongfulness of the conduct or could not conform his or her behavior to the requirements of the Code. The Student may submit any other supplemental information pertinent to his or her mental condition to the Director of Student Conduct and Community Standards. If, based upon all information received, the Director decides that the conduct of the Student resulted from mental disorder, the Director shall seek professional assistance and advice, and, if appropriate and legally authorized, consult with the Student's parent or guardian or take other measures to assure a fair disposition of the case. If the Student has been accused of Academic Misconduct, the faculty member for the coursework in which the Academic Misconduct took place shall assign an appropriate grade.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0210

University Hearings Panel Hearings

If a matter cannot be resolved by an administrative conference, if selected or required pursuant to OAR 571-021-0200, resolution will be sought through a hearing before a Hearings Panel. As with all other aspects of the Student Conduct Code, the hearing is primarily for educational purposes. The hearing is an information-gathering process not a criminal proceeding, trial, or litigation.

(1) All complaints shall be presented to the Accused Student in written form. Because the University community values prompt disposition of student conduct matters, a time shall be set for a hearing not less than twenty nor more than thirty calendar days after the Student has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the Director of Student Conduct and Community Standards or the Hearings Panel.

(2) The Hearings Panel will select a chair from among the returning members of the hearings board. The chair shall preside at the hearing. The chair may participate in Hearings Panel deliberations and discussions but shall not vote.

(3) The University community values personal responsibility and accountability as an important part of its core educational process. In accord with this value, in a hearing the Accused Student and any Complainant are responsible for responding to inquiries from the Hearings Panel. However, an Accused Student and a Complainant, if any, may each be assisted by one advisor as identified in OAR 571-021-0200. The following rules and standards pertain to any such advisor:

(a) The advisor may, but need not, be an attorney;

(b) A Student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor;

(c) A Student planning to invite an advisor to a hearing must inform both the Director of Student Conduct and Community Standards and the Hearings Panel of this intention at least seven calendar days prior to the hearing. If a matter includes both an Accused Student and a Complainant, the Director shall promptly notify the other Student of the first Student's intent to invite an advisor. The other Student shall be afforded an equal right to invite an advisor even if doing so results in the Director and the Hearings Panel receiving less than seven days prior notice.

(d) Advice provided by an advisor may include advising the student how to answer any question posed by the Hearings Panel;

(e) In order to preserve the educational tone of the hearing and to avoid an adversarial environment, advisors are generally not permitted to speak or participate directly in any hearing, except in one or more of the following specific ways:

(A) An advisor may provide a written opening summary or statement.

(B) An advisor may provide an oral closing summary or statement.

(C) An advisor may be allotted a limited time-period to ask one or more questions of the Student the advisor is advising and to allow the Student to respond. Questions asked by an advisor are in addition to questions asked by the Hearings Panel.

(D) An advisor may submit to the Hearings Panel in writing any suggested questions for the Hearings Panel to ask of any other participant who is giving information at the hearing.

(E) The Hearings Panel may permit advisors to question a person providing information at the hearing, if both Complainant and Accused Student independently so request at the beginning of the hearing.

(f) The Hearings Panel will automatically add the name of any person filling the advisor function at a hearing to a list of Hearings Panel Advisors who may be available for other students who wish to consult with an advisor.

(g) An advisor should act in accordance with the standards and values of the University community. If an advisor's conduct in a hearing is judged to merit disqualification, the Hearings Panel has the authority to remove a person's name from the Hearings Panel Advisors list and to disqualify that person from serving as an advisor in future hearings.

(4) A Student whose ability to present their own information is hindered either by a language barrier, a documented disability or other serious difficulty with public, oral presentation shall have the right to petition the Hearings Panel to permit someone to speak on the Student's behalf at the formal hearing. Such a spokesperson may be a friend or family member, a professionally-trained translator or interpreter or a member of the University community but may not be an attorney or any other professional receiving a fee for representing or advising the student.

(5) The Hearings Panel, in its sole discretion, has responsibility and authority for deciding the length of time a party is allowed for closing statement or for questioning, if any, by advisors and at what point in the hearing these should occur.

(6) The Director of Student Conduct and Community Standards or designee shall give an Accused Student notice of the hearing date and the specific complaints against them at least 14 calendar days in advance of the hearing date. Notice shall be by personal delivery or by certified mail to the last address provided by the Accused Student to the university.

(7) An Accused Student shall be accorded reasonable access to the case file, but shall not have access to material the disclosure of which is prohibited by law. Upon request to the Director of Student Conduct and Community Standards, an Accused Student will be provided copies of the case file, except to the extent prohibited by law. The original case file will be retained in the Office of the Director of Community Standards.

(8) The chair of the Hearings Panel may require attendance of relevant witnesses after consultation with the Director of Student Conduct and Community Standards. Notice of required attendance must be personally delivered or sent by certified mail. University Students and employees are expected to comply with these requests, unless compliance would result in significant and unavoidable personal hardship, or substantial interference with normal University activities, as determined by the chair of the Hearings Panel, in consultation with the Director of Student Conduct and Community Standards. In addition, in any formal hearing, either the University or the Student may request the University General Counsel to issue a subpoena pursuant to ORS 183.445.

(9) The Hearings Panel will consider an Accused Student who fails to appear after proper notice to have pleaded "not responsible" to the complaints pending against them. A hearing may be conducted without the Accused Student present, if necessary.

(10) All hearings conducted under the authority of the Student Conduct Code are to be closed unless a student has waived in a signed,

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written and dated document any restrictions on disclosure of documents, exhibits, written statements, interview notes, photographs, or other materials in the Student Conduct case file or in other education records which could be offered, admitted, identified, described, referred to, or generated in the course of the hearing.

(a) A waiver of access to education records shall apply to the entire hearing, unless otherwise agreed to by the University and a student Complainant, if there is one, and the Accused Student.

(b) The chair of the Hearings Panel shall close the hearing unless a waiver is provided to the Director of Student Conduct and Community Standards prior to the beginning of the hearing. Only participants in the hearing shall be allowed to attend a closed hearing. Participants include but are not limited to, the Hearings Panel, the Director of Student Conduct and Community Standards, the Accused Student and the Accused Student's advisor, interpreter or translator, and appropriate University officials.

(c) With regards to sexual assault as used in 20 U.S.C. § 1092(f)(8)(B)(iv)(I) (2000), a Complainant and an Accused Student are entitled to the same opportunities to have others present during a campus disciplinary proceeding. A Complainant who alleges sexual assault may have an equivalent number of advisors present during the hearing as the Accused Student. If an Accused Student does not have an advisor, a Complainant alleging sexual assault may still have an advisor present during the hearing. A Complainant who alleges sexual assault also has the right to be present during the portion of hearing when information is being presented.

(d) Except as otherwise required, the chair of the Hearings Panel may exclude persons from the hearing as necessary to maintain order.

(e) The Hearings Panel may, on its own initiative, or at the request of a participant, exclude from an otherwise open hearing a prospective witness or witnesses, other than the Complainant and the Accused Student, during the statements of other witnesses.

(11) The chair shall exercise control over the proceedings to avoid needless consumption of time and to achieve completion of the hearing in a timely manner. Any person, including an Accused Student or a Complainant, who disrupts a hearing may be excluded by the Chair.

(12) Procedural questions are subject to final determination by the chair of the Hearings Panel.

(13) Witnesses.

(a) Witnesses shall be required to affirm that their testimony is truthful. Witnesses may be subject to disciplinary sanctions or perjury for knowingly providing a false statement.

(b) Questioning witnesses.

(A) Accused Students (not their advisors) and Complainants, may ask relevant questions of witnesses.

(B) Hearings Panel members may ask questions of the parties and witnesses.

(14) Information and evidence.

(a) The Oregon Evidence Code does not apply except that rules of privilege recognized by Oregon law shall apply.

(b) Irrelevant, immaterial or unduly repetitious material shall be excluded. All other information of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.

(c) Information may be received in written or oral form.

(d) The Hearings Panel may also take judicial notice of matters which would be within the general experience of University students and faculty members.

(e) Information in hearing alleging Sexual Misconduct. Information about the sexual behavior of a student prior to or subsequent to an alleged Sexual Misconduct incident is not admissible in a hearing unless the following conditions apply:

(A) A description of the information regarding specific instances of sexual behavior, whether of the Complainant or of the Accused Student, is submitted to the Hearings Panel chair no fewer than seven days prior to the hearing (unless the information is otherwise deemed essential by the Hearings Panel chair)

(B) The Student whose sexual behavior is at issue has had an opportunity to provide a written response; and

(C) The Hearings Panel chair finds that the probative value of the information outweighs the danger of undue prejudice to the student.

(15) Hearings shall be tape recorded or transcribed.

(16) Allegations of violations of the Student Conduct Code must be established by a preponderance of evidence except a student may be expelled only based on clear and convincing evidence.

(a) The Director shall be responsible for investigating and presenting the case to the Hearings Panel and ensuring that all relevant information is presented on both sides.

(b) For all violations of the Student Conduct Code, it is the complaining party's burden to prove the case by a preponderance of information except as stated above.

(17) A Complainant, an Accused Student, or a witness may identify concerns about personal safety, well-being or fear of confrontation with another hearing participant to the Director of Student Conduct and Community Standards. The Director will determine what, if any, accommodations are appropriate. Examples of accommodations include, but are not limited to, separate facilities, visual screens, telephone or remote video participation or written submissions.

(a) If another participant objects to the accommodation, the participant shall submit written objections to the chair of the Hearings Panel. Written objections should include information describing how the accommodations proposed will affect the fairness of the hearing.

(b) The Hearings Panel will decide whether to provide the proposed accommodation.

(c) The Hearings Panel will not consider a request for accommodation or the granting or denial of an accommodation in concluding if an Accused Student violated the Student Conduct Code.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0215

Academic Misconduct Procedures

(1) Notice. Upon the discovery of suspected Academic Misconduct, as defined in OAR 571-021-0100(1), the University Official with responsibility for the academic matter or the faculty member in whose course the incident occurred shall promptly notify the Student of the incident. This notice shall include a discussion of the option of having the case referred directly to the Director of Student Conduct and Community Standards.

(2) If a Student admits to Academic Misconduct in a course, the faculty member shall impose an appropriate academic sanction up to and including a grade of "N" or "F" and report the incident to the Office of Student Conduct and Community Standards. Written notice of the sanction or resolution without sanction shall be given the Student. If, in the judgment of the faculty member, further disciplinary action is warranted, the report to the Director of Student Conduct and Community Standards shall so indicate. The Student may appeal the academic sanction to the faculty member's department head and, ultimately, to the dean of the college or school in which the incident originated.

(3) If a Student admits to Academic Misconduct in a situation other than a course, the responsible University Official may determine and implement an appropriate response and report the incident to the Office of Student Conduct and Community Standards. Written notice of the sanction or resolution without sanction shall be given the Student. If, in the judgment of the University Official, further disciplinary action is warranted, the report to the Director of Student Conduct and Community Standards shall so indicate. The Student may appeal the academic sanction to the University Official's department head or director.

(4) If a faculty member or University Official and a Student cannot agree as to whether Academic Misconduct has occurred, the University Official or faculty member will, not later than fourteen calendar days during which the University is in session after the date the faculty member or University Official notifies the Student, make a written referral of the case to the Office of Student Conduct and Community Standards for resolution. The case will then be conducted in accordance with the procedures established in this Code.

(a) If there is a finding that the Student engaged in Academic Misconduct in a class, in addition to sanctions imposed through the regular student conduct procedures, the faculty member will assign an appropriate grade.

(b) If there is a finding that the Student did not engage in Academic Misconduct, no academic sanction may be imposed.

(5) Reporting Academic Misconduct. Regardless of the method of resolution, University Officials, including faculty members are required to file a written report of any Academic Misconduct with the Director of Student Conduct and Community Standards. These reports shall be treated as confidential and maintained consistent with the Student Records Policy, OAR 571-020-0100 et seq.

(6) Withdrawing from a Course.

ADMINISTRATIVE RULES

(a) If a Student's Academic Misconduct in a course results in an academic sanction, the student will not be permitted to drop or withdraw from the course, or to change the course's grading option, and shall be reinstated in the course in if they have dropped or withdrawn.

(b) If a Student's Academic Misconduct does not result in an academic sanction, the Student may withdraw from the course or change the course's grading option at the later of:

- (A) Expiration of the withdrawal deadline for the course;
- (B) Expiration of the deadline for changing grade options; or
- (C) Five business days after the student receives notification of the decision or termination of Student Conduct Code proceedings without sanction.

(c) In the event the Student is found not responsible for Academic Misconduct and the Student no longer feels comfortable returning to the class, the Office of Student Conduct and Community Standards will assist the student to attempt to remove the "w" from the transcript.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0220

Alternative Dispute Resolution

Consistent with the primary mission of the Code to establish community standards and procedures that promote an environment conducive to learning by upholding academic standards and by respecting community members, alternative dispute resolution provides an opportunity for individuals affected by violations or alleged violations of this Code to resolve disciplinary matters among themselves, with or without findings of responsibility. Students who participate in a method of alternative dispute resolution and successfully fulfill their obligations may, upon completion of their obligations, have their student conduct record regarding the matter expunged.

(1) Mediation. Mediation is encouraged as an alternative means to resolve allegations of Student Conduct Code violations. The Director of Student Conduct and Community Standards will inform Complainants and Accused Students about the availability of mediation resources. The Director, in the exercise of the Director's sole discretion, may, except in cases of alleged Academic Misconduct, decline to process a complaint until the parties make a reasonable attempt to achieve a mediated resolution.

(a) To be binding under this Code, any mediated resolution must be approved by the Director of Student Conduct and Community Standards. Any agreement will be enforced by the Office of Student Conduct and Community Standards.

(b) Procedures for Alternative Dispute Resolution. Students wishing to pursue mediation shall notify the Director of Student Conduct and Community Standards within fourteen calendar days of receiving written notice of the violation pursuant to OAR 571-021-0200.

(c) The Director of Student Conduct and Community Standards may determine if an Accused Student must acknowledge responsibility as a condition of the Director's approval of a mediation option. If the Director requires an Accused Student to acknowledge responsibility as a condition to approving the mediation, the Director will not proceed until the Accused Student has provided the Director with that acknowledgement.

(d) The Director of Student Conduct will determine whether others affected by the alleged violation are willing to participate in mediation. Parties agreeing to mediation must sign a waiver allowing the Director to receive information from the mediator regarding the progress of the mediation.

(e) Once the necessary parties agree, the Director of Student Conduct and Community Standards will approve a mediator and set a date for a report from the mediator regarding progress. If the Director, in the Director's sole discretion, determines that mediation is unlikely to be successful, the Director may inform the necessary parties and initiate other procedures.

(2) Restorative Justice. Restorative Justice serves primarily as a diversion program for Accused Students who have acknowledged responsibility for a Code violation and who wish to remedy the effects of the violation.

(a) The Director of Student Conduct and Community Standards will consider approving Restorative Justice in the following circumstances:

- (A) The Accused Student acknowledges responsibility for a Code violation;
- (B) There are clearly identifiable negative impacts on either individuals or the community resulting from the violation; and
- (C) The Accused Student and those impacted by the incident agree to participate in Restorative Justice.

(b) A Restorative Justice outcome shall not be binding unless approved by the Director of Student Conduct and Community Standards. An agreement reached through Restorative Justice will be enforced by the Office of Student Conduct and Community Standards.

(3) The Director of Student Conduct and Community Standards may initiate procedures to make a determination of responsibility or, in the Director's discretion, to proceed pursuant to OAR 571-021-0240 if an Accused Student who participates in alternative dispute resolution fails to fulfill an obligation or otherwise fails to comply with the approved resolution.

(4) Upon timely completion of a student's obligation arising from alternative dispute resolution, a student may provide to the Director of Student Conduct and Community Standards documentation of completion. If the Director of Student Conduct and Community Standards concludes the student fulfilled the student's obligation in a timely fashion, Director of Student Conduct and Community Standards will remove information regarding the violation from the student's record.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070
Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0230

Emergency Action

(1) The Director of Student Conduct and Community Standards or his or her designee may take emergency action regarding a Student when immediately necessary to secure the health or safety of any persons and there is an alleged violation of the Student Conduct Code.

(2) Emergency Action includes, but is not limited to:

- (a) Immediate withdrawal of the Student from the University;
- (b) Restrictions on the Student's presence on University Premises or at University Sponsored Activities.

(3) The Director of Student Conduct and Community Standards may request that the Student secure a medical and psychological evaluation through the Student Health Center or at another facility at the Student's own expense. The evaluation may be used to determine the appropriateness of withdrawing the emergency action.

(4) When the emergency action takes place, the Director of Student Conduct and Community Standards or designee will:

- (a) Inform the Student of the reason for the emergency action;
- (b) Give the Student the opportunity to explain why emergency action need not be taken;
- (c) Inform the Student that a preliminary hearing will take place according to Paragraph (5) and that the Student will be informed of its time, place, and date; and
- (d) Inform the Student of the possible restrictions that may be imposed prior to a panel hearing.

(5) The preliminary hearing shall take place within two business days of the emergency action. At this hearing the Student shall have a full opportunity to demonstrate to the Director of Conduct and Community Standards that emergency action is not necessary pursuant to Paragraph (1). The Student may be represented by a student advocate or other counsel.

(a) Based on the reasonable evaluation of the information presented at the preliminary hearing, the Director of Student Conduct and Community Standards shall notify the Student within 24 hours of the decision to:

- (A) Dissolve the emergency action and take no further action;
- (B) Dissolve the emergency action but proceed to a full hearing regarding the Student's conduct pursuant to OAR 571-021-0210 of the Student Conduct Code; or
- (C) Sustain or modify the emergency action until such time as a Hearings Panel may hold a hearing regarding the Student's conduct.

(6) An emergency action shall be reviewed by Vice President for Student Affairs or his or her designee at the request of the Student no sooner than the next working day after the preliminary hearing. The review shall provide an opportunity for the Student to explain why an emergency action need no longer be imposed. Subsequent review of the same emergency action may be requested no more frequently than every ten days.

(7) A Hearings Panel hearing subsequent to an emergency action shall occur no sooner than fourteen days after the emergency action is imposed, and shall be administered pursuant to 571-021-0210 of this Code. If the Director for Student Conduct and Community Standards agrees, the Student may waive the fourteen-day notice requirement in order to expedite the hearings process.

(8) If emergency restrictions on a Student's housing or enrollment are removed, the Student will not be assessed any fees for reinstatement.

Stat. Auth.: ORS 351, 352
Stats. Implemented: ORS 351.070

ADMINISTRATIVE RULES

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0240

Imposition of Sanctions, Adjudication of Contempt and Failure to Complete Assigned Sanctions

(1) A University Official, Hearings Panel or Student Organization that determines that an Accused Student violated the Student Conduct Code may impose sanctions authorized by this Code unless otherwise expressly limited. Sanctions are subject to appeal pursuant to OAR 571-021-0250.

(2) A chair of a Hearings Panel or a University Official responsible for making a determination if a student has violated this Code may declare a Student participant in contempt of adjudicative proceedings pursuant to OAR 571-021-0120(1)(i) and impose sanctions without complying with the procedures otherwise required in this Code. Adjudication of contempt and sanctions imposed are subject to appeal pursuant to OAR 571-021-0250. Imposition of sanction and the circumstances that gave rise to it shall be reported to the Director of Conduct and Community Standards.

(3) Failure to complete assigned sanctions. The University will use the procedures established by this section to enforce the timely completion of disciplinary sanctions issued under the Student Conduct Code.

(a) A Student who is found responsible for a Student Conduct Code violation and who receives a sanction will be informed orally by the Office of Student Conduct and Community Standards of the consequences of failing to complete the sanction. The Office of Student Conduct and Community Standards will also inform the student in writing of the consequences of failing to complete the sanction as part of the decision letter sent to the Student.

(b) If a Student fails to complete the disciplinary sanction by the assigned deadline, the Office of Student Conduct and Community Standards will send the Student a letter that states:

(A) The Student has five class days after the assigned deadline to provide verification to the Office of Student Conduct and Community Standards that the assigned sanction has been completed or the Student's record ability to register for classes, drop classes, or change grade options will be placed on hold;

(B) Once the Student's record is on hold, the hold will not be removed until the Office of Student Conduct and Community Standards has received verification that the Student has completed the sanction; and

(C) The Student is responsible for ensuring that the Office of Student Conduct and Community Standards receives verification of completion of the sanction.

(c) When a hold is placed on a Student's record, the Office of Student Conduct and Community Standards will inform the Student in a letter that the hold has been placed, the consequences of the hold, and the actions required to have the hold removed.

(d) The hold will be removed immediately once the Student provides verification of completion of the sanction.

(e) A Student who is unable to register because the student has not completed a sanction may seek a waiver from the Office of Student Conduct and Community Standards. The Office of Student Conduct and Community Standards will grant a waiver, allowing the student to register, provided the Student agrees the Student's registration may be cancelled immediately and the hold reinstated if the Student has not completed the sanction by a deadline set by the Office of Student Conduct and Community Standards, in its sole discretion.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

571-021-0250

Appeals

The University Appeals Board (Appeals Board) is the final appeals body within the Student Conduct Program. As set forth in OAR 571-021-0165 this Appeals Board shall be responsible for reviewing substantive or procedural appeals from the decisions of a Hearings Panel.

(1) A decision reached by the Hearings Panel may be appealed by the Accused Student or Complainant(s) to the Appeals Board within fourteen calendar days of the decision. Such appeals shall be in writing, state the basis for the appeal and be delivered to the Office of Student Conduct and Community Standards.

(a) An Accused Student who does not attend the hearing of the Hearings Panel may appeal only to show with direct information that the Accused Student did not receive notice of the hearing.

(b) A Complainant(s) who fails to attend the hearing of the Hearings Panel or fails to present information in a format approved by the Hearings

Panel may appeal only to show with direct information that the Complainant did not receive notice of the hearing.

(2) Except as the Appeals Board determines necessary to explain the basis of new information, an appeal is limited to a review of the verbatim record of the Hearings Panel and supporting documents:

(a) To determine if the Hearings Panel hearing was conducted fairly in light of the complaint made and information presented and in conformity with procedures required in this Code, giving the Complainant a reasonable opportunity to present information, and giving the Accused Student reasonable notice and an opportunity to prepare and to respond to the allegations. A deviation from procedures required by this Code will not be a basis for sustaining an appeal unless significant prejudice results;

(b) To determine whether the decision reached regarding the Accused Student was based on substantial information, that is, whether there were facts that, if believed by the Hearings Panel were sufficient to establish that a violation of the Code occurred;

(c) To determine whether the sanction(s) imposed were commensurate with violation;

(d) To consider new information sufficient to alter a decision or other relevant facts not brought out in the original hearing only if such information or facts were not known to the person appealing at the time of the hearing.

(3) No decision of a Hearings Panel may be overruled except through an affirmative vote of a majority of the Appeals Board members present. If the Appeals Board overrules a decision in whole or in part, it may:

(a) Modify the decision or sanction; or

(b) Remand for further proceeding.

(4) No appeal shall be allowed unless the party appealing cites specifically to the hearing record and states with specificity the grounds under which the appeal shall be allowed.

(5) The University Appeals Board decision may be appealed to the extent provided in ORS Chapter 183.

Stat. Auth.: ORS 351, 352

Stats. Implemented: ORS 351.070

Hist.: UO 3-2006, f. & cert. ef. 10-18-06; UO 4-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 14-2007, f. 7-26-07, cert. ef. 8-1-07

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

Adm. Order No.: UO 15-2007

Filed with Sec. of State: 7-26-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Adopted: 571-040-0010, 571-040-0015, 571-040-0100, 571-040-0400

Rules Amended: 571-040-0380, 571-040-0382, 571-040-0390

Rules Repealed: 571-040-0220, 571-040-0240, 571-040-0253, 571-040-0280

Rules Ren. & Amend: 571-040-0200 to 571-040-0201, 571-040-0210 to 571-040-0220, 571-040-0230 to 571-040-0240, 571-040-0243 to 571-040-0250, 571-040-0251 to 571-040-0260, 571-040-0261, 571-040-0263 to 571-040-0270, 571-040-0271 to 571-040-0280, 571-040-0290 to 571-040-0300, 571-040-0310 to 571-040-0320, 571-040-0320 to 571-040-0330, 571-040-0330 to 571-040-0340, 571-040-0340 to 571-040-0350, 571-040-0350 to 571-040-0360, 571-040-0360 to 571-040-0370, 571-040-0370 to 571-040-0380, 571-040-0380 to 571-040-0390, 571-040-0390 to 571-040-0400, 571-040-0400 to 571-040-0410, 571-040-0410 to 571-040-0420, 571-040-0420 to 571-040-0430, 571-040-0430 to 571-040-0440, 571-040-0440 to 571-040-0450, 571-040-0450 to 571-040-0460, 571-040-0460 to 571-040-0470, 571-040-0470 to 571-040-0480, 571-040-0480 to 571-040-0490, 571-040-0490 to 571-040-0500

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

Rules Coordinator: Deb Eldredge—(541) 346-3082

ADMINISTRATIVE RULES

571-040-0010

Applicability of Chapter 571, Division 40; Policymaking Authority

(1) Except for OAR 571-040-0015 and 0020, the rules set forth in chapter 571, division 40, do not apply to:

(a) Transactions involving an interest in real property, including but not limited to, contracting with persons or entities to operate retail establishments in facilities owned or controlled by the University.

(b) Licenses or permits to use or gain access to real property or improvements thereon, regardless of the purpose for the license or permit.

(c) Public improvement contracts (facilities contracting) and contracts with architects, engineers, and similar consultants where the services are related to a public improvement project.

(d) Material transfer agreements, licenses by the University of inventions, software, trademarks, trade secrets, know-how, or copyrighted materials, confidentiality agreements, and acquisition of an interest in intellectual property for management, licensing, or dissemination by the University.

(e) The provision of services or goods by a University unit.

(f) The conveyance by the University of any interest in personal property, tangible or intangible, or real property.

(g) Grants, sponsored research agreements, and the like.

(h) Academic agreements, including but not limited to, student and faculty exchange agreements, affiliation agreements, internship agreements, clinical practicum agreements, study abroad agreements, dual enrollment agreements, transfer agreements, and consortium agreements.

(i) Employment agreements.

(j) Endowment agreements, gift agreements, and the like.

(k) All other contracting by the University, except to the extent expressly set forth in these rules.

(2) The Vice President for Finance and Administration or designee may promulgate internal management directives and policies necessary or appropriate to implement the rules set forth in chapter 571, division 40.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0015

Signature Authority; Execution of Instruments

(1) Except as set forth herein, the Vice President for Finance and Administration has signature authority for all instruments covered by these rules and for those described in OAR 571-040-0010(1)(a)–(h), and (k) and may also delegate such authority pursuant to a written memorandum or policy or as expressly set forth in these rules. Such delegations are limited to specific instrument types and dollar amounts. Except as set forth in these rules or as delegated by the Vice President for Finance and Administration, no one has authority to execute an instrument covered by these rules on behalf of the University. Instruments executed or agreements entered into without authority are voidable at the sole discretion of the University. Failure to follow this rule may result in personal liability and other consequences.

(b) The General Counsel to the Oregon University System or designee has authority to execute all licenses of University-owned or -controlled inventions, software, trade secrets, know-how, or copyrighted materials, material transfer agreements, and related instruments.

(c) Other officers of the University may execute instruments as authorized by law.

(2) Special Rule for “Click-Wrap” Licensing of Computer Software: The University recognizes that much computer software is purchased via Internet download under “click-wrap” or “click-to-agree” licenses, which may include payment and other terms. To the extent that such licenses are not negotiable and are available to the general public on the same terms and conditions, all regular University employees, with the approval of an authorized individual, are authorized to purchase computer software using such licenses. Authority under this provision is limited to \$5000.00 per purchase. The approval of an authorized individual is not required if there is no charge for the software.

(3) Contracts (a) which are entered into by an unauthorized individual or (b) which exceed the authority of an otherwise authorized individual or (c) which are not authorized under these rules shall be voidable at the sole discretion of the University or they may be ratified by the University in its sole discretion. If work is performed or payment made prior to execution, any contract may be voided or ratified by the University in its sole discretion.

(4) Authorized individuals shall be responsible for ensuring that the proper procedures are followed for all institutional purchases or contracts.

The University may take appropriate action in response to unauthorized expenditures or actions including, but not limited to, providing educational guidance, imposing disciplinary measures, and holding individuals personally liable for such expenditures or actions.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0020

Code of Ethics

(1) The following Code of Ethics shall apply to University employees in relation to contracting and purchasing. Employees shall:

(a) Give first consideration to the objectives and policies of the Board of Higher Education, OUS and the University;

(b) Strive to obtain the best value for expenditures;

(c) Fairly consider prospective contractors insofar as state or federal statutes and institutional rules and policies require;

(d) Conduct business in an atmosphere of good faith;

(e) Demand honesty in representations made by prospective contractors;

(f) Encourage all segments of society to participate by supporting emerging small, disadvantaged, and minority-owned and women-owned businesses, and Qualified Rehabilitation Facilities;

(g) Comply with the applicable provisions of ORS Chapter 244 and other applicable rules and policies on conflict of interest that may be more restrictive;

(h) Refrain from having financial interests incompatible with the impartial, objective, and effective performance of duties. Activities that may create a conflict of interest must be addressed in accordance with the procedures outlined in the Oregon University System’s Internal Management Directives and other applicable rules and policies;

(i) Receive the written consent of the originator of proprietary ideas and designs before using them; and

(j) Foster fair, ethical, and legal trade practices.

(2) This code is for the University’s internal use only and creates no obligations enforceable by contractors, proposers, bidders, or other parties doing business with the University, nor may it be used by contractors, proposers, bidders, or other parties doing business with the University who are challenging actions taken by the University or its officers, employees, or agents. This code may not be the only statement on ethics applicable to an employee.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0210, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0030

Applicable Model Public Contract Rules

The University may use any or all of the Attorney General’s Model Public Contract Rules as guidelines for interpretation of these rules or may incorporate some or all of them into a Solicitation Document, contract, or other document.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0243, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0040

Definitions

The following definitions shall apply to OAR chapter 571, division 40, unless the context requires otherwise or except as stated:

(1) Days: Calendar days unless otherwise specified.

(2) Disadvantaged Business Enterprise (DBE): As defined in ORS 200.005.

(3) Disqualification or Disqualify: The preclusion of a person or entity from contracting with the University, OUS, State Board of Higher Education, or the State of Oregon for a period of time.

(4) Emergency: an unexpected, serious situation requiring prompt action.

(5) Emerging Small Business (ESB): as defined in ORS 200.005
Entity: any governmental body or agency, association, sole proprietorship, partnership, corporation, limited liability company, or other organization, however described or named and regardless of legal status, other than a Person.

(6) Minority Business Enterprise (MBE): As defined in ORS 200.005.
OUS: Oregon University System. Person: A natural person.

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(7) Qualified Rehabilitation Facility (QRF): A nonprofit organization that trains and puts Oregonians with disabilities to work.

(8) Qualified Contractor List: A list of persons or entities identified from a Solicitation Document, or other request that are able to provide specific goods or services. Inclusion on a Qualified Contractor List does not indicate that a Person or Entity has entered into a contract with the University.

(9) Responder: A person or entity submitting a bid, proposal or other response to a Solicitation Document.

(10) Response: A bid, proposal or other response to a Solicitation Document.

(11) Responsive Response: A Response that substantially complies with applicable solicitation procedures and requirements in the Solicitation Document.

(12) Request for Information (RFI): a written document soliciting information regarding goods or services. An RFI is not a Solicitation Document.

(13) Request for Qualifications (RFQ): A written document soliciting information regarding the qualifications of providers of goods or services. An RFQ is not a Solicitation Document.

(14) Single Seller or Sole Source: The only provider of a particular good or service reasonably available.

(15) Solicitation Document: An invitation to bid (ITB), request for proposal (RFP) or other document seeking a bid, proposal, or other Response where the University intends that a contract will result.

(16) Used Personal Property: personal property used by a previous owner or user and recognized in the relevant trade or industry as "used" at the time of University purchase. It generally does not include property or equipment if the University was the previous user, whether under a lease, as part of a demonstration, trial or pilot project, or similar arrangement. This definition does not relate to surplus property disposal. Women Business Enterprise (WBE): As defined in ORS 200.005.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0230, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0050

Basis for Awarding of Contracts

The University shall select contractors and award contracts based on such factors as are identified in the Solicitation Document and such other factors as are reasonable under the circumstances. The Vice President for Finance and Administration or designee may prescribe the terms and conditions of contracts and documents required in support of contracts.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0270, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0060

Contract Amendments and Expired Contracts

A contract amendment that is reasonably related to the scope of work under a contract may be entered into with the contractor without application of OAR chapter 571, division 40. Lapsed contracts may be revived and reinstated upon the approval of the Vice President for Finance and Administration or designee.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0290, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0070

Pre-Response Conferences

(1) Pre-Response conferences may be scheduled by the University. Each such conference shall be described in the Solicitation Document as voluntary or mandatory. If such a conference is designated as mandatory, a Responder must attend in order to submit a Response.

(2) A Responder may authorize a representative to attend the pre-Response conference.

(3) The University determines the content of any conference held under this rule.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0310, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0080

Acceptance of Responses and Correspondence

The University may choose to accept Responses and correspondence by any means and on any conditions authorized in the Solicitation Document, including by electronic mail or facsimile machine.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0320, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0100

Screening and Selection for Professional Services Contracts

(1) The University periodically requires an individual or firm to perform professional services. OAR 571-040-0100 sets forth the screening and selection processes to be used for all such contracts and, in the case of the University of Oregon, supersedes OAR 580-040-0100.

(2) The University may contract for professional services when it is desirable or prudent and not prohibited by law.

(3) "Professional Services Contract" means a contract for professional services performed by an independent contractor. Compensation under a Professional Services Contract may be on an hourly basis, a flat fee basis, a not-to-exceed amount, or any other compensation arrangement that serves the University's best interests.

(4) Formal Selection Procedure: This procedure will be used whenever the estimated payment to the contractor during the contract term is \$200,000 or more or when the Vice President for Finance and Administration or designee determines that the formal selection procedure is appropriate. The Vice President for Finance and Administration or designee may grant an exemption from the formal selection procedure for sufficient cause. The amount of a contract may not be manipulated to avoid the formal selection procedure.

(a) Announcement: The University, through the Vice President for Finance and Administration or designee, will give notice of intent to contract for professional services in a trade periodical or newspaper of general circulation or on the University's website. The notice may also be sent to potential contractors and any other interested party. The notice shall include a description of the proposed project, the scope of the services required, project completion dates, if any, a description of special requirements, if any, and any other information deemed appropriate by the University. The notice will invite qualified prospective contractors to request an application. The notice will specify when and where the application may be obtained, to whom it must be returned, and the closing date. The University will provide notices to the Office of Minority, Women and Emerging Small Business.

(b) Application: The application, which is considered a Solicitation Document, will consist of a statement that describes the prospective contractor's credentials, performance data and other information sufficient to establish the contractor's qualification for the project, as well as any other information requested by the University.

(c) Initial Screening: The University will evaluate the qualifications of all Responders and select one or more prospective contractors who will best meet the University's needs.

(d) The Final Selection Procedure:

(A) Interviews: The University may interview, through any appropriate medium, the finalists selected from the initial screening.

(B) Award of Contracts: The University will make the final selection based on such criteria as the University deems appropriate. The University may award more than one contract and may develop a roster of contractors qualified to perform various types of services from which the University may choose without the need to undertake one of the selection procedures set forth in this rule.

(5) Informal Selection Procedure. This procedure may be used when the estimated payment for the proposed services to be performed by the contractor exceeds \$50,000 but is less than \$200,000 or when the Vice President for Finance and Administration or designee determines that use of the informal selection procedure is appropriate. The Vice President for Finance and Administration or designee may grant an exemption from the informal selection procedure for sufficient cause. The amount of a contract may not be manipulated to avoid the informal selection procedure.

(a) Selection: The University will contact a minimum of three prospective contractors believed to be qualified to offer the sought-after services. If the University determines that fewer than three such contractors are reasonably available, the University need not contact three. An estimated fee or the basis for determining the fee will be requested. The University may award any number of contracts and may develop a roster of contractors qualified to perform various types of services from which the

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University may choose without the need to undertake one of the selection procedures set forth in this rule.

(6) Professional Services Contracts not exceeding \$50,000: The University may enter into Professional Services Contracts not exceeding \$50,000 without following the procedures identified elsewhere in this rule. The amount of the contract is not to be manipulated to avoid the need for informal or formal procedures. The University may award any number of contracts and may develop a roster of contractors qualified to perform various types of services from which the University may choose without the need to undertake one of the selection procedures set forth in this rule.

(7) The University may negotiate with a Single Seller or Sole Source if the services are available only from one contractor, or the prospective contractor has skills or experience not otherwise readily available and which are required for the performance of the services.

(8) Emergency Appointment Procedure: The University may select a contractor without following any of the procedures set forth in this rule when an unexpected, serious situation requires prompt action. In such an instance, the recommended appointment and a description of the conditions requiring the use of this appointment procedure shall be communicated to the Vice President for Finance and Administration or designee, who will determine if an emergency exists and, if so, the Vice President for Finance and Administration may declare an emergency and approve the appointment. The existence of an emergency and the appointment procedure must be documented in writing.

(9) Alternative Processes. Notwithstanding anything to the contrary in these rules, the University is authorized to develop and use alternative processes for contracting for Professional Services using evaluation criteria that may include, but are not limited to, cost, quality, service, compatibility, operating efficiency, expansion potential, experience and reliability, commitment to support regional business development, and support for innovation.

(10) The Vice President for Finance and Administration or designee may grant an exemption from compliance with this rule for sufficient cause. Documentation of the decision to grant an exemption and the reason therefor must be maintained.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0201

Purpose; Delegation of Authority; Application

(1) The purpose of the rules set forth in OAR 571-040-0201 through 571-040-0390, is to:

- (a) Establish procurement procedures that are simple and flexible;
- (b) Reduce prior approvals and ensure accountability through auditing;
- (c) Generate and retain only necessary documentation;

(d) Allow the University to work cooperatively with other Oregon University System (OUS) institutions and other governmental and non-profit entities; and

(e) Allow the University to do business more easily with local and regional vendors.

(2) These rules have been promulgated pursuant to authority delegated by the State Board of Higher Education (Board) under OAR chapter 580, division 40, and have been approved by the OUS Vice Chancellor for Finance and Administration. With respect to the University, these rules supersede the rules found in OAR 580-040-0200 through 580-040-0295, except that the following rules shall apply to the University: OAR 580-040-0290, 580-040-0292; and 580-040-0295.

(3) Except as expressly indicated, the rules set forth in OAR 571-040-0201 through 571-040-0390 apply only to the procurement (purchase) of goods and services.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0200, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0251

Processes for Procurement of Goods and Services Other than Professional Services

(1) The University has established several processes for the procurement of goods and services: formal; informal; direct negotiation; emergency; Sole Source; intergovernmental/non-profit; exemption; and alternative. In addition, the University has established several methods by which goods and services may be acquired: procurement cards; price agreements; retainer agreements; requirements contracts; purchase orders; custom con-

tracts; and Qualified Contractor Lists. The University may use other methods in its sole discretion.

(2) For each purchase of goods and services, authorized personnel shall retain documentation, either hard copy or electronic, consistent with the requirements of OAR 571-040-0390. Such documentation shall be subject to audit.

(3) Formal Procurement Process (more than \$200,000). The formal procurement process shall be used, except as otherwise set forth herein, for all purchases of goods and services where the estimated cost exceeds \$200,000. The formal procurement process may be used for purchases where the estimated cost is \$200,000 or less upon the approval of the Vice President for Finance and Administration or designee.

(a) Multiple contracts, purchase orders, or purchasing requisitions shall not be issued separately with the intent to circumvent these rules.

(b) The formal process may be accomplished in either of two ways the University selects:

(A) Invitation to bid. The invitation to bid will be advertised as appropriate (which may be exclusively on the University's website), and, unless the invitation to bid provides otherwise, the contract will be awarded to the lowest responsive and responsible bidder.

(B) Request for proposal. The request for proposal will be advertised as appropriate, and the award process and criteria will be described in the request for proposal.

(c) The Vice President for Finance and Administration or designee may grant a release from the formal procurement process.

(5) Informal Procurement Process, Including Direct Negotiation (\$50,000.01 to \$200,000)

(a) The informal procurement process may be used for all purchases of goods or services where the estimated cost exceeds \$50,000 but is not greater than \$200,000, or where the Vice President for Finance and Administration or designee has approved the use of the informal procurement process. The informal procurement process may include the solicitation of quotes or direct negotiation or a combination thereof. Multiple contracts, purchase orders, or purchasing requisitions shall not be issued separately with the intent to circumvent these rules.

(b) Solicitation of quotes will ordinarily be accomplished through the solicitation of quotes from three potential contractors. However, there may be circumstances where fewer than three are reasonably available. Solicitation may be accomplished by advertisement or by the initiation of a request to the relevant number of potential contractors, or both. When procuring goods or services through the solicitation process, information regarding persons or entities contacted, basis for selection, prices, and other information pertinent to the solicitation must be clearly documented.

(c) Direct negotiation. In lieu of or in addition to the solicitation of quotes, the Vice President for Finance and Administration or designee may authorize direct negotiation with a prospective contractor, as long as the Vice President for Finance and Administration or designee determines that direct negotiation will result in the best value under the circumstances.

(6) Purchases of \$50,000 or less. All purchases of goods or services where the estimated cost is \$50,000 or less may be accomplished through direct negotiation or such other process as will result in good value under the circumstances.

(7) Emergency Purchases. Emergency purchases may be made only pursuant to authorization issued by the Vice President for Finance and Administration or designee upon a finding that an Emergency exists. The amount of the purchase is not a relevant consideration in finding the existence of an Emergency. The procurement process to be used is at the discretion of authorized personnel but must be documented.

(8) Sole Source Purchases. When purchasing goods or services from a Sole Source, the University is not required to follow the competitive procedures set forth in these rules. Sole Source purchases must be approved by the Vice President for Finance and Administration or designee, in his or her sole discretion. Sufficient information shall be gathered to justify the determination that the good or service is reasonably available from only one contractor.

(9) Purchases From or Through Other Governmental or Non-profit Entities. Regardless of the dollar value of the purchase, the University and its departments may contract with, and purchase goods and services from or through, other governmental or non-profit entities such as state agencies, political subdivisions, federal agencies, or any other governmental or non-profit entity, without the use of competitive procedures.

(10) Requests for Information (RFI) and Requests for Qualifications (RFQ). The University may issue an RFI or an RFQ when the University determines, that such issuance is appropriate under the circumstances.

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(11) Procurement Cards. Procurement cards, or other methods of direct purchasing, may be used as permitted by the Business Affairs Office.

(12) Qualified Contractor List. The University, through the Business Affairs Office, may negotiate directly with a contractor listed on a Qualified Contractor List if only one person or entity meets the University's needs and if the Solicitation Document or other document informed potential contractors that direct negotiation could occur.

(13) Qualification of Prospective Responders. The University may limit the persons or entities authorized to respond to a Solicitation Document by requiring that such persons or entities demonstrate to the University that the person or entity has:

(a) Financial, material, equipment, facility and personnel resources and expertise, or ability to obtain such resources and expertise, sufficient for the person or entity to meet all contractual responsibilities;

(b) A satisfactory record of performance on projects of similar size and scope; and

(c) A satisfactory record of integrity. When the University requires the qualification of prospective responders, it shall not consider a response from a Person or Entity that has not been qualified. If a Person or Entity fails to qualify the University shall notify the Person or Entity and specify the reasons under for such failure. The Person or Entity may protest the University's determination.

(14) Alternative Procurement Processes. Notwithstanding anything to the contrary in these rules, the University is authorized to develop and use alternative procurement processes using evaluation criteria that may include, but are not limited to, cost, quality, service, compatibility, product reliability, operating efficiency, expansion potential, vendor experience and reliability, commitment to support regional business development, and support for innovation.

(15) Procurement Methods. At the University's discretion and subject to the University's direction, all procurement processes and purchases may be accomplished through the use of paper or electronic documents delivered by mail or courier; transmission via facsimile; transmission via electronic means; or a combination thereof.

(16) Bonds, Guaranties, and Security. The University may require payment or performance bonds or such other guaranties or security as the University deems appropriate, in its sole discretion, under the circumstances.

(17) Information Technology. In some cases, the acquisition of information technology and related services may require the prior approval of the Department of Administrative Services.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0250, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0261

Exemptions

(1) The University is exempt from compliance with OAR 571-040-0251 when seeking to acquire or pay for (as applicable) the following:

(a) Educational services.

(b) Brand name goods and services or product prequalification. The University may specify brand names in the procurement of goods and services if the particular good or service has attributes not found in other goods or services or under such other circumstances as the Business Affairs Office deems appropriate. In addition, when specific design or performance specifications must be met for a good or service to be purchased, the University may specify a list of qualified goods or services by reference to the qualified goods or services of a particular contractor or potential contractor.

(c) Advertising and media services.

(d) Price-regulated goods and services, where the rate or price for the goods or services being purchased is established by a federal, state, or local regulatory authority.

(e) Goods or services under federal contracts. When the price of goods or services has been established by a contract with an agency of the federal government pursuant to a federal contract award, the University may purchase the goods or services in accordance with the federal contract. In addition, the University may purchase specific equipment that is expressly required under the terms of the contract and that is only available from one source.

(f) Copyrighted materials. Copyrighted materials covered by this exemption may include, but are not limited to, textbooks, workbooks, curriculum kits, reference materials, software, periodicals, library books, library materials, and audio, visual, and electronic media.

(g) Investment contracts.

(h) Food and food-related services and products.

(i) Maintenance services directly from the contractor providing the goods.

(j) Used Personal Property.

(k) Goods purchased for resale.

(l) Goods or services related to intercollegiate athletic programs.

(m) Cadaveric organs.

(n) Goods and services related to conferences and workshops.

(o) Dues, registrations, and membership fees.

(p) Gasoline, diesel fuel, heating oil, lubricants, natural gas, electricity, asphalt, and similar commodities and products, and the transportation thereof.

(q) Supplies, maintenance, and services for ocean-going vessels when they are in other than home port.

(r) Repair and overhaul of goods or equipment.

(s) Goods or services purchased in foreign countries.

(2) Other exemptions may be granted by the Vice President for Finance and Administration or designee. Documentation of the decision to grant an exemption and the reason therefor must be maintained.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0260, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0380

Purchasing Policies Governing the Acquisition of Goods and Services from Qualified Rehabilitation Facilities

The University shall purchase goods and services from Qualified Rehabilitation Facilities in accordance with the statutes and regulations governing purchase from such QRFs.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0382

Affirmative Action; General Policy

The following Affirmative Action General Policy shall apply to University purchasing and contracting.

(1) The general policy of the University shall be to expand economic opportunities for Minority Business Enterprises, Women Business Enterprises, and Emerging Small Businesses by offering the contracting and subcontracting opportunities available through the University. Notice of all contract and bid request solicitations using the formal procurement process shall be provided to the Advocate for Minority, Women and Emerging Small Business and the Oregon Department of Administrative Services for the Oregon Opportunity Register and Clearinghouse when any other solicitation is sent.

(2) The University shall not knowingly contract with or procure goods or services from any organization, business entity, or individual that discriminates on the basis of age, disability, national origin, race, color, marital status, religion, sex, status as a veteran, sexual orientation, or transgendered status.

(3) Responders shall certify that they will not discriminate and have not discriminated against minority, women, or emerging small business enterprises in obtaining any required subcontracts.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0390

Recordkeeping Requirements

(1) Documentation of all purchasing and contracting transactions will be made available for inspection by the OUS Internal Audit Division upon request.

(2) Authorized personnel shall maintain documentation, whether written or electronic, regarding all purchasing and contracting transactions in accordance with the requirements of the Secretary of State and OUS.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

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571-040-0400

Applicability

OAR 571-040-0410 through 571-040-0460 shall apply to all transactions covered under chapter 571, division 40.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0410

Responsibility; Responsibility Investigation

(1) A responsible Responder is a Person or Entity that has the ability in all respects to perform fully the contract, the integrity and reliability that will ensure good faith performance, and who has not been Disqualified by the State of Oregon, the State Board of Higher Education, OUS, or the University.

(2) The University may, prior to awarding any contract, make such investigation as is necessary to determine whether a Responder is responsible.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0350, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0420

Responsiveness; Acceptance and Rejection

(1) A responsive Response is one that complies in all material respects with a Solicitation Document and with all prescribed procedures and requirements. A nonresponsive Response is one that does not meet one or more material aspects of a Solicitation Document or that does not comply with one or more prescribed procedures or requirements. The University may waive one or more defects in a Response that provide no material advantage to the Responder or are otherwise immaterial.

(2) Except as set forth in the Solicitation Document or these rules, the University will accept and consider only those Responses that are responsive or Responses with one or more defects that have been waived. Otherwise, nonresponsive Responses will be rejected.

(3) Nothing in this rule limits the ability of the University to monitor contractor performance.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0352, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0430

Rejection of Individual Responses

(1) The University may reject any Response that fails to meet all prescribed procedures or requirements and may reject any Response upon a written finding that it is in the best interest of the University to do so.

(2) Reasons for rejecting a Response include, but are not limited to, finding that:

(a) The Responder has not been qualified as required in a Solicitation Document or these rules, or is disqualified under ORS 200.075, 279A.110, other similar statute, or these rules; or

(b) The Responder, or an entity in which the Responder has a financial interest, has been declared ineligible by the Commissioner of the Bureau of Labor and Industries for failure or refusal to pay or post prevailing wage rates; or

(c) The Response is not responsive; or

(d) The goods or services offered in the Response are unacceptable by reason of their material failure to meet the requirements of the Solicitation Document; or

(e) The Responder is not responsible, i.e., is not likely to be capable of satisfying the terms and conditions of the contract in a timely manner due to financial incapacity, inability to obtain bonding, loss of license, poor performance history, lack of necessary equipment, lack of personnel of sufficient experience, or other objective cause; or

(f) The Responder within the last five years has been found in a civil, criminal, or administrative proceeding to have committed or engaged in fraud, misrepresentation, price-rigging, unlawful anti-competitive conduct, or similar behavior; or

(g) The Responder has been determined to be responsible (i.e., adjudicated by a court, or as determined in writing by the State of Oregon, the Board of Higher Education, OUS or the University in the case of a public contract) for more than one breach of a public or private contract or contracts in the last three calendar years before the scheduled date of the closing; or

(h) The bond, guaranty, or other required security has not been submitted or properly executed as required by the Solicitation Document; or

(i) The Responder has not met the emerging small business, disadvantaged business, minority business, and women business enterprise requirements, if any, established by the State of Oregon, the Board of Higher Education, OUS or the University, and has not made a good faith effort in accordance with applicable law to comply with the requirements prior to closing; or

(j) The Responder has failed to provide the certification required by OAR 571-040-0382; or

(k) Other circumstances of the particular Response or Responder indicate that acceptance of the Response would impair the integrity of the selection process or result in an imprudent contract.

(3) For purposes of this rule, the business registry of bidders or proposers shall be subject to scrutiny, i.e., confirmation of ownership or identification of officers and directors, in order to identify previously disqualified bidders or proposers, and thus prevent any subterfuge, change of apparent ownership, or other adjustments in formal appearance, to avoid application of this rule or of the disqualification provisions of relevant statutes or rules.

(4) All Responders whose Response is rejected shall be notified in writing by certified mail of the rejection and the reason therefor.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0360, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0440

Disqualification

(1) As used in this rule:

(a) "Disqualification" means the debarment, exclusion, or suspension of a Person or Entity from the right to submit a Response to a Solicitation Document for a reasonable, specified period of time named in the order of disqualification. A Person or Entity so debarred, excluded, or suspended is disqualified.

(b) Disqualification attaches to and follows the Person, so that a Person who, for example, is a partner in a partnership or an officer or principal in a corporation that is disqualified may not reform the business entity as a way of avoiding the disqualification.

(2) A Responder may be disqualified if the Responder is found to have materially breached a contractual obligation to the State of Oregon, the Board of Higher Education, OUS, the University, or a Person or Entity.

(3) A Responder may be disqualified for the reasons set forth in ORS 200.075 and similar statutes and rules.

(4) The University may make such investigation as is necessary to determine whether there are grounds for disqualification. Failure to supply such information promptly as requested by the University is itself grounds for a disqualification.

(5) Notice of contemplated disqualification will be provided in writing by personal service or certified mail. The disqualified Entity or Person shall then be provided with an opportunity to be heard before the Institution President or designee. A Final Agency Order shall thereafter be issued and shall contain the effective date of the disqualification and the effective period of disqualification; the grounds for disqualification; and a statement of the appeal rights and applicable appeal deadlines.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0370, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0450

Protests

(1) The following matters may be protested:

(a) A determination of responsibility or lack thereof;

(b) A determination of responsiveness or lack thereof;

(c) The rejection of a Response;

(d) The content of a Solicitation Document;

(e) The denial of qualification;

(f) The selection of one or more contractors. A protest may be submitted only by a Person or Entity that can demonstrate that it has been or is being adversely affected by a University decision or the content of a Solicitation Document.

(2) Except for 1(d) above, a protest must be submitted in writing to the Director of Business Affairs or designee no later than ten (10) calendar days after the mailing date of the decision. For 1(d) above, a protest must be submitted to the Director of Business Affairs or designee no later than

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ten (10) calendar days prior to closing. These time periods may be varied in a Solicitation Document or for sufficient cause as determined in the sole discretion of the Director of Business Affairs or designee.

(3) A protest must fully set forth all grounds for the protest and include all evidence that the protestor wishes the Director of Business Affairs or designee to consider. Failure to include any ground for the protest or any evidence in support of it shall constitute a final, knowing and voluntary waiver of the right to assert such ground or evidence. A protest must include in a conspicuous location a marking identifying the type and nature of the protest. The Solicitation Document number must also be included in a conspicuous location.

(4) A protest of a Solicitation Document may be made only if a term or condition of the Solicitation Document, including but not limited to specifications or contract terms, violates applicable law. The University will (upon altering the Solicitation Document in response to a protest) promptly transmit the revised Solicitation Document to all Responders and extend the closing where appropriate. The University may choose, in its sole discretion, to close the procurement process without making an award and begin a new procurement process.

(5) A protest of the denial of qualification must demonstrate that the University's decision was materially in error or that the University committed a material procedural error and that any such error, alone or in combination with other errors, was a "but for" cause of the denial.

(6) A protest of the selection of one or more contractors requires the Responder to demonstrate, as applicable:

(a) That all higher-ranked Responders were ineligible for selection or that the Responder would have been "next in line" to receive the award and was eligible for selection; and

(b) That the Responder selected was ineligible.

(7) A protest of the rejection of a Response must demonstrate that the University's decision was materially in error or that the University committed a material procedural error and that any such error, alone or in combination with other errors, was a "but for" cause of the rejection.

(8) The Director of Business Affairs or designee shall review protests under sections (4) through (7) above and shall have the authority to make the final determination. The Director of Business Affairs or designee shall also have the authority to settle or resolve a protest. In making a final determination or settling or resolving a protest, the Director or designee shall issue a written Final Agency Order. Contract award may be made prior to issuance of the Final Agency Order if authorized by the Director or designee. Judicial review of the disposition of a written protest submitted in accordance with this rule may be available pursuant to the provisions of ORS 183.480 et seq.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0271, 571-040-0361 571-040-0371, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

571-040-0460

Clarification of Solicitation Documents and Requests for Change

A prospective Responder may submit in writing to the Director of Business Affairs, designee, or other Person identified in a Solicitation Document a request for clarification or change of any Solicitation Document. A request for change must include the specific change sought by the prospective Responder. A request under this rule must be submitted within ten (10) calendar days after the Solicitation Document is issued. This time period may be varied in a Solicitation Document or for sufficient cause as determined in the sole discretion of the Director of Business Affairs or designee.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: UOO 4-1996, f. & cert. ef. 7-23-96; Renumbered from 571-040-0263, UO 1-2006, f. 8-15-06, cert. ef. 9-1-06; UO 1-2007(Temp), f. 2-13-07, cert. ef. 2-14-07 thru 8-1-07; UO 15-2007, f. 7-26-07, cert. ef. 8-1-07

Rule Caption: Rules governing the community dispute resolution grant program pursuant to ORS 36.175.

Adm. Order No.: UO 16-2007

Filed with Sec. of State: 7-26-2007

Certified to be Effective: 8-1-07

Notice Publication Date: 6-1-07

Rules Adopted: 571-100-0000, 571-100-0010, 571-100-0020, 571-100-0030, 571-100-0040, 571-100-0050, 571-100-0060, 571-100-0070, 571-100-0080, 571-100-0090, 571-100-0100, 571-100-

0110, 571-100-0120, 571-100-0130, 571-100-0140, 571-100-0150, 571-100-0160

Subject: These rules are being adopted to administer the community dispute resolution grant program as mandated by ORS 36.175. The administration of the community dispute resolution program was granted to the University of Oregon, acting through the Dean of its School of Law, by the state legislature by ORS 36.110 through 36.175.

Rules Coordinator: Deb Eldredge—(541) 346-3082

571-100-0000

Applicability of Chapter 571, Division 100

These rules apply to the programs administered by the University of Oregon, acting through the Dean of its School of Law pursuant to ORS 36.100 et seq.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0010

Definitions for Chapter 571, Division 100

(1) "Applicant" is an entity which has submitted an application for program funding pursuant to ORS 36.155.

(2) "University" means the University of Oregon acting through the Dean of its School of Law.

(3) "Dean" means the Dean of the University of Oregon School of Law.

(4) "Mediation" is defined in ORS 36.110(5) and includes case development and conciliation.

(5) "Community Dispute Resolution Program" means a program that has been determined eligible for funding under ORS 36.155 and these Rules.

(6) "Grantee" is a community dispute resolution program that has been awarded funding pursuant to ORS 36.155.

(7) "Rules" refers to OAR chapter 571, division 100.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0020

Minimum Eligibility Requirements

To be eligible to receive funding under ORS 36.100 et seq. and these Rules, a dispute resolution program must:

(1) Be:

(a) A governmental entity with a separate dispute resolution program budget and a dispute resolution program advisory committee of at least five representative members of the community in which the governmental entity is located, which advisory committee meets at least quarterly; or

(b) A nonprofit organization registered in Oregon with a board of directors of at least five representative members of the community or communities in which the organization does business, which board of directors meets at least quarterly. If an applicant is a nonprofit organization established for purposes other than dispute resolution, it shall have a separate dispute resolution program budget and a separate advisory committee of at least five representative members of the community in which the organization does business, which advisory committee shall meet at least quarterly; and

(2) Provide citizen education in conflict resolution skills to assist citizens in resolving their own disputes peacefully and community mediation services. Community mediation services must be provided, at least in part, by volunteer mediators. In addition to these essential services, programs may elect to provide other services in order to respond to local identified needs. Such services may include, but are not limited to:

(a) Methods for addressing the interests of crime victims in criminal cases when those cases are either not prosecuted for lack of funds or could be more effectively handled outside the courts;

(b) Arbitration; and

(c) Training for individuals who resolve disputes.

(3) The Oregon Judicial Department shall not be eligible for funding under ORS 36.100 et seq. and these Rules.

(4) Municipal, county, and justice courts shall not be eligible for funding under ORS 36.100 et seq. and these Rules.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

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571-100-0030

Fees for Service

(1) A Grantee is not required to charge fees to disputants for dispute resolution services. If a Grantee charges fees for dispute resolution services, a sliding fee scale or waiver or deferment based on income must be offered. The Grantee shall explain to all disputants, in advance of the services being furnished, the amount of any fees and other costs that may be charged.

(2) A Grantee shall not charge the following fees:

- (a) Fees contingent on outcome; or
- (b) Fees calculated on the basis of the amount in controversy.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0040

Matching (Participating) Fund Requirements

(1) Grantees shall be required to match the funding granted to them pursuant to ORS 36.155 at the following levels:

- (a) First grant year: 10 percent;
- (b) Second grant year: 25 percent;
- (c) Third grant year: 50 percent;
- (d) Fourth grant year: 75 percent;
- (e) Fifth grant year: 100 percent.

(2) Matching funds may be generated through fees for services, grants, donations, fundraising, in-kind donations, and other efforts. The University, acting through the Dean, shall retain discretion to waive or modify the matching fund requirements based upon the Grantee's good faith efforts and substantial compliance with such requirements.

(3) In-kind donations may be reported or credited as revenue or expenditures if such donations:

- (a) Will be received during the proposed budgetary period; and
- (b) Represent necessary and ordinary expenses or services related to the operation and management of the Grantee.

(4) Documentation of in-kind donations shall include descriptions of the services or materials donated, the dates received, and the names and addresses of the donors. Volunteer services shall be documented by means of time sheets signed by the volunteer and verified by the program manager.

(5) In-kind donations and services, such as office space and administrative, clerical, and professional services, shall be valued at the prevailing market rate.

(6) The following may not be included as in-kind donations:

(a) Volunteer time by members of the Grantee's board of directors or advisory committee while serving in the capacity as members of the board or committee.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0050

Participation by Counties

(1) To qualify for a grant under ORS 36.155 and these Rules, a county shall notify the Dean on in accordance with a schedule established by the Dean of its intention to participate in the expenditure of funds for programs funded under ORS 36.155. Such notification shall be by resolution of the appropriate board of county commissioners or, if the programs are to serve more than one county, by joint resolution. A county providing notice may select the dispute resolution programs to receive grants under ORS 36.155 for providing dispute resolution services within the county from among Community Dispute Resolution Programs within the county or, in the case of a joint resolution, counties.

(2) The county's notification to the Dean must include a statement of agreement by the county to engage in a selection process and to select as the recipient of funding an entity capable of and willing to provide dispute resolution services according to these Rules. The award of a grant is contingent upon the selection by the county of a qualified entity. The Dean may provide consultation and technical assistance to a county to identify, develop and implement dispute resolution programs that meet the standards and guidelines set forth in these Rules.

(3) If a county does not issue a timely notification under subsection (1) above, the Dean may notify a county board of commissioners that the Dean intends to make a grant to a dispute resolution program in the county. The Dean may, after such notification, assume the county's role under subsection (1) above unless the county gives the notice required by subsection

(1). If the Dean assumes the county's role, the Dean may contract with a qualified program for a two-year period. The county may, 90 days before the expiration of such contract, notify the Dean under subsection (1) above that the county intends to assume its role under subsection (1).

(4) All dispute resolution programs identified for funding shall comply with these Rules.

(5) All Grantees shall submit informational reports and statistics as required by these Rules.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0060

Termination of Participation by a County

(1) Any county that receives a grant under ORS 36.155 and these Rules may terminate its participation at the end of any month by delivering a resolution of its board of commissioners to the Dean not less than 180 days before the termination date.

(2) If a county terminates its participation, the remaining portion of the grant made to the county shall revert to the University to be used as specified in ORS 36.155.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0070

County Dispute Resolution Program Coordinator

(1) Each board of commissioners electing to participate in the expenditure of funds shall designate a person to function as the county dispute resolution program coordinator.

(2) The coordinator shall maintain public information on any dispute resolution services within the county including name and telephone number of the coordinator, availability of grant monies to fund local programs, the grant solicitation and award process, and the program names and services provided by grantees in that county.

(3) A coordinator need not be a resident of the county and may serve as the coordinator for more than one county.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0080

Application Process

(1) A board of commissioners, or the University acting through the Dean, if the Dean has assumed the county's role, shall issue a request for applications to provide dispute resolution services under ORS 36.155. The request for applications shall be advertised in a manner reasonably calculated to ensure that those qualified to provide the requested dispute resolution services receive notice of the request. Such advertising may be in a newspaper, on a web site, by electronic mail, or any other means that meets the requirements of this subsection.

(2) An applicant shall submit the original application to the participating county and a copy of the application simultaneously to the Dean, unless the Dean has assumed the county's role in which case the application shall be sent solely to the Dean. Applications may be submitted by mail, hand delivery, express delivery, facsimile machine, website submission, or electronic mail (including in portable document format (pdf)).

(3) The Dean on his or her own behalf or on behalf of a county may in his or her sole discretion accept late or incomplete applications and may seek to clarify any or all portions of applications. The Dean may in his or her sole discretion waive any provisions of the application for sufficient cause.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0090

Application Requirements

Unless waived by the Dean, all applications shall include the following:

(1) A statement of the program's goals, objectives, and activities, including citizen education in conflict resolution skills and community mediation services.

(2) A description of community problems to be addressed, the proposed geographical area of service, the service population, and the number

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of persons the applicant will have the capacity to serve on an annual basis; the types of disputes to be handled; the types of dispute resolution services to be offered; and any access restrictions to be imposed by the applicant.

(3) A plan for recruiting, selecting and using volunteer mediators.

(4) A description of any training activities including the mediation curriculum and apprenticeship.

(5) A plan for publicizing its services and resources to potential referral agencies, individuals, civic groups, courts and agencies of the judicial system.

(6) The applicant's organizational chart, structure, personnel policies, and resumes of all professional staff members.

(7) A proposed budget including the amount and sources of matching funds for the grant period, and any fee schedule to be used by the applicant. If available, audited financial statements shall also be submitted for the previous two years. An applicant's request for funding shall not exceed the Dean's grant projection made pursuant to these Rules.

(8) A description of program evaluation plans.

(9) Letters of support from community organizations, judicial and legal system representatives, administrative agencies, or other appropriate public service organizations in the proposed area of service. Such letters should, if appropriate, attest to the organization's willingness to make referrals to the applicant.

(10) An Affirmative Action statement.

(11) A discussion of the potential for collaboration with other applicants and, if there might be other applicants, a plan for such collaboration.

(12) Any other information required by the Dean.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0100

Selection Process

(1) The Dean shall acknowledge receipt of each application and shall review each application to determine whether the applicant is eligible for funding under these Rules as of the date of application. The Dean shall send a notice of eligibility determination to each applicant and to the county dispute resolution coordinator.

(2) If the county has elected to participate as described in these rules, the county shall review the applications of those applicants determined eligible by the Dean and shall select the program(s) for funding. If the county has not elected to participate, the Dean shall select the program(s) for funding from those applicants the Dean has determined to be eligible.

(3) Criteria for the selection of funding shall be as determined by the Dean and set forth in the Request for Application. Criteria may include, but need not be limited to:

(a) The ability of the applicant to address unmet community needs in the proposed geographical area of service;

(b) The structure and scope of the services to be provided by the applicant;

(c) The applicant's experience and qualifications in dispute resolution services;

(d) The amount of the requested grant and the reliability of the applicant's other funding sources; and

(e) The adequacy and cost of personnel, services, and supplies, and capital outlay.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0110

Contracts with Grantees

(1) The University shall enter into a contract with Grantee which specifies the kinds and level of services the grantee shall provide during the designated grant period. The University shall have sole authority to determine the content of the contract.

(2) Grants shall be available for the period of July 1 of each odd-numbered year through June 30 of the following odd-numbered year. The University shall contract with the Grantee for up to two years.

(3) The Dean or designee shall have the power to examine the records of any grantee to determine compliance with the contract and applicable law.

(4) In the event that the Dean determines that a Grantee is not in substantial compliance with the terms of its contract, the Grantee shall be required to come into compliance within a reasonable amount of time as determined by the Dean. If the program continues to be out of compliance,

the Dean shall provide written notice to the program and the county that specifies the areas of non-compliance and requires substantial compliance within 30 days. After the 30 day period, the Dean shall take such steps as the Dean deems necessary or advisable, including but not limited to requiring the Grantee to participate in a form of alternative dispute resolution or terminating the contract. The State of Oregon, the State Board of Higher Education, the University, the Dean and their agents and employees shall have no liability to any Grantee for any actions taken under this Rule.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0120

Available Funds

The Dean shall adopt policies and procedures to provide guidance concerning the allocation of available funds. The policies and procedures shall not have the force of law and are subject to change at any time. The policies and procedures shall consider, among other things, the need for community dispute resolution services; the availability of funds to create, sustain, and maintain viable programs; the performance of community dispute resolution programs; and innovation and special projects.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0130

Evaluation of Grantees

Each Grantee shall work cooperatively with the Dean or designee to facilitate the collection of data to measure the effectiveness, integrity, and applicability of dispute resolution services provided by the Grantee. In addition, each Grantee shall:

(1) Perform an annual evaluation to measure program effectiveness;

(2) Measure client satisfaction;

(3) Conduct annual board and director performance evaluations; and

(3) Cooperate with the Dean in providing aggregate data to analyze the effectiveness of community dispute resolution efforts and to track trends throughout the state.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0140

Reporting Requirements

(1) Each Grantee shall provide to the Dean such data as the Dean may request, including but not limited to data concerning the Grantee's operating budget, the number and kinds of educational programs, staff and volunteer qualifications, training activities, the number and source of referrals, types of disputes referred, dispute resolution services provided, number of persons served, case outcome. Each Grantee shall report the information annually and as the Dean shall direct in writing.

(2) Within ninety days of the close of each grant period, the Grantee shall submit to the Dean a final report on revenues and expenses for the grant period.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0150

Referrals; Confidentiality Agreements

(1) Although Grantees may accept mandatory referrals to mediation, they shall provide the referred parties with written notice specifying that participation in the mediation session is voluntary.

(2) A written agreement to maintain the confidentiality of mediation communications shall be offered to participants for their acceptance and signature no later than the initial mediation session.

Stat. Auth.: ORS 36.175

Stats. Implemented: ORS 36.155

Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

571-100-0160

Qualifications and Minimum Training Requirements for Mediators in Community Dispute Resolution Programs

(1) Qualifications: Mediators shall possess good communications skills, an ability to respect diversity and differences, and an ability to maintain confidentiality and impartiality.

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(2) Training: Mediators shall complete a basic mediation curriculum and an apprenticeship:

(a) A basic mediation curriculum shall be at least 30 hours and shall include a minimum of six hours' participation by each trainee in no less than three supervised role plays; a trainee self-assessment; and an evaluation of the trainee by the trainer which identifies areas where trainee improvement is needed for the benefit of both the trainee and the program. A basic mediation curriculum shall seek to develop mediation knowledge and skills, including information gathering, relationship skills, communication skills, problem solving, conflict management and ethical practices. The curriculum shall specifically address the following areas:

- (A) Active listening, empathy and validation;
- (B) Sensitivity and awareness of cross-cultural issues;
- (C) Maintaining neutrality;
- (D) Identifying and reframing issues;
- (E) Establishing trust and respect;
- (F) Using techniques to achieve agreement and settlement, including creating climate conducive to resolution, identifying options, reaching consensus, and working toward agreement;
- (G) Shaping and writing agreements;
- (H) Assisting individuals during intake and case development to resolve their disputes with a minimum of intervention by a third party; and
- (I) Ethical standards for mediator conduct adopted by state and national organizations.

(b) The apprenticeship shall include participation in a minimum of two mediation cases under the supervision of an experienced mediator or trainer, with at least one case resulting in a completed mediation session.

(3) An individual who, prior to the effective date of these Rules, has participated in substantially similar training or completed 100 hours as a mediator shall have met the training requirements established by these Rules.

(4) An individual who has completed substantially similar training in another state after the effective date of these Rules shall have met the training requirements established by these Rules.

(5) Each grantee shall ensure that its mediators have received basic curriculum training from a lead trainer who has completed:

- (a) Mediation training substantially comparable to that required under these Rules;
- (b) Fifty hours of mediation experience; and who has
- (c) Substantial background as a mediation trainer or an assistant.
- (6) A Grantee may establish additional training requirements beyond these minimum training requirements. There shall be no formal academic requirements for mediators in community dispute resolution programs.
- (7) An applicant or Grantee may request from the Dean a waiver or modification of training requirements in cases where the application of the rules would place an undue burden on the Grantee.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.155
Hist.: UO 5-2007(Temp), f. & cert. ef. 2-20-07 thru 8-1-07; UO 16-2007, f. 7-26-07, cert. ef. 8-1-07

**Oregon University System,
Western Oregon University
Chapter 574**

Rule Caption: Revisions to special course fees and general services fees.

Adm. Order No.: WOU 2-2007

Filed with Sec. of State: 7-31-2007

Certified to be Effective: 7-31-07

Notice Publication Date: 7-1-07

Rules Amended: 574-050-0005

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees and updates to access to student housing.

Rules Coordinator: Debra L. Charlton—(503) 838-8175

574-050-0005

Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. &

ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06; WOU 1-2007, f. & cert. ef. 3-5-07; WOU 2-2007, f. & cert. ef. 7-31-07

**Parks and Recreation Department
Chapter 736**

Rule Caption: ATV Rule Changes Affecting Grant Match Requirements.

Adm. Order No.: PRD 6-2007

Filed with Sec. of State: 7-31-2007

Certified to be Effective: 7-31-07

Notice Publication Date: 6-1-07

Rules Amended: 736-004-0015, 736-040-0025, 736-004-0030

Subject: 736-004-0015(2) delete hyphen and insert "through"

736-004-0015(25) adopt and insert definition of "Successor"
736-004-0015(26) renumber "Sustainability" from "25 to "26"
736-004-0025(1)(d) adopt and insert requirement of clubs and non-profits to have a written agreement with a successor

736-004-0025(1)(e) adopt and insert OPRD being listed on the title as successor (A) allowing OPRD to sell the property, (B) allowing OPRD to operate the project, and (C) allowing OPRD to assign another successor

736-004-0025(3)(a) amending and excepting land acquisitions
736-004-0025(3)(b) adopt and insert allowing the partial or full waiver of the match requirement and describing evaluation criteria; (A) tried to obtain other funds. (B) can demonstrate their ability to operate, (C) that time is of the essence, and (D) limiting amount of grant funds available for future on-site projects

736-004-0025(4)(e) inserting "by the Project Sponsor"

736-004-0030(4) delete "6" and insert "six"

Rules Coordinator: Pamela Berger—(503) 986-0719

736-004-0015

Definitions

For purposes of OAR 736-004-0005 through 736-004-0045, the following definitions shall apply:

(1) "Acquisition" means the gaining of real property rights for public use by donation or purchase, including but not limited to, fee title or easements.

(2) "ATV" means All-Terrain Vehicles as defined in ORS 801.190 through 801.194, also called OHV.

(3) "ATV-AAC" means the All-Terrain Vehicle Account Allocation Committee appointed by the commission to advise OPRD on the allocation of ATV funds.

(4) "ATV Grant Instruction Manual" means a manual prepared by the OPRD containing state and federal policies, procedures and instructions to assist current and potential Project Sponsors.

(5) "ATV Account Fund" means those funds derived from ATV operating permit sales and a percentage of unrefunded gasoline tax dollars related to ATV use. ATV Account Fund is also called "ATV grant funds."

(6) "ATV Operating Permit Agent" means a person, business or government agency to whom OPRD consigns ATV operating permits and decals for sale as a service to the general public.

(7) "Commission" means the Oregon Parks and Recreation Commission.

(8) "Conversion" means any real property acquisition or development that is later wholly or in part converted to another use other than its intended and stated use as described in the Grant Application and the Grant Agreement.

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(9) "Development" means the planning, design, construction and improvement of ATV recreational facilities, trails, and riding areas.

(10) "Director" means the director of the Oregon Parks and Recreation Department.

(11) "First Aid and Police Services" means law enforcement and medical services performed by certified personnel and the necessary items to perform these duties.

(12) "Grant Agreement" means the agreement between the Oregon Parks and Recreation Department and the Project Sponsor describing the terms and conditions of the project and its associated grant of funds.

(13) "Grant Application" means the form and its format as developed by the OPRD that the Project Sponsor uses to request ATV Grant funds.

(14) "Maintenance and Operations" means the preservation, rehabilitation, restoration, and upkeep of the facilities, riding areas, and equipment including the purchase of equipment necessary to perform these functions.

(15) "OHV" means Off Highway Vehicle, also called ATV.

(16) "Operating Permit" means a permit (decal) issued through the OPRD and which is permanently affixed to the vehicle. The permit authorizes the use of All Terrain Vehicles on trails and within designated areas authorized by the appropriate authorities.

(17) "Operator Permit" means a permit (certificate) issued to operators (drivers) of Class I and Class III ATV's upon their successful completion of an approved safety education course.

(18) "OPRD" means the Oregon Parks and Recreation Department.

(19) "Personal Property" means tangible property other than land; movable property including but not limited to items such as ATV vehicles, trail repair equipment, or other movable property purchased through the ATV Grant Program.

(20) "Planning" means the research, design, engineering, environmental, and site survey of ATV recreation areas, trails, or facilities.

(21) "Project Authorization" means the Grant Agreement that authorizes the project as signed by the Director and the Project Sponsor.

(22) "Project Sponsor" means the recipient of the grant funds and the responsible party for implementation of the project.

(23) "Real Property" means immovable property: land together with all the property on it that cannot be moved, together with any attached rights.

(24) "Safety Education" means training, programs, or media, with information for the public regarding specific ATV facilities, safe riding, environmental ethics, or any combination thereof.

(25) "Successor" means a governmental entity that has agreed to accept the terms and conditions of the Project Sponsor's responsibilities as contained in the Project Sponsor's Grant Agreement and grant application should the Project Sponsor existence cease; for example if a club or non-profit organization should dissolve or disband. The successor shall agree to operate the project continuously for the public benefit for the recreational purposes as identified in the grant agreement and the grant application. If OPRD is a successor under OAR 736-004-0025(1)(e), OPRD may operate, sell, or qualify another successor to the project.

(26) "Sustainability" means using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07

736-004-0025

Application Eligibility and Requirements

(1) Eligibility for funding assistance:

(a) Public agencies: Federal land managers, state agencies, and local governments that have the responsibility, or are capable of, providing a service to ATV users;

(b) Private land owners or managers: Private land owners or managers who offer public off highway vehicle recreation opportunities and will provide open public ATV recreation for a minimum prescribed period of daily or seasonal time and who will maintain the opportunity for a prescribed period of time as determined by OPRD;

(c) Clubs and non-profit organizations: ATV clubs and non-profit organizations that are registered with the State of Oregon for a minimum of three consecutive years;

(d) Clubs and non-profit organizations shall have in place, prior to receipt of any funding, a written agreement with a successor in which the successor agrees to operate the facility as described in the grant agreement

and the grant application should the club or non-profit organization cease to exist, for example, due to disbanding or dissolution; or

(e) OPRD shall be listed on the title as successor to the property;

(A) OPRD may sell the property and shall deposit the net revenue from the sale into the ATV Account Fund;

(B) OPRD may operate the project; or

(C) OPRD may qualify and assign another successor to the project.

(2) ATV Projects or components not eligible for funding:

(a) Generally overtime is not eligible for funding except for an identified emergency situation;

(b) Overhead items such as office or building rent, insurance, depreciation and other fixed costs associated with the normal everyday operation of a business, agency or group;

(c) ATV projects that have no way to measure completion or specific intent are not eligible;

(d) Portions of projects completed prior to an ATV agreement or after the expiration of an ATV agreement. Requests for time extensions must be made in writing to the OPRD in a timely manner prior to the expiration date of an ATV agreement;

(e) ATV projects that do not meet the long-range goals or are not in the best interest of ATV recreation;

(f) Vehicle or other personal property usage unrelated to the scope of the ATV project.

(3) Requirements for Match:

(a) The minimum match required for eligible ATV projects is 20 percent of the total project cost except for land acquisitions;

(b) For land acquisitions and when unusual circumstances exist, Public Agencies may request a partial or full waiver of the 20 percent match requirement. Consideration for the waiver will be based upon the following criteria:

(A) The Public Agency is able to demonstrate due diligence was exercised in obtaining other funds and that the following limitations, among others, are present:

(i) Budget authority does not exist;

(ii) Budget appropriations cannot be obtained in a reasonable time yet public support does exist; and

(iii) No saleable assets such as conservation easements exist from which to generate the full cash match requirement.

(B) The Public Agency is able to demonstrate their ability to operate and maintain the project property for ATV recreational purposes:

(i) By having budgeted funds in place; or

(ii) Other resources are identified such as volunteers or contracted services.

(C) The Public Agency is able to demonstrate that time is of the essence:

(i) The seller of the real property has placed time limits in which the Public Agency can affect a purchase, such as the expiration of an Option to Purchase or a First Right of Refusal; or

(ii) The Public Agency can identify the possible loss of other existing matching funds such as grants from other entities that may have an expiration date.

(D) If a waiver to the required partial or full match is approved, the Public Agency shall be limited in all future grant requests to receiving ATV grant funds in an amount of 50 percent or less of the total costs for any development projects located on the acquired property.

(c) Match may include, but is not limited to, cash funds, labor, either force account or volunteer, materials, and equipment;

(d) Grants from other sources may be used as match provided the sponsor can certify the funds will be available within 120 days from the beginning date of the ATV project agreement;

(e) Eligible volunteer labor will require a log that includes the volunteer's name, date volunteer performed work, location volunteer performed work, the hours worked, and at what hourly rate of compensation was used for their contribution of labor.

(4) Conversions:

(a) All real property acquisitions or easements shall be retained and used for the project's intended and stated use as described in both the Grant Application and the Grant Agreement;

(b) The director has authority to disapprove conversion requests, reject proposed substitutions, or both;

(c) The project sponsor shall submit requests for conversions to the OPRD in writing. The OPRD may consider the request if the following prerequisites are met:

(A) All practical alternatives to a conversion have been evaluated and rejected on a sound basis;

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(B) The project sponsor has established the fair market value of the property to be converted and the property proposed for substitution is of at least equal fair market value as established by a state approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not directly enhance its ATV recreation utility;

(C) The project sponsor proposes a replacement property that is of reasonably equivalent usefulness and location as that being converted.

(d) If the project sponsor is unable to provide replacement property within 24 months of either the approved request for conversion or after the fact of conversion, the project sponsor shall pay the OPRD a current amount equal to the OPRD's original percentage of contribution to the project. As an example, if the OPRD provided an original grant of 80 percent for the project's acquisition costs, the Project Sponsor will be required to reimburse the OPRD 80 percent of the real property's value at the time of conversion or discovery of conversion, whichever is later;

(e) In the case of development, rehabilitation, and equipment purchases, the project sponsor shall operate the improvements or equipment for its established useful life. Guidelines established by the IRS will be used by the Project Sponsor to define useful life per each item. If the facility is closed, service is terminated and the facility or equipment has not reached its useful life, it will be made available to other agencies or organizations. If a facility is closed, service is terminated, or land is closed, or the facility or equipment has not reached its useful life, a percentage of the allocated funds will be returned to the OPRD equal to the percentage of useful life remaining in the funded facility or equipment.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07

736-004-0030

Project Administration

(1) Applications:

(a) An ATV grant application is required for consideration of ATV funding;

(b) Information regarding application deadlines and public meetings will be provided through available media sources and on the OPRD — ATV website;

(c) Applicants must submit applications by published deadlines;

(d) Applications will be reviewed by the ATV-AAC;

(e) The ATV-AAC will recommend ATV project funding to the commission.

(2) Agreements:

(a) OPRD will require an ATV Grant Agreement to authorize an ATV project;

(b) A project sponsor may not begin work on an ATV project without a fully signed ATV Grant Agreement between OPRD and the project sponsor.

(3) If funds are not available to fully fund a project or partial funding has been recommended by the ATV-AAC, the sponsor will be given the option of reducing the scope of the project.

(4) OPRD may cancel an ATV Grant Agreement if the project sponsor has not made progress on a project within six months of project authorization.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking to Adopt Rules Related to Net Metering.

Adm. Order No.: PUC 8-2007

Filed with Sec. of State: 7-27-2007

Certified to be Effective: 7-27-07

Notice Publication Date: 4-1-07

Rules Adopted: 860-039-0005, 860-039-0010, 860-039-0015, 860-039-0020, 860-039-0025, 860-039-0030, 860-039-0035, 860-039-0040, 860-039-0045, 860-039-0050, 860-039-0055, 860-039-0060, 860-039-0065, 860-039-0070, 860-039-0075, 860-039-0080

Subject: In 2005, the Oregon Legislature enacted Senate Bill (SB) 84 authorizing the Public Utility Commission of Oregon to adopt rules increasing the size of net metering facilities that are eligible to

interconnect to electric utilities from the minimum of 25 kilowatts (kW). See ORS 757.300(8). These new rules facilitate the interconnection of non-residential net metering facilities up to two megawatts (MW) and residential net metering facilities up to 25 kW to the utility systems of Portland General Electric Company (PGE) and Pacific Power & Light Company (dba PacifiCorp) by addressing operational, measuring, billing and safety issues.

Rules Coordinator: Diane Davis—(503) 378-4372

860-039-0005

Scope and Applicability of Net Metering Facility Rules

(1) OAR 860-039-0010 through 860-039-0080 (the “net metering rules”) establish rules governing net metering facilities interconnecting to a public utility as required under ORS 757.300. Net metering is available to a customer-generator only as provided in these rules. These rules do not apply to a public utility that meets the requirements of ORS 757.300(9).

(2) For good cause shown, a person may request the Commission waive any of the net metering facility rules.

(a) A public utility and net metering applicant may mutually agree to reasonable extensions to the required times for notices and submissions of information set forth in these rules for the purpose of allowing efficient and complete review of a net metering application.

(b) If a public utility unilaterally seeks waiver of the timelines set forth in these rules, the Commission must consider the number of pending applications for interconnection review and the type of applications, including review level and facility size.

(3) As used in OAR 860-039-0010 through 860-039-0080:

(a) “ANSI C12.1 standards” means the standards prescribed by the 2001 edition of the American National Standards Institute, Committee C12.1 (ANSI C12.1), entitled “American National Standard for Electric Meters — Code for Electricity Metering,” approved by the C12.1 Accredited Standard Committee on July 9, 2001.

(b) “Applicant” means a person who has filed an application to interconnect a net metering facility to an electric distribution system.

(c) “Area network” means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit in order to provide high reliability of service. This term has the same meaning as the term “secondary grid network” as defined in IEEE standard 1547 Section 4.1.4 (published July 2003).

(d) “Customer-generator” means a customer-generator as defined in ORS 757.300(1)(a).

(e) “Electric distribution system” means that portion of an electric system which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises.

(f) “Equipment package” means a group of components connecting an electric generator with an electric distribution system, and includes all interface equipment including switchgear, inverters, or other interface devices. An equipment package may include an integrated generator or electric production source.

(g) “Fault current” means electrical current that flows through a circuit and is produced by an electrical fault, such as to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase.

(h) “Generation capacity” means the nameplate capacity of the power generating device(s). Generation capacity does not include the effects caused by inefficiencies of power conversion or plant parasitic loads.

(i) “Good utility practice” means a practice, method, policy, or action engaged in or accepted by a significant portion of the electric industry in a region, which a reasonable utility official would expect, in light of the facts reasonably discernable at the time, to accomplish the desired result reliably, safely and expeditiously.

(j) “IEEE standards” means the standards published in the 2003 edition of the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, entitled “Interconnecting Distributed Resources with Electric Power Systems,” approved by the IEEE SA Standards Board on June 12, 2003, and in the 2005 edition of the IEEE Standard 1547.1, entitled “IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems,” approved by the IEEE SA Standards Board on June 9, 2005.

(k) “Impact study” means an engineering analysis of the probable impact of a net metering facility on the safety and reliability of the public utility's electric distribution system.

(l) “Interconnection agreement” means an agreement between a customer-generator and a public utility, which governs the connection of the net metering facility to the electric distribution system, as well as the ongoing operation of the net metering facility after it is connected to the system.

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An interconnection agreement will follow the standard form agreement developed by the public utility and filed with the Commission.

(m) "Interconnection facilities study" means a study conducted by a utility for the customer-generator that determines the additional or upgraded distribution system facilities, the cost of those facilities, and the time schedule required to interconnect the net metering facility to the utility's distribution system.

(n) "Net metering facility" means a net metering facility as defined in ORS 757.300(1)(d).

(o) "Non-residential customer" means a retail electricity consumer that is not a residential customer, except "non-residential customer" does not include a customer who would be a residential customer but for the residency provisions of subsection (r) of this rule.

(p) "Point of common coupling" means the point beyond the customer-generator's meter where the customer-generator facility connects with the electric distribution system.

(q) "Public utility" has the meaning set forth in ORS 757.005 and is limited to a public utility that provides electric service.

(r) "Residential customer" means a retail electricity consumer that resides at a dwelling primarily used for residential purposes. "Residential customer" does not include retail electricity customers in a dwelling typically used for residency periods of less than 30 days, including hotels, motels, camps, lodges, and clubs. "Dwelling" includes, but is not limited to, single-family dwellings, separately-metered apartments, adult foster homes, manufactured dwellings, and floating homes.

(s) "Spot network" means a type of electric distribution system that uses two or more inter-tied transformers protected by network protectors to supply an electrical network circuit. A spot network may be used to supply power to a single customer or a small group of customers.

(t) "Written notice" means a required notice sent by the utility via electronic mail if the customer-generator has provided an electronic mail address. If the customer-generator has not provided an electronic mail address, or has requested in writing to be notified by United States mail, or if the utility elects to provide notice by United States mail, then written notices from the utility shall be sent via First Class United States mail. The utility shall be deemed to have fulfilled its duty to respond under these rules on the day it sends the customer-generator notice via electronic mail or deposits such notice in First Class mail. The customer-generator shall be responsible for informing the utility of any changes to its notification address.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0010

Net Metering Kilowatt Limit

(1) For residential customers of a public utility, these rules apply to net metering facilities that have a generating capacity of 25 kilowatts or less.

(2) For non-residential customers of a public utility, these rules apply to net metering facilities that have a generating capacity of two megawatts or less.

(3) Nothing in these rules is intended to limit the number of net metering facilities per customer-generator so long as the net metering facilities in aggregate on the customer-generator's contiguous property do not exceed the applicable kilowatt/megawatt limit.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0015

Installation, Operation, Maintenance, and Testing of Net Metering Facilities

(1) Except for customer-generators established as net metering customers prior to the effective date of this rule, a customer-generator of a public utility must install and maintain a manual disconnect switch that will disconnect the net metering facility from the public utility's system. The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position. The disconnect switch must be readily accessible to the public utility at all times and located within 10 feet of the public utility's meter.

(2) Except for customer-generators established as net metering customers prior to the effective date of this rule, a customer-generator of a public utility must install and maintain a manual disconnect switch that will disconnect the net metering facility from the public utility's system. The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position. The disconnect switch must be readily accessible to the public utility at all times and located within 10 feet of the public utility's meter.

(a) For customer services of 600 volts or less, a public utility may not require a disconnect switch for a net metering facility that is inverter-based

with a maximum rating as shown below. [Table not included. See ED. NOTE.]

(b) The disconnect switch may be located more than 10 feet from the public utility meter if permanent instructions are posted at the meter indicating the precise location of the disconnect switch. The public utility must approve the location of the disconnect switch prior to the installation of the net metering facility.

(3) The customer-generator's electric service may be disconnected by the public utility entirely if the net metering facility must be physically disconnected for any reason.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0020

Net Metering Facility Requirements

(1) To qualify for the Level 1 and the Level 2 interconnection review procedures set forth below, a net metering facility must be certified as complying with the following standards, as applicable:

(a) IEEE standards; and

(b) UL 1741 Inverters, Converters, and Controllers for Use in Independent Power Systems (January 2001).

(2) An equipment package will be considered certified for interconnected operation if it has been submitted by a manufacturer to a nationally recognized testing and certification laboratory, and has been tested and listed by the laboratory for continuous interactive operation with an electric distribution system in compliance with the applicable codes and standards listed in section (1) of this rule.

(3) If the equipment package has been tested and listed in accordance with this section as an integrated package, which includes a generator or other electric source, the equipment package will be deemed certified, and the public utility will not require further design review, testing or additional equipment.

(4) If the equipment package includes only the interface components (switchgear, inverters, or other interface devices), an interconnection applicant must show that the generator or other electric source being utilized with the equipment package is compatible with the equipment package and consistent with the testing and listing specified for the package. If the generator or electric source being utilized with the equipment package is consistent with the testing and listing performed by the nationally recognized testing and certification laboratory, the equipment package will be deemed certified, and the public utility will not require further design review, testing or additional equipment.

(5) A net metering facility must be equipped with metering equipment that can measure the flow of electricity in both directions, comply with ANSI C12.1 standards and OAR 860-023-0015. The public utility will install the required metering equipment at the utility's expense.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0025

Application for Net Metering Interconnection

(1) An application for interconnection review will be submitted on a standard form, available from the public utility and posted on the public utility's website. The application form will require the following types of information:

(a) The name of the applicant and the public utility involved;

(b) The type and specifications of the net metering facility;

(c) The level of interconnection review sought; e.g., Level 1, Level 2 or Level 3;

(d) The contractor who will install the net metering facility;

(e) Equipment certifications;

(f) The anticipated date the net metering facility will be operational; and

(g) Other information that the utility deems is necessary to determine compliance with these net metering rules.

(2) Within three business days after receiving an application for Level 1 or Level 2 interconnection review, the public utility will provide written or electronic mail notice to the applicant that it received the application and whether the application is complete. If the application is incomplete, the written notice will include a list of all of the information needed to complete the application.

(3) An applicant will retain its original queue position for an interconnection request if the applicant resubmits its application at a higher

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level of review within 30 business days of a utility's denial of the application at a lower level of review.

(4) Each public utility will designate an employee or office from which an applicant can obtain basic application forms and information through an informal process. On request, the public utility must provide all relevant forms, documents, and technical requirements for submittal of a complete application for interconnection review under these net metering rules, as well as specific information necessary to contact the public utility representatives assigned to review the application.

(5) On request, the public utility must meet with an applicant who qualifies for Level 2 or Level 3 interconnection review to assist them in preparing the application.

(6) A public utility will not be responsible for the cost of determining the rating of equipment owned by a customer-generator or of equipment owned by other local customers.

(7) At the time of application, an applicant may choose to simultaneously submit an executed public utility's standard form interconnection agreement.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0030

Level 1 Net Metering Interconnection Review

(1) A net metering facility meeting the following criteria is eligible for Level 1 interconnection review:

- (a) The facility is inverter-based; and
- (b) The facility has a capacity of 25 kilowatts or less.

(2) The public utility must approve interconnection under the Level 1 interconnection review procedure if:

(a) The aggregate generation capacity on the distribution circuit to which the net metering facility will interconnect, including the capacity of the net metering facility, will not contribute more than 10 percent to the distribution circuit's maximum fault current at the point on the high voltage (primary) level that is nearest the proposed point of common coupling.

(b) A net metering facility's point of common coupling will not be on a transmission line, a spot network, or an area network.

(c) If a net metering facility is to be connected to a radial distribution circuit, the aggregate generation capacity connected to the circuit, including that of the net metering facility, will not exceed 10 percent (15 percent for solar electric generation) of the circuit's total annual peak load, as most recently measured at the substation.

(d) If a net metering facility is to be connected to a single-phase shared secondary, the aggregate generation capacity connected to the shared secondary, including the net metering facility, will not exceed 20 kilovolt-amperes.

(e) If a single-phase net metering facility is to be connected to a transformer center tap neutral of a 240 volt service, the addition of the net metering facility will not create a current imbalance between the two sides of the 240 volt service of more than 20 percent of nameplate rating of the service transformer.

(3) Within 10 business days after the public utility notifies a Level 1 applicant that the application is complete, the public utility must notify the applicant that:

(a) The net metering facility meets all applicable criteria and the interconnection will be approved upon installation of any required meter upgrade, completion of any required inspection of the facility, and execution of an interconnection agreement; or

(b) The net metering facility has failed to meet one or more of the applicable criteria and the interconnection application is denied.

(4) If a public utility does not notify a Level 1 applicant in writing or by electronic mail whether the interconnection is approved or denied within 20 business days after the receipt of an application, the interconnection will be deemed approved. Interconnections approved under this section remain subject to section 7 below.

(5) Within three business days after sending the notice to an applicant that the proposed interconnection meets the Level 1 requirements, a public utility must notify the applicant whether:

(a) An inspection of the net metering facility for compliance with the net metering rules is required prior to the operation of the facility; and

(b) An interconnection agreement is required for the net metering facilities. If required, the public utility must also execute and send to the applicant a Level 1 interconnection agreement, unless the applicant has already submitted such an agreement with its application for interconnection.

(6) On receipt of any required executed interconnection agreement from the applicant and satisfactory completion of any required inspection, the public utility will approve the interconnection, conditioned on compliance with all applicable building codes.

(7) A customer-generator will notify the public utility of the anticipated start date for operation of the net metering facility at least five business days prior to starting operation, either through the submittal of the interconnection agreement or in a separate notice. If the public utility requires an inspection of the net metering facility, the applicant will not begin operating the facility until satisfactory completion of the inspection.

(8) If an application for Level 1 interconnection review is denied because it does not meet one or more of the applicable requirements in this section, an applicant may resubmit the application under the Level 2 or Level 3 interconnection review procedure, as appropriate.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0035

Level 2 Net Metering Interconnection Review

(1) A public utility must apply the following Level 2 interconnection review procedure for an application to interconnect a net metering facility that meets the following criteria:

- (a) The facility has a capacity of two megawatts or less; and
- (b) The facility does not qualify for or failed to meet applicable Level 1 interconnection review procedures.

(2) The public utility must approve interconnection under the Level 2 interconnection review procedure if:

(a) The aggregate generation capacity on the distribution circuit to which the net metering facility will interconnect, including the capacity of the net metering facility, will not cause any distribution protective equipment (including, but not limited to, substation breakers, fuse cutouts, and line reclosers), or customer equipment on the electric distribution system, to exceed 90 percent of the short circuit interrupting capability of the equipment. In addition, a net metering facility will not be connected to a circuit that already exceeds 90 percent of the short circuit interrupting capability, prior to interconnection of the facility.

(b) If there are posted transient stability limits to generating units located in the general electrical vicinity of the proposed point of common coupling, including, but not limited to within three or four transmission voltage level busses, the aggregate generation capacity, including the net metering facility, connected to the distribution low voltage side of the substation transformer feeding the distribution circuit containing the point of common coupling will not exceed 10 megawatts.

(c) The aggregate generation capacity connected to the distribution circuit, including the net metering facility, will not contribute more than 10 percent to the distribution circuit's maximum fault current at the point on the high voltage (primary) level nearest the proposed point of common coupling.

(d) If a net metering facility is to be connected to a radial distribution circuit, the aggregate generation capacity connected to the electric distribution system by non-public utility sources, including the net metering facility, will not exceed 10 percent (or 15 percent for solar electric generation) of the total circuit annual peak load. For the purposes of this subsection, annual peak load will be based on measurements taken over the 12 months previous to the submittal of the application, measured for the circuit at the substation nearest to the net metering facility.

(e) If a net metering facility is to be connected to three-phase, three wire primary public utility distribution lines, a three-phase or single-phase generator will be connected phase-to-phase.

(f) If a net metering facility is to be connected to three-phase, four wire primary public utility distribution lines, a three-phase or single-phase generator will be connected line-to-neutral and will be effectively grounded.

(g) If a net metering facility is to be connected to a single-phase shared secondary, the aggregate generation capacity on the shared secondary, including the net metering facility, will not exceed 20 kilovolt-amperes.

(h) If a net metering facility is single-phase and is to be connected to a transformer center tap neutral of a 240 volt service, the addition of the net metering facility will not create a current imbalance between the two sides of the 240 volt service that is greater than 20 percent of the nameplate rating of the service transformer.

(i) A net metering facility's point of common coupling will not be on a transmission line.

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(j) If a net metering facility's proposed point of common coupling is on a spot or area network, the interconnection will meet the following additional requirements:

(A) For a net metering facility that will be connected to a spot network circuit, the aggregate generation capacity connected to that spot network from the net metering facilities, and any generating facilities, will not exceed five percent of the spot network's maximum load;

(B) For a net metering facility that utilizes inverter-based protective functions, which will be connected to an area network, the net metering facility, combined with any other generating facilities on the load side of network protective devices, will not exceed 10 percent of the minimum annual load on the network, or 500 kilowatts, whichever is less. For the purposes of this paragraph, the percent of minimum load for solar electric generation net metering facility will be calculated based on the minimum load occurring during an off-peak daylight period; and

(C) For a net metering facility that will be connected to a spot or an area network that does not utilize inverter-based protective functions, or for an inverter-based net metering facility that does not meet the requirements of paragraphs (A) or (B) of this subsection, the net metering facility will utilize low forward power relays or other protection devices that ensure no export of power from the net metering facility, including inadvertent export (under fault conditions) that could adversely affect protective devices on the network.

(3) Within 15 business days after notifying a Level 2 applicant that the application is complete, the public utility must perform an initial review of the proposed interconnection to determine whether the interconnection meets the applicable criteria. During this initial review, the public utility may, at its own expense, conduct any studies or tests it deems necessary to evaluate the proposed interconnection and provide notice to the applicant of one of the following determinations:

(a) The net metering facility meets the applicable requirements and that interconnection will be approved following any required inspection of the facility and fully executed interconnection agreement. Within three business days after this notice, the public utility will provide the applicant with an executable interconnection agreement;

(b) The net metering facility failed to meet one or more of the applicable requirements, but the public utility determined that the net metering facility may be interconnected consistent with safety, reliability, and power quality. In this case, the public utility will notify the applicant that the interconnection will be approved following any required inspection of the facility and fully executed interconnection agreement. Within five business days after this notice, the public utility will provide the applicant with an executable interconnection agreement;

(c) The net metering facility failed to meet one or more of the applicable requirements, but additional review may enable the public utility to determine that the net metering facility may be interconnected consistent with safety, reliability, and power quality. In such a case, the public utility will offer to perform additional review to determine whether minor modifications to the electric distribution system would enable the interconnection to be made consistent with safety, reliability and power quality. The public utility will provide to the applicant a nonbinding, good faith estimate of the costs of such additional review, or such minor modifications, or both. The public utility will undertake the additional review or modifications only after the applicant consents to pay for the review or modifications, or both; or

(d) The net metering facility failed to meet one or more of the applicable requirements, and that additional review would not enable the public utility to determine that the net metering facility could be interconnected consistent with safety, reliability, and power quality. In such a case, the public utility will notify the applicant that the interconnection application has been denied, and will provide an explanation of the reason(s) for the denial, including a list of additional information, or modifications to the net metering facility, or both, which would be required in order to obtain an approval under Level 2 interconnection procedures.

(4) An applicant that receives an interconnection agreement under subsection (3)(a) or (3)(b) of this rule must:

(a) Execute the agreement and return it to the public utility at least 10 business days prior to starting operation of the net metering facility (unless the public utility does not so require); and

(b) Indicate to the public utility the anticipated start date for operation of the net metering facility.

(5) The public utility may require a public utility inspection of a net metering facility for compliance with these net metering rules prior to operation, and may require and arrange for witness of commissioning tests as set forth in IEEE standards. The public utility must schedule any inspec-

tions or tests under this section promptly and within a reasonable time after submittal of the application. The applicant may not begin operating the net metering facility until after the inspection and testing is completed.

(6) Approval of interconnected operation of any Level 2 net metering facility must be conditioned on all of the following occurring:

(a) Approval of the interconnection by the electrical code official with jurisdiction over the interconnection;

(b) Successful completion of any public utility inspection or witnessing, or both, of commissioning tests requested by the public utility; and

(c) Passing of the planned start date provided by the applicant.

(7) If an application for Level 2 interconnection review is denied because it does not meet one or more of the requirements in this section, the applicant may resubmit the application under the Level 3 interconnection review procedure.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0040

Level 3 Net Metering Interconnection Review

(1) The public utility must apply the Level 3 review procedure for an application to interconnect a net metering facility that meets the following criteria:

(a) The facility has a capacity of two megawatts or less; and

(b) The facility does not qualify or failed to meet Level 2 interconnection review procedures.

(2) Following receipt of a Level 3 application and within three business days of a request from the applicant, the public utility must provide pertinent information to the applicant, such as the available fault current at the proposed interconnection location, the existing peak loading on the lines in the general vicinity of the net metering facility, and the configuration of the distribution lines at the proposed point of common coupling.

(3) Within seven business days after receiving a complete application for Level 3 interconnection review, the public utility must provide an impact study agreement to the applicant, which will include a non-binding, good faith cost estimate for an impact study to be performed by the public utility. The impact study will be conducted in accordance with good utility practice and must:

(a) Detail the impacts to the electric distribution system that would result if the net metering facility were interconnected without modifications to either the net metering facility or to the electric distribution system;

(b) Identify any modifications to the public utility's electric distribution system that would be necessary to accommodate the proposed interconnection; and

(c) Focus on power flows and utility protective devices, including control requirements; and

(d) Include the following elements, as applicable:

(A) A load flow study;

(B) A short-circuit study;

(C) A circuit protection and coordination study;

(D) The impact on the operation of the electric distribution system;

(E) A stability study, along with the conditions that would justify including this element in the impact study;

(F) A voltage collapse study, along with the conditions that would justify including this element in the impact study; and

(G) Additional elements, if approved in writing by Commission staff prior to the impact study.

(4) After the applicant executes the impact study agreement and pays the public utility the amount of the good faith estimate, the public utility will complete the impact study and will notify the applicant within 30 calendar days of one of the following results:

(a) Only minor modifications to the public utility's electric distribution system are necessary to accommodate interconnection. In such a case, the public utility will send the applicant an interconnection agreement that details the scope of the necessary modifications and a non-binding, good faith estimate of their cost; or

(b) Substantial modifications to the public utility's electric distribution system are necessary to accommodate the proposed interconnection. In such a case, the public utility must provide a non-binding, good faith estimate of the cost of the modifications, which must be accurate to within plus or minus 25 percent. In addition, the public utility must offer to conduct, at the applicant's expense, an interconnection facilities study that must identify the types and cost of equipment needed to safely interconnect the applicant's net metering facility.

(5) If the proposed interconnection may affect electric transmission or delivery systems other than those controlled by the public utility, operators

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of those other systems may require additional studies to determine the potential impact of the interconnection on those systems. If such additional studies are required, the public utility will coordinate the studies but will not be responsible for their timing. The applicant will be responsible for the costs of any such additional studies required by another affected system. Such studies will be conducted only after the applicant has provided written authorization.

(6) If an applicant requests a facilities study under subsection (4)(b), the public utility must provide an interconnection facilities study agreement. The interconnection facilities study agreement must describe the work to be undertaken in the interconnection facilities study and must include a non-binding, good faith estimate of the cost to the applicant for completion of the study. Upon the execution by the applicant of the interconnection facilities study agreement, the public utility will conduct an interconnection facilities study to identify the facilities necessary to safely interconnect the net metering facility with the public utility's electric distribution system, and to propose a non-binding, good faith estimate of the cost of those facilities and the time required to build and install those facilities.

(7) Upon completion of an interconnection facilities study, the public utility must provide the applicant with the results of the study and an executable interconnection agreement. The agreement must list the conditions and facilities necessary for the net metering facility to safely interconnect with the public utility's electric distribution system, and must include a non-binding, good faith estimate of the cost of those facilities and the estimated time required to build and install those facilities.

(8) If the applicant wishes to interconnect, it must execute the interconnection agreement and return it to the public utility at least 10 business days prior to starting operation of the net metering facility (unless the public utility does not so require), pay a deposit of not more than 50 percent of the estimated cost of the facilities identified in the interconnection facilities study, complete installation of the net metering facility, and agree to pay the public utility the actual installed cost of the facilities needed to interconnect as identified in the interconnection facilities study.

(9) Within 15 business days after notice from the applicant that the net metering facility has been installed, the public utility will inspect the net metering facility and will arrange to witness any commissioning tests required under IEEE standards. The public utility and the applicant will select a date by mutual agreement for the public utility to witness commissioning tests.

(10) If the net metering facility satisfactorily passes required commissioning tests, if any, the public utility must notify the applicant in writing, within three business days after the tests, of one of the following:

(a) The interconnection is approved and the net metering facility may begin operation; or

(b) The interconnection facilities study identified necessary construction that has not been completed, the date upon which the construction will be completed and the date when the net metering facility may begin operation.

(11) If the commissioning tests are not satisfactory, the applicant will repair or replace the unsatisfactory equipment and reschedule a commissioning test.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0045

Net Metering Interconnection Fees and Costs

(1) A public utility may not charge an application, or other fee, to an applicant that requests Level 1 interconnection review. However, if an application for Level 1 interconnection review is denied because it does not meet the requirements for Level 1 interconnection review, and the applicant resubmits the application under another review procedure, the public utility may impose a fee for the resubmitted application, consistent with this section.

(2) For a Level 2 interconnection review, the public utility may charge fees of up to \$50.00 plus \$1.00 per kilowatt of the net metering facility's capacity, plus the reasonable cost of any required minor modifications to the electric distribution system or additional review. Costs for such minor modifications or additional review will be based on the public utility's non-binding, good faith estimates and the ultimate actual installed costs. Costs for engineering work done as part of any additional review will not exceed \$100.00 per hour. A public utility may adjust the \$100.00 hourly rate once in January of each year to account for inflation and deflation as measured by the Consumer Price Index.

(3) For a Level 3 interconnection review, the public utility may charge fees of up to \$100.00 plus \$2.00 per kilowatt of the net metering facility's capacity, as well as charges for actual time spent on any required impact or facilities studies. Costs for engineering work done as part of an impact study or interconnection facilities study will not exceed \$100.00 per hour. A public utility may adjust the \$100.00 hourly rate once in January of each year to account for inflation and deflation as measured by the Consumer Price Index. If the public utility must install facilities in order to accommodate the interconnection of the net metering facility, the cost of such facilities will be the responsibility of the applicant.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0050

Requirements After Approval of a Net Metering Interconnection

(1) A public utility may not require an applicant whose facility meets the criteria for interconnection approval under the Level 1 or Level 2 interconnection review procedure to perform or pay for additional tests, except if agreed to by the applicant.

(2) A public utility may not charge any fee or other charge for connecting to the public utility's distribution system or for operation of a net metering facility for the purposes of net metering, except for the fees provided for under these net metering rules.

(3) Once a net metering interconnection has been approved under these net metering rules, the public utility may not require a customer-generator to test or perform maintenance on its facility except for the following:

(a) An annual test in which the net metering facility is disconnected from the public utility's equipment to ensure that the inverter stops delivering power to the grid;

(b) Any manufacturer-recommended testing or maintenance;

(c) Any post-installation testing necessary to ensure compliance with IEEE standards or to ensure safety; and

(d) The customer-generator replaces a major equipment component that is different from the originally installed model.

(4) When an approved net metering facility undergoes maintenance or testing in accordance with the requirements of these net metering rules, the customer-generator must retain written records for seven years documenting the maintenance and the results of testing.

(5) A public utility has the right to inspect a customer-generator's facility after interconnection approval is granted, at reasonable hours and with reasonable prior notice to the customer-generator. If the public utility discovers that the net metering facility is not in compliance with the requirements of these net metering rules, the public utility may require the customer-generator to disconnect the net metering facility until compliance is achieved.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0055

Net Metering Billing

(1) Each monthly billing period, the public utility will charge the customer-generator the minimum monthly charge and all applicable charges for the net electricity that the public utility supplied. Subject to sections (2) and (3) of this rule, if in a monthly billing period a customer-generator supplies to the public utility more electricity than the public utility supplies the customer-generator, the public utility will apply the excess kilowatt-hours as a cumulative credit to the customer-generator's next monthly bill. The credit for the excess kilowatt-hours will be applied at the full retail rate for each rate component on the bill that uses kilowatt-hours as the billing determinant.

(2) Unless the public utility and the customer-generator otherwise agree, the annual billing cycle will end at the end of the March billing month of each year. Should the public utility and a customer-generator reach an agreement for a billing cycle ending other than at the end of the March billing month, the public utility must inform the Commission in writing of the alternative billing period within 30 calendar days of the agreement's execution.

(3) The alternative billing period must be for a period of twelve months or less.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

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860-039-0060

Excess Energy from Net Metering Facilities

(1) Any unused kilowatt-hour credit accumulated by a customer-generator of a public utility at the conclusion of the annual billing cycle will be transferred, in a manner approved by the Commission, to customers enrolled in the public utility's low-income assistance programs. The public utility will value any unused kilowatt-hour credit at the applicable average annual avoided cost tariff rate.

(2) The customer-generator may not elect to receive a credit or payment for any unused credit accumulated at the conclusion of the annual billing cycle.

(3) The public utility will report in writing to the Commission by July 1 each year the unused kilowatt-hour credits and the dollar amount transferred to the low-income assistance program in the previous billing year.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0065

Aggregation of Meters for Net Metering

(1) For the purpose of measuring electricity usage under the net metering program, a public utility must, upon request from a customer-generator, aggregate for billing purposes a meter to which the net metering facility is physically attached ("designated meter") with one or more meters ("additional meter") in the manner set out in this section. This rule is mandatory upon the public utility only when:

(a) The additional meter is located on the customer-generator's contiguous property;

(b) The additional meter is used to measure only electricity used for the customer-generator's requirements;

(c) The designated meter and the additional meter are subject to the same rate schedule; and

(d) The designated meter and the additional meter are served by the same primary feeder.

(2) A customer-generator must give at least 60 days notice to the utility to request that additional meters be included in meter aggregation. The specific meters must be identified at the time of such request. In the event that more than one additional meter is identified, the customer-generator must designate the rank order for the additional meters to which net metering credits are to be applied, in accordance with section (4).

(3) The aggregation of meters will apply only to charges that use kilowatt-hours as the billing determinant. All other charges applicable to each meter account will be billed to the customer-generator.

(4) If in a monthly billing period the net metering facility supplies more electricity to the public utility than the energy usage recorded by the customer-generator's designated meter, the utility will apply credits to the next monthly bill for the excess kilowatt-hours first to the designated meter, then to additional meters that have the same charges as the designated meter, and finally to other additional meters.

(5) If an additional meter changes service to a rate schedule that is different than the designated meter, the additional meter is not eligible for net metering credits for the remainder of the billing year and until such time as the additional meter receives service on the same rate schedule as the designated meter.

(6) If the designated meter changes service to a different rate schedule, aggregation of net metering credits is not allowed for the remainder of the billing year and may not occur until such time as the additional meters receive service on the same rate schedule as the designated meter.

(7) With the Commission's prior approval, a public utility may charge the customer-generator requesting to aggregate meters a reasonable fee to cover the administrative costs of this provision pursuant to a tariff approved by the Commission.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0070

Public Utility Maps, Records and Reports

(1) Each public utility must maintain current maps and records of customer-generator net metering facilities showing size, location, generator type, and date of installation.

(2) By April 1 of each year, the public utility will submit to the Commission an annual report with the following summary information for the previous year:

(a) The total number of net metering facilities by resource type; and

(b) The total estimated rated generating capacity of net metering facilities by resource type.

(3) Upon request, each public utility must file with the Commission maps, records, and reports to identify, locate and summarize net metering facilities. All maps, records, and reports which the Commission may require the public utility to file must be in a form satisfactory to the Commission.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0075

Public Utility Not to Limit Net Metering Systems

A public utility will not limit the cumulative generating capacity of net metering systems in any manner except as expressly ordered by the Commission under ORS 757.300(6).

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

860-039-0080

Net Metering Insurance

A public utility will not require a customer-generator whose net metering facility is in compliance with the standards in paragraphs (a) and (b) of ORS 757.300(4) and the safety standards contained in these rules to purchase additional liability insurance or to name the utility as an additional insured on the customer-generator's liability insurance policy.

Stat. Auth.: ORS 183, 756 & 757
Stats. Implemented: ORS 756.040, 757.300
Hist.: PUC 8-2007, f. & cert. ef. 7-27-07

Racing Commission
Chapter 462

Rule Caption: Charges for laboratory alternate testing procedures.

Adm. Order No.: RC 5-2007

Filed with Sec. of State: 8-6-2007

Certified to be Effective: 8-6-07

Notice Publication Date: 7-1-07

Rules Amended: 462-160-0140

Subject: Deletes portion of rule which states cost incurred for additional testing shall be borne by the licensee in stances where the laboratory needs to perform alternate testing procedures to determine if prohibited drug(s) are present in the sample.

Rules Coordinator: Carol N. Morgan—(971) 673-0208

462-160-0140

Testing

(1) Reporting to the Test Barn:

(a) The board of stewards or commission veterinarian may require any horse to be tested for drugs prior to removal from any list, after any race or workout, or whenever they have a reasonable suspicion that an illegal drug or excessive quantity of an authorized drug has been used in a horse;

(b) The official winning horse and any other horse ordered by the Commission and/or the stewards shall be taken to the test barn to have a blood and urine samples taken at the direction of the official veterinarian. The horse(s) ordered to the test barn shall be identified by a readily identifiable tag or ribbon attached to the bridle;

(c) Random or extra testing may be required by the stewards or the Commission at any time on any horse on association grounds;

(d) Unless otherwise directed by the stewards or the official veterinarian, a horse that is selected for testing must be taken directly to the test barn;

(e) A track security guard shall monitor access to the test barn area during hours posted by the commission veterinarian. All persons who wish to enter the test barn area must be a minimum of 15-years-old, be currently licensed by the Commission, display their Commission identification badge and have a legitimate reason for being in the test barn area;

(f) Whenever requested by the stewards or commission veterinarian, any horse on a racecourse or that was on a racecourse, shall be immediately submitted by the horse's owner, trainer or trainer authorized agent to the commission veterinarian or designated representative for examination or testing. If the horse is not on the racecourse, it must be promptly returned to the racecourse. An extension of time may be granted if good cause is given at the time the request is made;

(g) A claimed horse shall remain in the care and custody of the original trainer or his/her representative until after the post race test has been taken.

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(2) Sample Collection:

(a) Sample collection shall be done in accordance with the guidelines and instructions provided by the official veterinarian;

(b) The official veterinarian shall determine a minimum sample requirement for the primary testing laboratory;

(c) If a urine sample is not obtained within one hour of the time the horse started walking, the commission veterinarian may administer furosemide to the horse. The needle and syringe used for the diuretic shall be labeled and attached to the urine sample container. The quantity of furosemide administered shall be indicated on all portions of the urine sample tag;

(d) Any test or examination made by the commission veterinarian may be witnessed by any commission representative and by the owner, trainer, or authorized agent of the trainer.

(3) Storage and Shipment of Split Samples:

(a) Split samples obtained in accordance with Subsection (2) above shall be secured and made available for further testing in accordance with the following procedures:

(A) A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer at a secure location approved by the Commission;

(B) A freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

(b) A trainer or owner of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another laboratory approved by the Commission. The request must be made in writing and delivered to a designated commission representative not later than 72 hours after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split sample so requested must be shipped within the stated 72 hours;

(c) The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the official veterinarian shall constitute a waiver of all rights to split sample testing. Prior to shipment, the Commission shall confirm the split sample laboratory's willingness to provide the testing requested and arrangements for payment satisfactory to the split sample laboratory;

(d) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the Commission-approved laboratory selected by the owner or trainer.

(e) The commission will not release a horse's specimen to any representative of the horse. All expenses for a confirmation test, including but not limited to transportation, analysis and personal testimony from the reference laboratory shall be borne by the horse's representative. A copy of all written material received by the laboratory which conducted the confirmation analysis shall be forwarded to the horse's representative. The commission or stewards may use the written material as evidence at any hearing.

(4) Laboratory Minimum Standards. Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards:

(a) A testing laboratory must be accredited by a recognized accrediting body to any standards set forth and required by the Commission;

(b) A testing laboratory must have, or have access to, LC/MS instrumentation for screening and/or confirmation purposes;

(c) A testing laboratory must be able to meet minimum standards of detection, which is defined as the specific concentration at which a laboratory is expected to detect the presence of a particular drug and/or metabolite or by the adoption of a regulatory threshold.

(5) Refusal Or Interfering With Sample(s)/Collection:

(a) Failure to be present at or refusal to allow the taking of a sample is prohibited;

(b) Any act, disturbance or threat to impede, prevent or interfere with the taking of a sample, ORC personnel while documenting a sample or following the commission veterinarian's guidelines for collection and documentation of a sample is prohibited and shall be reported to the stewards;

(c) Any violation of this section shall be deemed an admission of violation of ORS 462.415(b).

(6) Substances That Cause Interference With Testing Procedures:

(a) If laboratory analysis detects any adulteration or substance in quantities that interfere with routine screening or the true and accurate testing and analysis of any sample taken from an animal, the laboratory shall perform alternate testing procedures to determine if any other prohibited drug(s) are present. If another prohibited or unauthorized drug is found, the sanctions for the use of such drug shall additionally apply;

(b) Sulfa drugs. Non-interfering levels of sulfa drugs in urine tests shall not be considered a violation of the prohibited medication statutes of rules. Non-interfering level shall be considered to be anything less than 1 microgram per milliliter of urine.

(7) Presence Of A Prohibited Substance:

(a) Laboratory analysis of saliva, urine, blood or other sample taken from a horse after a race which indicates the presence of an unauthorized drug or an excessive quantity of an authorized drug shall be conclusive evidence that the horse contained that drug or quantity of drug during the running of the race;

(b) When laboratory analysis confirms the presence of an unauthorized drug, the commission investigators shall immediately conduct a thorough investigation of the incident. Within a reasonable time after receipt of the lab results and investigative report, the stewards shall hold or request the commission to hold a hearing to determine if the horse raced with an unauthorized drug and/or an excessive amount of an authorized drug in its system, and if so, who was responsible for the horse's condition;

(c) If a horse is found to have raced in violation of the medication statutes and rules, excluding those statutes and rules governing the use of non-steroidal anti-inflammatory drugs or with trace levels of therapeutic medications as determined by the commission as authorized by ORS 462.415, its owners shall not participate in the purse distribution of that race and the horse shall be disqualified. Those owners shall promptly return any portion of the purse, together with any trophy. When a horse is disqualified in a race because of this rule, the eligibility of other horses which ran in the race and which have started in a subsequent race before announcement of the disqualification shall not be affected. If the ruling or order disqualifying a horse is appealed to the commission, all horses involved in the race shall participate in future races based upon the original order of finish of the race in question until final disposition of the appeal by the commission.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270 & 462.415

Hist.: RC 2-2006(Temp), f. & cert. ef. 10-2-06 thru 3-21-07; RC 1-2007, f. 2-28-07, cert. ef. 3-7-07; RC 2-2007(Temp), f. 2-28-07, cert. ef. 3-7-07 thru 8-31-07; RC 5-2007, f. & cert. ef. 8-6-07

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**Secretary of State,
Archives Division
Chapter 166**

Rule Caption: Clarifying for state agencies the manner and form for filing administrative rules.

Adm. Order No.: OSA 2-2007

Filed with Sec. of State: 7-31-2007

Certified to be Effective: 7-31-07

Notice Publication Date: 7-1-07

Rules Amended: 166-500-0000, 166-500-0010, 166-500-0015, 166-500-0020, 166-500-0025, 166-500-0030, 166-500-0040, 166-500-0050, 166-500-0055

Rules Repealed: 166-500-0045

Subject: Rule amendments and one rule repeal are to clarify the requirements for the manner and form for filing administrative rules; to eliminate outdated references; to eliminate redundancy; to clarify and update definition terms.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-500-0000

Notice of Proposed Rulemaking

Before adopting, amending, or repealing any permanent rules, the Administrative Rules Unit shall give notice of the proposed adoption, amendment, or repeal:

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

(2) By mailing a copy of the Notice to persons on the Administrative Rules Unit's mailing list established pursuant to ORS 183.335(8) at least 28 days prior to the effective date.

(3) By mailing a copy of the Notice to the following persons and organizations:

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- (a) Associated Press;
- (b) Capitol Press Room;
- (c) Oregon Bar Association;
- (d) Department of Justice.

(4) By mailing a copy of the Notice to legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule.

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: PRD 1-1988, f. & cert. ef. 2-5-88; Former paragraphs (3)(b)(A)-(K) & (c)(A)-(M) renumbered to 160-001-0000; OSA 4-1993, f. & cert. ef. 11-10-93, Renumbered from 164-001-0000; OSA 8-1997, f. & cert. ef. 10-6-97; OSA 3-2003, f. & cert. ef. 11-20-03; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0010

Definitions

OAR 166-500-0020 through 166-500-0055 state the requirements for adopting, amending, repealing or renumbering Administrative Rules permanently or temporarily. The following definitions apply to OAR 166-500-0000 through 166-500-0055.

(1) The "Administrative Rules Unit" of the Archives Division of the Secretary of State's Office is the unit responsible for filing and publishing the Oregon Administrative Rules and Rulemaking Notices.

(2) An "Adopted Administrative Rule" is a completely new rule added to an agency's existing body of rules. New rule numbers must be approved by the Administrative Rules Unit prior to filing.

(3) An "Amended Administrative Rule" is an existing rule that is modified by additions or deletions to the rule text under an existing rule number.

(4) "Appointment of Rules Coordinator": State agencies that adopt administrative rules must appoint a rules coordinator. The Appointment of Agency Rules Coordinator form must be filed with the Secretary of State, Administrative Rules Unit. See ORS 183.330. These forms are available from the Administrative Rules Unit or downloadable from the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>.

(5) The "Certificate and Order" for filing Permanent or Temporary Rules is the form that an agency is required to file with the Secretary of State, Administrative Rules Unit, of an adopted, amended or repealed rule. See ORS 183.355(1)(a). These forms are available from the Administrative Rules Unit or downloadable from the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>.

(6) "Computer Disk" means computer diskette, or data CD.

(7) "Delegation of Rulemaking Authority": ORS 183.325 requires delegations of rulemaking authority to be filed with the Administrative Rules Unit. The form is available from the Administrative Rules Unit or can be downloaded from the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>.

(8) The "Effective Date" for a Permanent or Temporary Administrative Rule must be its date of filing with the Administrative Rules Unit or a later date specified by the agency. Additionally, the effective date for a Permanent Administrative Rule must be at least 21 days following publication of the Notice in the Oregon Bulletin.

(9) The "Filing Date" for administrative rulemaking paperwork is the day it physically arrives at the Secretary of State, Administrative Rules Unit by delivery, mail, fax or on-line filing.

(10) The "Model Rules of Procedures," for rulemaking (OAR 137-001-0005 through 137-001-0085) have been established by the Attorney General's office to implement the statutory requirements (ORS 183.341(2)) of the Oregon Administrative Procedures Act.

(11) The "Notice of Proposed Rulemaking" is a formal process for informing the public of intended rulemaking action that includes an agency mailing to specific individuals and organizations, and publication of a Notice in the Oregon Bulletin.

(12) The "Notice of Proposed Rulemaking Hearing" is a formal process for informing the public of a hearing related to intended rulemaking action, which includes an agency mailing to specific individuals and organizations, and publication of a Notice in the Oregon Bulletin.

(13) The "Oregon Administrative Rules Compilation" is a publication that contains the complete text of the Oregon Administrative Rules. The Oregon Administrative Rules Compilation is available in electronic and printed formats. Electronic versions are accessible on the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>. Printed copies are at the State Archives and in the collections of Oregon's Public Documents Depository Libraries, listed in OAR 543-070-0000, and are available for purchase from the Administrative Rules Unit.

(14) The "Oregon Bulletin" is a monthly publication that documents all rulemaking actions promulgated between printings of the Oregon

Administrative Rules Compilation. In addition to providing Notice of intended rulemaking action and adopted or amended rule text, it includes, Executive Orders of the Governor, Opinions of the Attorney General, and orders issued by the Director of the Department of Revenue. The Oregon Bulletin is available in electronic and printed formats. Electronic versions are accessible on the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>. Printed copies are at the State Archives and in the collections of Oregon's Public Documents Depository Libraries, listed in OAR 543-070-0000, and are available for purchase from the Administrative Rules Unit.

(15) A "Permanent Administrative Rule" is the adoption of new rules or the amendment of existing rules, and remains in effect until other rule-making action is made on the specific rule.

(16) A "Renumbered Administrative Rule" is an existing rule that is moved from an existing rule number to a new rule number.

(17) A "Repealed Administrative Rule" is an existing rule that is completely removed from the Oregon Administrative Rule Compilation.

(18) A "Rule Caption" is a statement of not more than 15 words identifying the subject matter of the rulemaking action. See ORS 183.335(2)(a)(A).

(19) A "Rule Summary" is an objective statement summarizing the subject matter and purpose of the intended action. See ORS 183.335(2)(a)(B).

(20) A "Rules Coordinator" is the person appointed by an agency to coordinate the writing and filing of Administrative Rules. An Appointment of Agency Rules Coordinator form must be filed with the Administrative Rules Unit. See (4) "Appointment of Rules Coordinator".

(21) A "Signature" is the original signature of the agency's authorized signer(s) who has legal authority to approve rulemaking filings, appoint agency rules coordinators or delegate rulemaking authority.

(22) A "Statement of Need and Fiscal Impact" explains the need for the proposed rulemaking action and its fiscal impact. The Statement of Need and Fiscal Impact form accompanies the Notice of Proposed Rulemaking Hearing and the Notice of Proposed Rulemaking. The Statement of Need and Fiscal Impact form is available from the Administrative Rules Unit or can be downloaded from the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>.

(23) A "Statement of Need and Justification" explains the need for a temporary rulemaking action and the justification for submitting the changes as a temporary rule rather than using the permanent rule process. The Statement of Need and Justification form accompanies the Certificate and Order for Filing Temporary Rules and is available from the Administrative Rules Unit or can be downloaded from the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>.

(24) Statutory Authority ("Stat. Auth.") is an agency's authority to make rules granted by Oregon Revised Statutes.

(25) Statutes ("Stats.") Implemented is the statute(s), bill(s) or federal legislation that an agency implements through the rulemaking process.

(26) A "Suspended Administrative Rule" is an existing rule that is rendered ineffective for a specified time not to exceed 180 days. See ORS 183.335(6).

(27) A "Temporary Rule" is a newly adopted, amended or suspended rule that remains in effect for a specified period not to exceed 180 days.

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

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; OSA 13-1997, f. & cert. ef. 11-3-97; OSA 5-1999(Temp), f. & cert. ef. 12-9-99 thru 5-10-00; OSA 13-1997 f. & cert. ef. 12-3-97; OSA 2-2000, f. & cert. ef. 3-9-00; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0015

Fees

Fees charged by the Administrative Rules Unit are based upon actual personnel, equipment usage and materials costs and will be as follows:

(1) Charges for services and products identified in this section, except services identified in subsections (a) through (i) of this section, may be billed upon request:

(a) Basic records request — \$5 in-state; \$10 out-of-state. This includes copying charges, postage and supplies. It applies to one-page documents. A Basic Records Request must provide an exact citation to a record (e.g., a citation of an Administrative Order number or a rule number) in the custody of the Archives Division;

(b) Basic Case File Request — \$10 in-state; \$15 out-of-state. This includes up to 10 photocopies, postage and supplies. Additional photocopy pages are charged at .75 cents per page. A Basic Case File Request must provide an exact citation to a record in the custody of the Archives Division;

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(c) Other Requests — \$5 out-of-state. In addition, all other requests will include labor charges and copying, supply and postage charges when incurred;

(d) Labor charges — \$30 per hour charged in \$5 (10-minute) increments. There is a maximum of \$120 (four hours labor) for any request;

(e) Photocopies. Copies made by the customer — 25 cents per page. Copies made by Archives Division staff — 75 cents per page;

(f) Fax Charges — 75 cents per page;

(g) PDF Transfers — 75 cents per page;

(h) Certifying administrative rule records — \$5 per certification plus any copying, labor or research fees incurred in filling the request;

(i) CD Rom or other media — \$15 per file copied, plus any associated costs;

(j) Oregon Administrative Rules Compilation bound set — \$500 per year;

(k) Oregon Administrative Rules Compilation bound set purchased with a one-year subscription to the Oregon Bulletin; — \$600 per year;

(l) Individual volumes of the OAR Compilation — \$40;

(m) Oregon Bulletin:

(A) One-year subscription — \$125;

(B) Per issue — \$11 each.

(2) Walk-in customers or customers with large requests will be assisted as workloads permit.

(3) The Secretary of State will not refund fees paid in excess of the amount legally due the Division if the amount is \$10 or less, unless a refund is requested in writing by the applicant or the applicant's legal representative. Such requests must be made within three years of the date payment is received by the Division.

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

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 177.130, 183.370, 192 & 357.885

Hist.: SOS-AD 1-1992, f. & cert. ef. 2-11-92; OSA 4-1993, f. & cert. ef. 11-10-93, Renumbered from 164-001-0015; OSA 7-1994(Temp), f. & cert. ef. 10-14-94; OSA 11-1994, f. & cert. ef. 11-21-94; OSA 8-1997, f. & cert. ef. 10-6-97; OSA 6-2001(Temp), f. & cert. ef. 10-23-01 thru 4-15-02; OSA 1-2002, f. & cert. ef. 1-25-02; OSA 4-2002, f. & cert. ef. 7-3-02; OSA 3-2003, f. & cert. ef. 11-20-03; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0020

Administrative Rule Filing Requirements

(1) The Administrative Rules Unit shall compile, index and publish all rules adopted by each agency.

(2) All agencies must use Administrative Rules Unit created or approved forms and be submitted in the formats outlined in OAR 166-500-0030 through 166-500-0055. All rulemaking forms are available from the Administrative Rules Unit or downloadable from the Oregon State Archives Web Site at <<http://arcweb.sos.state.or.us>>. The Administrative Rules Unit may refuse to accept any filings that do not comply with these requirements.

(3)(a) Agencies must submit Administrative Rule filings and Notices of Proposed Rulemaking to the Administrative Rules Unit of the State Archives, Oregon Secretary of State. For publication in the upcoming Oregon Bulletin, filings must be submitted to the Administrative Rules Unit by 5:00 p.m. on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when filings must be filed by 5:00 p.m. on the preceding workday.

(b) In lieu of mailing or delivering forms, a Notice of Proposed Rulemaking Hearing or Notice of Proposed Rulemaking filing may be faxed to the Administrative Rules Unit or filed using on-line forms available through the Oregon State Archives Web Site at <<http://arcweb.sos.state.or.us>>.

(4) Agencies desiring receipted copies of their rule filing must submit an additional photocopy of the filing form with their rule filing, along with a pre-addressed envelope. Receipted copies will be mailed after the filing has been reviewed for completeness and computer disk readability has been verified. Administrative Rules Unit staff will contact an agency's Rules Coordinator within three working days to correct any errors or omissions.

(5) The Oregon Attorney General's Administrative Law Manual conforms to the procedures and requirements detailed in OAR 166-500-0030 through 166-500-0055.

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; [OSA 4-1995, f. 8-15-95, cert. ef. 9-1-95; Suspended by OSA 9-1997(Temp), f. & cert. ef. 10-6-97]; OSA 13-1997, f. & cert. ef. 11-3-97, Renumbered from 166-510-0001; OSA 5-1999(Temp), f. & cert. ef. 12-9-99 thru 5-10-00; OSA 2-2000, f. & cert. ef. 3-9-00; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0025

Lengthy Administrative Rule Filings

The Administrative Rules Unit may at its discretion omit rule text from publication in the printed version Oregon Bulletin when large rule filings are filed late in the publication cycle.

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: OSA 4-1999(Temp), f. & cert. ef. 11-12-99 thru 5-10-00 OSA 2-2000, f. & cert. ef. 3-9-00; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0030

Components of a Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking Filing

(1) A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking filing consists of two items. These are:

(a) One completed Notice of Proposed Rulemaking Hearing or Notice of Proposed Rulemaking form;

(b) One completed Statement of Need and Fiscal Impact form.

(2) Forms are available from the Administrative Rules Unit or downloadable from the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>.

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

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; OSA 13-1997, f. & cert. ef. 11-3-97; OSA 2-2000, f. & cert. ef. 3-9-00; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0040

Components of a Permanent Administrative Rule Filing

(1) Permanent Administrative Rule filings have three components. These are:

(a) Two Certificate and Order for Filing Permanent Administrative Rules forms, including:

(A) One original filing form bearing the original signature of the agency's authorized signer; and

(B) One photocopy of the original filing form.

(b) A diskette or CD that contains the text of the rule as described in 166-500-0055. Graphs, formulas, tables, appendices, etc. may be omitted from the Oregon Administrative Rules Compilation per ORS 183.360(2)(a), but agencies are required to file a paper copy of all material.

(c) One 8 1/2 by 11 inch paper copy of the complete and final rule text for each rule listed on the Certificate:

(A) Agencies must number paper copy pages consecutively and note any special instructions where needed.

(B) Agencies adopting or amending rules incorporating published works by reference may omit copies of the publications from their rule filings if:

(i) The publications are unusually voluminous or costly to reproduce;

(ii) The location of the publication and its availability to the public are stated in the rule.

(2) Each Certificate and Order for Filing Permanent Administrative Rules must be comprised only of administrative rules for which prior notice was published in the Oregon Bulletin.

(2) Forms are available from the Administrative Rules Unit or downloadable from the Administrative Rules Unit Web Site at <<http://arcweb.sos.state.or.us/banners/rules.htm>>.

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

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.355 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; [OSA 4-1995, f. 8-15-95, cert. ef. 9-1-95; Suspended by OSA 9-1997(Temp), f. & cert. ef. 10-6-97]; OSA 13-1997, f. & cert. ef. 11-3-97, Renumbered from 166-510-0011; OSA 3-2003, f. & cert. ef. 11-20-03; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0050

Components of a Temporary Administrative Rule Filing

(1) Temporary Administrative Rule filings have four components. These are:

(a) Two copies of the Certificate and Order for Filing Temporary Administrative Rules, including:

(A) One original filing form bearing the original signature of the agency's authorized signer; and

(B) One photocopy of the original form.

(b) A diskette or CD which contains the text of the rule as described in 166-500-0055. Graphs, formulas, tables, appendices, etc. may be omitted from the Oregon Administrative Rules Compilation per ORS 183.360(2)(a), but agencies are required to file a copy of all material.

ADMINISTRATIVE RULES

(c) One 8 1/2 by 11 inch paper copy of the complete and final rule text for each rule listed on the Certificate. Graphs, formulas, tables, appendices, etc. may be omitted from the Oregon Administrative Rules Compilation per ORS 183.360(2)(a), but agencies are required to file a paper copy of all material:

(A) Agencies must number paper copy pages consecutively and note any special instructions where needed

(B) Agencies adopting or amending rules incorporating published works by reference may omit copies of the publications from their rule filings if:

- (i) The publications are unusually voluminous or costly to reproduce;
- (ii) The location of the publication and its availability to the public are stated in the rule.

(d) Two copies of the Statement of Need and Justification.

(A) One original form bearing the original signature of the agency's authorized signer; and

(B) One photocopy of the original form.

(2) The Administrative Rules Unit will accept Temporary Rule filings by fax when:

(a) The agency needs the rule to be effective immediately; and

(b) A complete Temporary Administrative Rule Filing, as described in subsections (1)(a) through (1)(d) of this rule, is delivered to the Administrative Rules Unit within three working days.

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.355 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; [OSA 4-1995, f. 8-15-95, cert. ef. 9-1-95; Suspended by OSA 9-1997(Temp), f. & cert. ef. 10-6-97]; OSA 13-1997, f. & cert. ef. 11-3-97, Renumbered from 166-510-0031; OSA 3-2003, f. & cert. ef. 11-20-03; OSA 2-2007, f. & cert. ef. 7-31-07

166-500-0055

Computer Disk to Be Filed as Part of Administrative Rule Filing

A computer diskette or CD: shall be filed containing two electronic copies of the rule text for each Permanent or Temporary Administrative Rule filing. One electronic document shall be in plain text, and the other shall be in the format of the original word processing program in which it was created. Computer disks that do not meet these requirements will not be accepted as filed and will be returned to the submitting agency. This disk shall meet the following requirements:

(1) Text layout in both files:

(a) Rule text must contain the complete and final rule text for each rule listed on the Certificate, clean and free from strike-throughs and underlines;

(b) Formatting:

(A) Rules must be typed in 12 point, or similarly readable size;

(B) Typing must be from margin to margin, not in column form;

(C) Single spaces must be used between sentences, words or any place multiple spaces might be used;

(D) Division titles must be centered, boldface and use all uppercase letters;

(E) Division subtitles must be centered, boldface and use initial capitalization only;

(F) Rule numbers must be in the XXX-XXX-XXXX format and must be flush left and boldface;

(G) Rule titles must be flush left, boldface and use initial capitalization;

(H) Rule text must be flush left;

(I) Within rules the internal numbering shall be (1), (a), (A), (i), (I). There must not be a (1) without a (2), (a) without a (b), etc.;

(J) The text of each rule shall be followed by:

(i) The specific statutory authority ("Stat. Auth.") for that rule; and

(ii) The specific statute(s) being implemented ("Stats. Implemented") by that rule.

(K) One extra line space (hard return) shall be inserted only in the following locations in the text:

(i) Before and after centered division titles and subtitles;

(ii) After the "Stats. Implemented" of each rule.

(c) Text shall appear in consecutive order by rule number;

(d) Acceptable special formatting:

(A) Special font usage (eg. bold, italics, underline etc.);

(B) Special characters (eg. degree symbol);

(C) Quoted text;

(D) Centered text or titles; and

(E) Adoptions by reference.

(2) Files:

(a) The affected rules only for each Administrative Rule filing shall be in the two separate documents on the computer disk;

(b) File names for each electronic text document shall clearly indicate the OAR chapter and division numbers for the text being filed.

(3) Labeling: The outside of each disk shall be labeled with:

(a) Agency name;

(b) OAR chapter number; and

(c) Division number(s).

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.355 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; OSA 13-1997, f. & cert. ef. 11-3-97; OSA 3-2003, f. & cert. ef. 11-20-03; OSA 2-2007, f. & cert. ef. 7-31-07

Secretary of State, Elections Division Chapter 165

Rule Caption: Adoption of Amendments to the 2007 Campaign Finance Manual.

Adm. Order No.: ELECT 4-2007(Temp)

Filed with Sec. of State: 7-16-2007

Certified to be Effective: 7-16-07 thru 12-31-07

Notice Publication Date:

Rules Amended: 165-012-0005

Subject: This temporary amendment supplements the *2007 Campaign Finance Manual for Candidates and Political Committees* by prescribing updated penalties for filing late transactions.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-012-0005

Designating the Campaign Finance Manual and Forms; Reporting Personal Expenditures by Any Person

(1) The Secretary of State designates the *2007 Campaign Finance Manual for Candidates and Political Committees* and associated forms as the procedures and guidelines to be used by candidates and political committees for compliance with Oregon campaign finance regulations.

(2) The Secretary of State designates the *2006 Campaign Finance Manual* and associated forms as the procedures and guidelines to be used by chief petitioner committees for compliance with Oregon campaign finance regulations.

(3) This amendment supplement the *2007 Campaign Finance Manual for Candidates and Political Committees* and the *2006 Campaign Finance Manual* by prescribing the procedures for reporting personal funds spent on behalf of a committee by any person. When personal funds are spent on behalf of a committee by any person they are reported as either in-kind contributions to the committee or personal expenditures for reimbursement. This includes any credit card transaction made with a personal credit card. If a person uses a personal credit card and expects reimbursement, the expenditure is reported as a Personal Expenditure for Reimbursement. When reimbursement for a personal expenditure is made, the payee is the name of the card holder, even if the check is written to the credit card company. A committee may also report the name of the credit card company in addition to the card holder's name.

(4) Effective July 1, 2007, the penalty for a late transaction filed under the *2007 Campaign Finance Manual* is 1/2% of the amount of the late transaction multiplied by the number of business days the transaction is filed late, if the transaction is filed no later than 30 days after it was due. Beginning on the 31st day after the transaction was due the penalty increases to 1% of the amount of the late transaction multiplies by the number of business days the transaction is filed late.

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

Stat. Auth.: ORS 246.120, 246.150, 260.156 & 260.200

Stats. Implemented: ORS 246.120, 246.150, 260.156 & 260.200

Hist.: SD 101, f. & ef. 12-3-75; SD 120, f. & ef. 12-21-77; SD 34-1980, f. & ef. 3-6-80; SD 28-1983, f. & ef. 12-20-83; SD 3-1986, f. & ef. 2-26-86; ELECT 32-1988(Temp), f. & cert. ef. 8-26-88; ELECT 22-1989(Temp), f. & cert. ef. 11-9-89; ELECT 19-1990, f. & cert. ef. 6-4-90; ELECT 14-1992 (Temp), f. & cert. ef. 6-10-92; ELECT 37-1992, f. & cert. ef. 12-15-92; ELECT 34-1993, f. & cert. ef. 11-1-93; ELECT 1-1995(Temp), f. & cert. ef. 2-23-95; ELECT 15-1995, f. & cert. ef. 12-18-95; ELECT 9-1996, f. & cert. ef. 7-26-96; ELECT 5-1997, f. & cert. ef. 3-24-97; ELECT 6-1997(Temp), f. & cert. ef. 4-18-97; ELECT 15-1997, f. & cert. ef. 12-31-97; ELECT 5-1998, f. & cert. ef. 2-26-98; ELECT 8-1998, f. & cert. ef. 6-2-98; ELECT 9-1998, f. & cert. ef. 9-11-98; ELECT 13-1998(Temp), f. & cert. ef. 12-15-98 thru 6-13-99; ELECT 2-1999(Temp), f. & cert. ef. 1-15-99 thru 7-14-99; ELECT 3-1999, f. & cert. ef. 3-1-99; ELECT 1-2000, f. & cert. ef. 1-3-00; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 23-2003, f. & cert. ef. 12-12-03; ELECT 13-2005, f. & cert. ef. 12-30-05; ELECT 1-2007, f. & cert. ef. 1-5-07; ELECT 2-2007(Temp), f. & cert. ef. 5-2-07 thru 10-29-07; ELECT 4-2007(Temp), f. & cert. ef. 7-16-07 thru 12-31-07

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Rule Caption: Timelines for the November 6, 2007, Special Election.

Adm. Order No.: ELECT 5-2007(Temp)

Filed with Sec. of State: 7-16-2007

Certified to be Effective: 7-16-07 thru 12-31-07

Notice Publication Date:

Rules Adopted: 165-007-2007

Subject: This rule adopts timelines, as directed by HB 2640, necessary to conduct a special election on November 6, 2007. The rule addresses timelines for the filing of the certified ballot statement and voters' pamphlet arguments. It also contains the deadlines for the mailing of ballots and voter's pamphlets.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-2007

Timelines for the November 6, 2007, Special Election

(1) This rule adopts necessary timelines for the Secretary of State and county elections officials to conduct a statewide vote-by-mail election and produce a state voters' pamphlet for Measure 49 (House Bill 3540) and Measure 50 (Senate Joint Resolution 4) referred to the people by the 74th Legislative Assembly. The special election will be held on November 6, 2007.

(2) Except where otherwise indicated, "filed" or "file" means delivered to and actually received, in its entirety, in the office of the Secretary of State, Elections Division, not later than 5:00 PM on the designated filing deadline date.

(3) The Ballot Title, Explanatory Statement and Estimate of Financial impact for both Measure 49 and 50 were wholly contained within House Bill 2640. Appeals are not permitted.

(4) The following deadlines apply to the specified event:

(a) July 9, 2007, last day for Legislature to provide enrolled measure to Secretary of State. (120 days before election);

(b) August 30, 2007:

(A) Last day to file measure arguments to be included in the state voters' pamphlet;

(B) Last day for Legislative Assembly to submit argument in support of measure, as provided in ORS 251.245.

(c) September 6, 2007:

(A) Measure arguments become available for public inspection, (four business days after deadline to file arguments);

(B) Secretary of State certifies ballot to county clerks.

(d) September 22, 2007, (45 days before election), last day for county election officials to mail ballots to long-term absent electors (overseas and military);

(e) October 8, 2007, first day for county election officials to mail out-of-state ballots (29 days before election);

(f) October 17, 2008, last day to distribute state voters' pamphlet to every post office mailing address in Oregon;

(g) Not sooner than October 19th and not later than October 23, 2007, (18th–14th day before election), county election officials shall mail ballots to electors other than long-term and out-of-state absent electors.

Stat. Auth.: ORS 246.150, Ch. 750, OL 2007 (HB 2640)

Stats. Implemented: Ch. 750, OL 2007 (HB 2640)

Hist.: ELECT 5-2007(Temp), f. & cert. ef. 7-16-07 thru 12-31-07

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Teacher and Administrator license requirement clarifications. Housekeeping amendments for nurses and NCLB.

Adm. Order No.: TSPC 5-2007

Filed with Sec. of State: 8-15-2007

Certified to be Effective: 8-15-07

Notice Publication Date: 7-1-07

Rules Adopted: 584-060-0014, 584-065-0110, 584-070-0112

Rules Amended: 584-005-0005, 584-017-0150, 584-017-0251, 584-017-0261, 584-017-0280, 584-017-0282, 584-021-0105, 584-021-0110, 584-021-0115, 584-021-0120, 584-021-0130, 584-021-0135, 584-021-0140, 584-021-0150, 584-021-0155, 584-021-0160, 584-021-0165, 584-021-0170, 584-021-0177, 584-021-0180, 584-021-0185, 584-021-0190, 584-021-0195, 584-021-0202, 584-021-0205, 584-021-0210, 584-021-0215, 584-021-0220, 584-021-0225, 584-021-0230, 584-021-0235, 584-036-0015, 584-036-0055, 584-036-

0081, 584-042-0002, 584-042-0006, 584-042-0008, 584-042-0009, 584-048-0040, 584-048-0045, 584-060-0051, 584-060-0071, 584-070-0014, 584-070-0111, 584-070-0211, 584-080-0171, 584-100-0011, 584-100-0016, 584-100-0021, 584-100-0026, 584-100-0031, 584-100-0036, 584-100-0066, 584-100-0071, 584-100-0091, 584-100-0096, 584-100-0101, 584-100-0106

Rules Repealed: 584-017-0250, 584-017-0260, 584-060-0161, 584-100-0046

Subject: ADOPT: 584-060-0014 *Initial Teaching License for Out-of-State Candidate First Application* - Creates non-provisional license for out-of-state applicants.

584-065-0110 *Knowledge, Skills and Abilities for Library Media Endorsements* - Creates new standards for Library Media Endorsement.

584-070-0112 *Restricted Transitional School Counselor License* - Creates new administrative rule for Restricted Transitional School Counselor (formerly part of OAR 584-070-0111).

AMEND: 584-005-0005 *Definition of "Recent Educational Experience"* (50) - Clarifies when an "approved program" is considered completed for purposes of "Recent Educational Experience."

584-017-0150 *Endorsements Requiring Multiple Authorizations* - Makes housekeeping amendments to rule.

584-017-0251 *Knowledge, Skills and Abilities for Initial Administrator License* - Clarifies practicum requirements for the Initial Administrator License.

584-017-0261 *Knowledge, Skills and Abilities for Continuing Administrator License* - Clarifies practicum requirements for the Continuing Administrator License.

584-017-0280 *Field Experience for Administrator License Program* - Clarifies practica experience for new administrator licenses.

584-017-0282 *Internship Experience for Administrator License Program* - Clarifies internship experience for new administrator licenses.

584-021-0105 *Definitions* - Changes term "license" to "certificate" and makes other housekeeping amendments. 584-021-0110 *General Provisions for School Nurse Certificate* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0115 *Types of Nursing Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0120 *Requirements for Applying for Initial Certification* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0130 *Requirements for a Professional School Nurse Certificate* - Changes term "license" to "certificate" and makes other housekeeping amendments.

580-021-0135 *Requirements for an Emergency School Nurse Certificate* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0140 *Requirements for Applying for Renewal or Reinstatement of Certification* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0150 *Renewal* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0155 *Emergency School Nurse Certificate Renewal* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0160 *Incomplete Applications* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0165 *Verifying Knowledge of Laws Prohibiting Discrimination* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0170 *Fees for Nursing Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

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584-021-0177 *Criminal Records Check Requirement* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0180 *Criteria for Granting School Nurse Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0185 *Criteria for Denying Issuance or Reinstatement of School Nurse Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0190 *Criteria and Procedures for Denying Renewal of a School Nurse Certificate* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0195 *Procedures for Consideration of Other Cases* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0202 *Criteria for Denial of Certification Based on Conviction for Crimes* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0205 *Reinstatement of Revoked or Surrendered School Nurse Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0210 *Reinstatement of Expired Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0215 *Revocations* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0220 *Surrender of Certificate* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0225 *Serving Without Proper Certification* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0230 *Expiration of Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-021-0235 *Issuance - Effective Date of Certificates* - Changes term "license" to "certificate" and makes other housekeeping amendments.

584-036-0015 *Basic and Standard Teaching Licenses with Authorizations and Endorsements* - Changes term "Educational Media" to "Library Media;" clarifies rules regarding ESOL endorsements for Basic and Standard Teaching Licenses.

584-036-0055 *Fees* - Clarifies fees for out-of-state licensed educators.

584-036-0081 *Conditional Assignment Permits (CAP)* - Allows charter schools request conditional assignments permits; clarifies that Exceptional Administrator License not eligible for CAP; makes other clarifying amendments.

584-042-0002 *Definitions* - Changes "Professional Technical" to "Career and Technical Education."

584-042-0006 *Requirements for a Three-Year Career and Technical Education Teaching License (Rev. 2003)* - Changes "Professional Technical" to "Career and Technical Education."

584-042-0008 *Five-Year Career and Technical Education Teaching License (Rev. 2003)* - Changes "Professional Technical" to "Career and Technical Education."

584-042-0009 *Adding Career and Technical Education Endorsements* - Changes "Professional Technical" to "Career and Technical Education."

584-048-0040 *Career and Technical Education Teaching License Renewal* - Changes "Professional Technical" to "Career and Technical Education."

584-048-0045 *Renewal of Five-Year Career and Technical Education License* - Changes "Professional Technical" to "Career and Technical Education."

584-060-0051 *Teaching Authorization Levels* - Clarifies grade authorizations for Early Intervention endorsements; eliminates term "preprimary" and substitutes "prekindergarten," makes other housekeeping amendments.

584-060-0071 *Endorsements Requiring Multiple Authorization Levels* - Makes housekeeping amendments.

584-070-0014 *Initial II School Counselor License* - Correction stating "counseling" license.

584-070-0111 *Transitional School Counselor License* - Removes rules for Restricted Transitional School Counselor License

584-070-0211 *Initial School Psychologist License* - Allows for more than one renewal of license.

584-080-0171 *Emergency Administrator License* - Clarifies that joint application required with district; clarifies method of application; adds ability to extend license in extenuating circumstances.

584-100-0011 *Highly Qualified Elementary Teacher New to the Profession* - Eliminates "Preliminary Teaching License," makes housekeeping amendments.

584-100-0016 *Highly Qualified Elementary Teacher Not New to the Profession* - Eliminates "Preliminary Teaching License," makes housekeeping amendments.

584-100-0021 *Highly Qualified Middle Level Teacher New to the Profession* - Eliminates "Preliminary Teaching License" reference.

584-100-0026 *Highly Qualified Middle Level Teacher Not New to the Profession* - Eliminates "Preliminary Teaching License" reference.

584-100-0031 *Highly Qualified Secondary Teacher New to the Profession* - Eliminates "Preliminary Teaching License" reference.

584-100-0036 *Highly Qualified Secondary Teacher Not New to the Profession* - Eliminates "Preliminary Teaching License" reference.

584-100-0066 *Highly Qualified Elementary Special Education Teacher (K-8)* - Eliminates "Preliminary Teaching License" reference.

584-100-0071 *Highly Qualified Secondary Special Education Teacher (9-12)* - Eliminates "Preliminary Teaching License," reference.

584-100-0091 *Licensed and Registered Elementary Charter School Teacher* - Makes clarifying and housekeeping amendments.

584-100-0096 *Licensed and Registered Middle Level or Secondary Charter School Teacher* - Makes clarifying and housekeeping amendments.

584-100-0101 *Licenses Considered Full State Certification* - Eliminates "Preliminary Teaching License" reference.

584-100-0106 *Licenses Not Considered Full State Certification* - Eliminates Unrestricted Transitional Teaching License.

REPEAL: 584-017-0250 *Objectives for Initial Administrator License* - Repeals obsolete standards for Initial Administrator Licensure

584-017-0260 *Objectives for Continuing Administrator License* - Repeals obsolete standards for Continuing Administrator Licensure

584-060-0161 *Transitional Teaching License* - Repeals License (becomes Initial Teaching License for Out-of-State Candidate First Application in OAR 584-060-0014).

584-100-0046 *Preliminary Teacher License* - Repeals the Preliminary Teaching License.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-005-0005

Definitions

These definitions apply to Divisions 001-100 unless otherwise indicated by the context:

(1) "Administrators:" Superintendents, assistant superintendents, principals, vice principals, and such other personnel, regardless of title, whose positions require them to evaluate other licensed personnel.

(2) "Alternative Assessment:" Procedures established by the Commission for candidates seeking licensure who fail to achieve a passing score on required matter or specialty area licensure tests for endorsement or authorization.

(3) "Alternative Education Program or School:" A private alternative education program or school registered with the Oregon Department of Education or a public alternative education program or school operated by a school district, education service district, or community college, which is established to serve students identified under ORS 339.250(6) and other

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students whose academic or professional technical interests and needs are best served through participation in such programs. (See OAR 584-036-0015(2)(i).)

(4) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license.

(5) "Appropriately Assigned:" Assignments for administrator, teacher, supervisor, school counselor, school psychologist, or school nurse duties for which the person involved holds the proper license, endorsements and authorizations. (See OAR 584-060-0081.)

(6) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. See definition of "Regional Accrediting Associations" at OAR 584-005-0005(51).

(7) "Approved Program:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction authorized to approve educator preparation programs.

(8) "Assistant Superintendent:" A superintendent's immediate subordinate who evaluates licensed personnel. May also be designated Deputy or Associate Superintendent.

(9) "Athletic Coaches:" Licensed personnel employed full time or part time for purposes of participation in interscholastic athletics and whose duties include instruction of students, preprimary through grade twelve. A student teacher or intern may serve as an assistant coach without licensure if assigned for a full-time practicum in the school in which he or she is coaching. (See OAR 584-036-0015(2)(e).)

(10) "Authorization Level:" The grade levels in which a person may teach, i.e., early childhood, elementary, middle level and high school as defined in OAR 584-060-0051.

(11) "Commission:" Teacher Standards and Practices Commission (TSPC).

(12) "Competencies:" Ability to apply knowledge and skills appropriately and effectively in achieving the expected outcomes.

(13) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(14) "Conditional Assignment:" (Formerly "Missassignment") Assignment of a licensed educator to a position for which he or she does not hold the subject or specialty area endorsement or authorization level required by the rules for licensure. (See OAR 584-060-0081.)

(15) "Consortium:" An advisory body to the institution in reviewing, evaluating, and making recommendations on the design, implementation, evaluation, and modification of the program.

(16) "Continuing Professional Development Advisor:" A person selected by an educator and approved by the educator's supervisor, such as a college or university advisor, a peer coach, or a qualified member of an agency or professional organization.

(17) "Distance Learning Teacher:" A teacher who meets the criteria in OAR 584-036-0017 and provides live interactive instruction transmitted from a remote location or who delivers online education either from within Oregon or from another state and who is employed by one or more Oregon public school districts to teach public school students.

(18) "Domain:" An area of professional competency under which a teacher may select coursework or other approved activities for continuing professional development. (See OAR 584-090-0010.)

(19) "Education Service District (ESD):" A district created under ORS 334.010 that provides regional educational services to component school districts.

(20) "Educator:" Any person who is authorized to be employed in the instructional program of the public schools, public charter schools and ESDs, and holds a license to teach, administer, supervise, counsel or provide school psychology services.

(21) "Emergency License:" Issued by TSPC when a school district demonstrates extenuating circumstances that merits the issuance of the license in order to protect the district's programs or students.

(22) "Endorsement:" The subject matter or specialty education field or grade authorization in which the individual is licensed to teach.

(23) "Executive Director:" The Executive Director of the Commission. (See ORS 342.410.)

(24) "Expired License:" A license for which an application for renewal was not received by TSPC prior to the date of expiration stated on the license.

(25) "Field Experience:" Learning activities designed to develop professional competence through observing, assisting, or teaching in a public or approved non-public school.

(26) "Instructional Assistant:" A non-licensed position of employment in a school district assigned to assist a licensed teacher in a supportive role in the classroom working directly with students.

(27) "Instructional Faculty:" Full-time and part-time faculty who teach professional courses and/or supervise field-centered activities and student teachers.

(28) "Intern:" A student of an approved institution who serves as a teacher, personnel specialist, or administrator under the supervision of the institution and of the school district in order to acquire practical experience in lieu of student teaching or supervised practica. Interns may receive both academic credit from the institution and financial compensation from the school district. Interns may serve as assistant coaches.

(29) "Joint Application:" Submitted by the school district in cooperation with the applicant.

(30) "Liaison Officer:" The person designated by the unit to submit all program modifications for TSPC approval, issue all recommendations for licensure under the approved program, authorize all waivers of professional courses for students enrolled in the program, and handle all correspondence between TSPC and the unit.

(31) "Major Modifications:" Changes of program philosophy, curricula, practica, resources, personnel, or performance standards.

(32) "Major Traffic Violation:" Includes driving while under the influence of intoxicants (ORS 487.540); reckless driving (ORS 487.550); fleeing or attempting to elude a police officer (ORS 487.555); driving while license is suspended or revoked or beyond license restrictions (ORS 487.560); or failure to perform the duties of a driver or witness at an accident (ORS 483.602).

(33) "Mentor:" Educators who have demonstrated the appropriate subject matter knowledge and teaching and/or administrative skills, which when assisting beginning educators, should substantially improve the induction and professional growth of beginning educators in this state.

(34) "Misassignment:" See definition of "Conditional Assignment" above.

(35) "National Board For Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate to qualified educators.

(36) "Oregon Schools:" Includes public school districts, education service districts, registered private schools preprimary through grade twelve, state and federal schools, special state-supported schools, and public charter schools in Oregon serving students ages three through twenty-one, private schools accredited by the Northwest Commission on College and Universities, and private proprietary career schools registered by the Oregon Department of Education.

(37) "Out of State Licenses or Certificates:" A certificate or license valid for full-time employment, at least equivalent to the Oregon license being requested, issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(38) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(39) "Personnel Service:" A type of license issued to counselors, supervisors, and school psychologists.

(40) "Practicum or Practica:" All supervised field experiences other than student teaching or internships. A practicum may be part of the field experience necessary to add an endorsement.

(41) "PRAXIS:" A series of professional assessments for beginning educators produced and administered by Educational Testing Service (ETS) and adopted by TSPC as licensure examinations.

(42) "Principal:" The administrator of each school building or buildings as designated by the school district board.

(43) "Private Schools:" A private school, preprimary through grade twelve, registered with the Oregon Department of Education in compliance with provisions of ORS 345.525 and 345.535 or approved or registered by another U.S. jurisdiction or government.

(44) "Professional Development Plan:" A plan for personal professional growth during the next licensure renewal cycle.

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(45) "Professional Development Units (PDU):" A unit of domain-related activity that equals one clock hour of professional development and contributes to completion of an educator's professional development plan. (See OAR 584-090-001 et seq.)

(46) "Program Administrator:" Managers of school programs and coordinators of district-wide programs that are accountable at the building level.

(47) "Program Review Committee:" Committee appointed by the Commission to conduct an on-site review for purposes of approval of an educator preparation program.

(48) "Public Funds:" All monies expended by public school districts and for which the school board has responsibility, including funds from local, state, federal, and private sources. (See ORS 342.120(9).)

(49) "Public Schools:" Public school districts, education service districts and public charter school created under ORS Ch. 338, which are supported by local and state public funds and for which the school board has responsibility, for the program of instruction carried out in that school.

(50) "Recent Experience:" An application for a license submitted to TSPC either within three years following completion of the required coursework in an approved program or during the effective period of a comparable license and within three years of the last year of experience on such license.

(a) If more than three years have elapsed since completion of the required coursework in the program or since the last year of public school or regionally accredited private school experience on a license appropriate for the assignment, recency may be met by completion of nine quarter hours or six semester hours of additional preparation from an accredited institution germane to the license or endorsement requested.

(b) The additional credits must be completed during the three-year period prior to the application and must help the applicant keep abreast of current needs of public schools.

(c) If the comparable license expired prior to application, a Preparation for Teaching Report, Form C-2, must be submitted.

(d) Completion of the testing requirements alone will not meet the definition of "recent experience" if the coursework in the program was completed more than three years prior to the application for licensure.

(51) "Regional Accrediting Associations:" Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, The Higher Learning Commission; Northwest Commission on Colleges and Universities; Middle States Association of Colleges and Schools, Commission on Higher Education; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

(52) "Reinstatement:" Restoration of the validity of a license which has expired, been suspended, or been revoked. (See OAR 584-050-0015.)

(53) "Renewal:" Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license. (See OAR 584 div 48.)

(54) "School:" A single school building or combination of buildings which the school board designates as a school.

(55) "School Administrator:" The principal, vice principals and assistant principals at each school.

(56) "School Board:" The board of directors of a local school district or an education service district, the governing board of a public charter school, a registered private school, or the directors of a state, federal, or special state-supported school.

(57) "School Counselor:" A licensed employee of the district assigned to assist students to: develop decision-making skills, obtain information about themselves, understand opportunities and alternatives available in educational programs, set tentative career and educational goals, accept increasing responsibilities for their own actions, develop skills in interpersonal relations, and utilize school and community resources.

(58) "School District:" Includes administrative school districts; common school districts; joint school districts; union high school districts; county units; education service districts; registered private schools; and state, federal, and special state-supported schools. May also include school districts from other states.

(59) "School Nurse:" A registered nurse who is licensed by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health service programs of a school. (See OAR 584 div 21.)

(60) "School Psychologist:" A licensed employee of the district assigned to: assessment of students' mental aptitude, emotional development, motor skills, or educational progress; designing educational programs for students and conferring with licensed personnel regarding such programs; and consulting with parents and students regarding interpretation of assessments and the design of educational programs. (See OAR 584 div 44 and 70.)

(61) "School Supervisor:" Educators who assist, supervise, and evaluate students enrolled in the field-centered activities, including but not limited to, practica, internships and student teaching. (See OAR 584 div 17.)

(62) "Self-Contained Classroom:" An assignment for teaching in grades preprimary through nine in which the teacher has primary responsibility for the curriculum.

(63) "Skills:" Ability to use knowledge effectively in the performance of specific tasks typical of those required in an educational position.

(64) "State Board:" The Oregon State Board of Education.

(65) "Student Teacher:" A student of an approved teacher education institution who is assigned to a public or approved private school for professional practica under the supervision of qualified personnel. Student teachers may provide instruction or may serve as assistant coaches.

(66) "Successful Experience:" If the educator was permitted to fulfill the contract with the district, the experience is deemed successful.

(67) "Superintendent:" The district's chief administrator who reports directly to the school board.

(68) "Supervisor of Licensed Personnel:" A person assigned to a position which includes the on-the-job supervision or evaluation of licensed personnel. Should not be confused with "School Supervisor" at OAR 584-050-0005(64) above.

(69) "Teacher:" Includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

(70) "Teacher Education Programs:" Programs preparing teachers, personnel service specialists, or administrators. Oregon Revised Statutes use the term "teacher education" to refer to all programs preparing educational personnel for public elementary and secondary schools, not exclusive to those for classroom teachers.

(71) "Transcripts:" An institution-sealed official record of academic preparation which bears the signature of the registrar and the seal of the institution. Photocopies are not acceptable.

(72) "TSPC:" Teacher Standards and Practices Commission.

(73) "Unit:" The institution, college, school, department, or other administrative body with the responsibility for managing or coordinating all programs offered for the initial and continuing preparation of teachers and other school personnel, regardless of where these programs are administratively housed.

(74) "Vice Principal:" A principal's immediate subordinate assigned to coordination of instruction, discipline, student activities, or supervision or evaluation of staff.

(75) "Violation of Licensure:" Employment by a public school of a teacher or school nurse without a valid license or Conditional Assignment Permit. See definition of Conditional Assignment at 584-005-0005(15).

(76) "Work Samples:" A designed and implemented unit of study that demonstrates capacity to foster student learning.

(77) "Year of Experience:" A period of at least eight consecutive months of full-time work or two consecutive years of one-half time or more while holding a license valid for the assignment.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 342

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

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 5-2000, f. & cert. ef. 9-20-00; TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 2-2002, f. & cert. ef. 3-15-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07

584-017-0150

Endorsements Requiring Multiple Authorizations

(1) The unit assures that candidates for selected subject matter or special education endorsements demonstrate knowledge, skills, and competencies for multiple authorizations.

(2) Candidates for endorsements in art, ESOL/bilingual, ESOL, music, physical education, adaptive physical education, special education and reading shall qualify for two levels of authorization by:

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(a) Completing preparation in developmental psychology and methods appropriate for early childhood and elementary education, OR elementary and middle level, OR middle level and high school;

(b) Completing supervised practica or student teaching experiences in early childhood and elementary, OR elementary and middle level, OR middle level and high school; and

(c) Documenting knowledge of the endorsement by passing the commission-approved test in the specialty. The Multiple Subjects Examination (MSE) is not required for the endorsements in subsection (2) above.

(d) Candidates completing a practica experience at either early childhood or elementary and at either middle or high school levels shall qualify for authorization for pre-primary through grade twelve.

(3) Candidates for special education endorsements: In addition to the requirements stated in section (2) of this rule, must complete preparation in the continuum of mild, moderate and severe disabilities.

(4) Candidates for endorsements in library media, hearing impaired, communication disorders, and vision impaired shall qualify for four levels of authorization by:

(a) Completing preparation in psychological foundations and methods appropriate for early childhood and elementary AND middle level and high school;

(b) Completing a supervised work experience or student teaching in early childhood and elementary AND middle level and high school; and

(c) Documenting knowledge of the endorsement by passing the commission-approved test in the specialty. The Multiple Subjects Examination (MSE) is not required for these endorsements.

(5) Candidates for endorsement in visually impaired, in addition to the requirements of subsection (4) above; must demonstrate proficiency in reading and writing Braille by obtaining a certification of competency from the National Library Service for the Blind and Physically Handicapped or an equivalent certificate approved by the commission.

(6) Candidates for endorsement in communications disorders, in addition to the requirements of subsection (4) above; may obtain authorization at all four levels by earning a certificate of clinical competence from the American Speech and Hearing Association or successor approved by the commission.

(7) Candidates for endorsements in Early Intervention and Early Childhood Special Education must qualify for the Early Childhood Authorization only by:

(a) Completing preparation in psychological foundations and methods appropriate for Early Childhood Education/Early Intervention;

(b) Completing a supervised practicum in early intervention and early childhood special education; and

(c) Documenting knowledge of the endorsement by passing the required commission-approved licensure examination in Special Education; Preschool/Early Childhood.

(d) The Multiple Subjects Examination (MSE) is required for Early Childhood Education/Early Intervention I endorsement, but is not required for the Early Childhood Education/Early Intervention II endorsement.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, 342.147 & 342.165

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 7-1999, f. & cert. ef. 10-8-99; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 5-2007, f. & cert. ef. 8-15-07

584-017-0251

Knowledge, Skills and Abilities Required for Initial Administrator License

(1) Visionary Leadership: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by facilitating the development, articulation, implementation, and stewardship of a school or district vision of learning supported by the school community.

(2) Instructional Improvement: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by promoting a positive school culture, providing an effective instructional program, applying best practice to student learning, and designing comprehensive professional growth plans for staff.

(a) Candidates promote positive school culture. Candidates: Assess school culture using multiple methods and implement context-appropriate strategies that capitalize on the diversity (e.g., population, language, disability, gender, race, socio-economic) of the school community to improve school programs and culture.

(b) Candidates provide effective instructional program. Candidates:

(A) Demonstrate the ability to facilitate activities that apply principles of effective instruction to improve instructional practices and curricular materials;

(B) Demonstrate the ability to make recommendations regarding the design, implementation, and evaluation of a curriculum that fully accommodates learners' diverse needs;

(C) Demonstrate the ability to use and promote technology and information systems to enrich curriculum and instruction, to monitor instructional practices and provide staff the assistance needed for improvement;

(D) Demonstrate the ability to use aggregated and disaggregated student achievement data to develop effective instructional programs;

(E) Demonstrate the ability to use individual and group achievement data to develop school improvement plans; and

(F) Are able to use a variety of assessment tools and techniques to improve student achievement.

(c) Candidates apply best practice to student learning. Candidates:

(A) Demonstrate the ability to assist school personnel in understanding and applying best practices for student learning;

(B) Apply human development theory, proven learning and motivational theories, and concern for diversity to the learning process; and

(C) Demonstrate an understanding of how to use appropriate research strategies to promote an environment for improved student achievement.

(d) Candidates design comprehensive professional growth plans. Candidates:

(A) Apply human development theory, proven learning and motivational theories, and concern for diversity to the learning process; and

(B) Demonstrate an understanding of how to use appropriate research strategies to promote an environment for improved student achievement.

(3) Effective Management: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by managing the organization, operations, and resources in a way that promotes a safe, efficient, and effective learning environment.

(a) Candidates manage the organization. Candidates:

(A) Demonstrate the ability to optimize the learning environment for all students by applying appropriate models and principles of organizational development and management, including research and data driven decision-making with attention to indicators of equity, effectiveness, and efficiency;

(B) Develop plans of action for focusing on effective organization and management of fiscal, human and material resources, giving priority to student learning, safety, curriculum, and instruction; and

(C) Have knowledge of licensure rules and apply them properly to assignment of personnel.

(b) Candidates manage operations. Candidates:

(A) Demonstrate the ability to involve staff in conducting operations and setting priorities using appropriate and effective needs assessment, research-based data, and group process skills to build consensus, communicate, and resolve conflicts in order to align resources with the organizational vision; and

(B) Develop communications plans for staff to develop their family and community collaboration skills.

(c) Candidates manage resources. Candidates:

(A) Use problem-solving skills and knowledge of strategic, long-range, and operational planning (including applications of technology) in the effective, legal, and equitable use of fiscal, human, and material resource allocation and alignment that focuses on teaching and learning; and

(B) Creatively seek new resources to facilitate learning.

(4) Inclusive Practice: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by collaborating with families and other community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity, diversity, and excellence, and to promote communication among diverse groups.

(a) Candidates collaborate with families and other community members. Candidates:

(A) Demonstrate an ability to bring together, the resources of family members and the community to positively affect student learning;

(B) Demonstrate an ability to involve all families in the education of their children based on the belief that families have the best interests of their children in mind;

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(C) Demonstrate the ability to use public information and research-based knowledge of issues and trends to collaborate with families and community members;

(D) Apply an understanding of community relations models, marketing strategies and processes, data-based decision-making, and communications theory to create frameworks for school, family, business, community, government, and higher education partnerships;

(E) Develop various methods of outreach aimed at business, religious, political, and service organizations;

(F) Demonstrate the ability to involve families and other stakeholders in school decision-making processes, reflecting an understanding that schools are an integral part of the larger community;

(G) Demonstrate the ability to collaborate with community agencies to integrate health, social, and other services; and

(H) Develop a comprehensive program of community relations and demonstrate the ability to work with the media.

(b) Candidates respond to community interests and needs. Candidates:

(A) Demonstrate active involvement within the community, including interactions with individuals and groups with conflicting perspectives;

(B) Demonstrate the ability to use appropriate assessment strategies and research methods to understand and accommodate diverse school and community conditions and dynamics;

(C) Provide leadership to programs serving students with special and exceptional needs; and

(D) Demonstrate the ability to capitalize on the diversity (cultural, ethnic, racial, economic, and special interest groups) of the school community to improve school programs and meet the diverse needs of all students.

(c) Candidates mobilize community resources. Candidates:

(A) Demonstrate an understanding of and ability to use community resources, including youth services, to support student achievement, solve school problems, and achieve school goals;

(B) Demonstrate how to use school resources and social service agencies to serve the community; and

(C) Demonstrate an understanding of ways to use public resources and funds appropriately and effectively to encourage communities to provide new resources to address emerging student problems.

(5) Ethical Leadership: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by acting with integrity, fairly, and in an ethical manner.

(a) Candidates act with integrity. Candidates:

(A) Demonstrate a respect for the rights of others with regard to confidentiality and dignity and engage in honest interactions promote such respect; and

(B) Demonstrate behaviors that are honest and consistent.

(b) Candidates act fairly. Candidates:

(A) Demonstrate the ability to combine impartiality, sensitivity to student diversity, and ethical considerations in their interactions with others;

(B) Make decisions using an inclusive process; and

(C) Understand and avoid any conflict of interest and avoid the appearance of impropriety.

(c) Candidates act ethically. Candidates:

(A) Make and explain decisions based upon ethical and legal principles; and

(B) Demonstrate respect and diligence regarding the law and compliance with its requirements.

(6) Socio-Political Context: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

(a) Candidates understand the larger context. Candidates:

(A) Act as informed consumers of educational theory and concepts appropriate to school context and can demonstrate the ability to apply appropriate research methods to a school context;

(B) Demonstrate the ability to explain how the legal and political systems and institutional framework of schools have shaped a school and community, as well as the opportunities available to children and families in a particular school;

(C) Demonstrate the ability to analyze the complex causes of poverty and other disadvantages and their effects on families, communities, children, and learning;

(D) Demonstrate an understanding of the policies, laws, and regulations enacted by local, state, and federal authorities that affect schools, especially those that might improve educational and social opportunities;

(E) Demonstrate the ability to describe the economic factors shaping a local community and the effects economic factors have on local schools;

(F) Demonstrate the ability to analyze and describe the cultural diversity in a school community;

(G) Can describe community norms and values and how they relate to the role of the school in promoting social justice; and

(H) Demonstrate the ability to explain various theories of change and conflict resolution and the appropriate application of those models to specific communities.

(b) Candidates respond to the larger context. Candidates: Demonstrate the ability to communicate with members of a school community concerning trends, issues, and potential changes in the environment in which the school operates, including maintenance of an ongoing dialogue with representatives of diverse community groups.

(c) Candidates influence the larger context. Candidates:

(A) Demonstrate the ability to engage students, parents, and other members of the community in advocating for adoption of improved policies and laws;

(B) Apply their understanding of the larger political, social, economic, legal, and cultural context to develop activities and policies that benefit students and their families; and

(C) Advocate for policies, programs and instructional strategies that promote equitable learning opportunities and success for all students, regardless of native language, socioeconomic background, ethnicity, gender, disability, or other individual characteristics.

(7) Practicum Experience: The practicum provides significant opportunities for candidates to synthesize and apply the knowledge and practice and develop the skills identified in Standards 1-6 through substantial, sustained, standards-based work in real settings, planned and guided cooperatively by the institution and school district personnel for graduate credit.

(a) The practicum will be substantial. Candidates:

(A) Demonstrate the ability to accept genuine responsibility for leading, facilitating, and making decisions typical of those made by educational leaders. The experience(s) should provide candidates with substantial responsibilities that increase overtime in amount and complexity and involve direct interaction and involvement with staff, students, parents, and community leaders; and

(B) Each candidate should have a minimum of six months or equivalent of full-time practicum experience. (See, OAR 584-017-0280 Field Experience for Administrator License Program and 584-017-0282 Internship Experience for Administrator License Program)

(b) The practicum will be sustained. Candidates: Participate in planned practicum activities during the entire course of the program, including an extended period of time near the conclusion of the program to allow for candidate application of knowledge and skills on a full-time basis.

(c) The practicum will be standards-based. Candidates:

(A) Apply skills and knowledge articulated in these standards as well as state and local standards for educational leaders; and

(B) Experiences are designed to accommodate candidates' individual needs.

(d) The practica will be in real settings. Candidates:

(A) Experiences occur in multiple that allow for the demonstration of a wide range of relevant knowledge and skills; and

(B) Experiences include work with appropriate community organizations such as service groups and local businesses.

(e) The practica will be planned and guided cooperatively. Candidates:

(A) Experiences are planned cooperatively by the individual, the site supervisor, and institution personnel to provide inclusion of appropriate opportunities to apply skills, knowledge, and research contained in the standards. These three individuals work together to meet candidate and program needs; and

(B) Mentors are provided training to guide the candidate during the practicum experience.

(f) The practicum may be for credit.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, 342.147 & 342.165

Hist.: TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 10-2006(Temp), f. 6-15-06, cert. ef. 7-1-06 thru 12-27-06; TSPC 12-2006, f. & cert. ef. 11-16-06; TSPC 5-2007, f. & cert. ef. 8-15-07

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584-017-0261

Knowledge, Skills and Abilities for Continuing Administrator License

(1) Visionary Leadership: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by facilitating the development, articulation, implementation, and stewardship of a school or district vision of learning supported by the school community.

(2) Instructional Improvement: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by promoting a positive school culture, providing an effective instructional program, applying best practice to student learning, and designing comprehensive professional growth plans for staff.

(a) Candidates promote positive school culture. Candidates: Develop a sustained approach to improve and maintain a positive district culture for learning that capitalizes on multiple aspects of diversity to meet the learning needs of all students.

(b) Candidates provide effective instructional program. Candidates:

(A) Demonstrate an understanding of a variety of instructional research methodologies and can analyze the comparable strengths and weaknesses of each method;

(B) Are able to use qualitative and quantitative data, appropriate research methods, technology, and information systems to develop a long-range plan for a district that assesses the district's improvement and accountability systems;

(C) Demonstrate the ability to use and promote technology and information systems to enrich district curriculum and instruction, monitor instructional practices, and provide assistance to administrators who have needs for improvement;

(D) Demonstrate the ability to allocate and justify resources to sustain the instructional program;

(E) Demonstrate the ability to use aggregated and disaggregated student achievement data to develop district instructional programs;

(F) Demonstrate the ability to use individual and group achievement data to develop district improvement plans; and

(G) Are able to use a variety of assessment tools and techniques to improve student achievement for all students.

(c) Candidates apply best practice to student learning. Candidates:

(A) Demonstrate the ability to facilitate and engage in activities that use best practices and sound educational research to improve instructional programs;

(B) Demonstrate an ability to assist school and district personnel in understanding and applying best practices for student learning;

(C) Understand and can apply human development theory, proven learning, and motivational theories, and concern for the diversity to the learning process; and

(D) Understand how to use appropriate research strategies to profile student performance in a district and analyze differences among subgroups.

(d) Candidates design comprehensive professional growth plans. Candidates:

(A) Demonstrate knowledge of adult learning strategies and the ability to apply technology and research to professional development design focusing on authentic problems and tasks, mentoring, coaching, conferencing, and other techniques that promote new knowledge and skills in the workplace;

(B) Demonstrate the ability to use strategies such as observations and collaborative reflection to help form comprehensive professional growth plans with district and school personnel; and

(C) Develop personal professional growth plans that reflect commitment to life-long learning and best practices.

(3) Effective Management: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by managing the organization, operations, and resources in a way that promotes a safe, efficient, and effective learning environment.

(a) Candidates manage the organization. Candidates:

(A) Demonstrate the ability to use research-based knowledge of learning, teaching, student-development, organizational development, and data management to optimize learning for all students;

(B) Demonstrate an ability to manage time effectively and to deploy financial and human resources in a way that promotes student achievement;

(C) Demonstrate the ability to organize a district based on indicators of equity; effectiveness, and efficiency and can apply legal principles that promote educational equity; and

(D) Demonstrate an understanding of how to apply legal principles to promote educational equity and provide a safe, effective and efficient facility.

(b) Candidates manage operations. Candidates:

(A) Demonstrate the ability to involve stakeholders in aligning resources and priorities to maximize ownership and accountability;

(B) Can use appropriate and effective needs assessment, research-based data, and group process skills to build consensus, communicate, and resolve conflicts in order to align resources with the district version;

(C) Develop staff communication plans for integrating district's schools and divisions; and

(D) Develop a plan to promote and support community collaboration among district personnel.

(c) Candidates manage resources. Candidates:

(A) Use problem-solving skills and knowledge of strategic, long-range, and operational planning (including applications of technology) in the effective, legal, and equitable use of fiscal, human, and material resource allocation that focuses on teaching and learning;

(B) Creatively seek new resources to facilitate learning;

(C) Apply an understanding of school district finance structures and models to ensure that adequate financial resources are allocated equitably for the district;

(D) Apply and assess current technologies for management, business procedures, and scheduling; and

(E) Apply licensure rules to ensure qualified staff are placed in all positions throughout the district.

(4) Inclusive Practice: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by collaborating with families and other community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity, diversity, and excellence, and to promote communication among diverse groups.

(a) Candidates collaborate with families and other community members. Candidates:

(A) Demonstrate the ability to facilitate the planning and implementation of programs and services that bring together the resources of families and the community to positively affect student learning;

(B) Demonstrate an ability to use public information and research-based knowledge of issues and trends to collaborate with community members and community organizations to have a positive affect on student learning;

(C) Apply an understanding of community relations models, marketing strategies and processes, data driven decision-making, and communication theory to craft frameworks for school, business, community, government, and higher education partnerships;

(D) Demonstrate an ability to develop and implement a plan for nurturing relationships with community leaders and reaching out to different business, religious, political, and service organizations to strengthen programs and support district goals;

(E) Demonstrate an ability to involve community members, groups, and other stakeholders in district decision-making, reflecting an understanding of strategies to capitalize on the, district's integral role in the larger community;

(F) Demonstrate the ability to collaborate with community agencies to integrate health, social, and other services in the schools to address student and family conditions that affect learning;

(G) Demonstrate the ability to conduct community relations that reflects knowledge of effective media relations and that models effective media relations practices; and

(H) Develop and implement strategies that support the involvement of families in the education of their children that reinforces for district staff a belief that families have the best interests of their children in mind.

(b) Candidates respond to community interests and needs. Candidates:

(A) Facilitate and engage in activities that reflect an ability to inform district decision-making by collecting and organizing formal and informal information from multiple stakeholders;

(B) Demonstrate the ability to promote maximum involvement with, and visibility within the community;

(C) Demonstrate the ability to interact effectively with individuals and groups that reflect conflicting perspectives;

(D) Demonstrate the ability to effectively and appropriately assess, research, and plan for diverse district and community conditions and dynam-

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ics and capitalize on the diversity of the community to improve district performance and student achievement; and

(E) Demonstrate the ability to advocate for students with special and exceptional needs.

(c) Candidates mobilize community resources. Candidates:

(A) Demonstrate an understanding of and ability to use community resources, including youth services that enhance student achievement, to solve district problems and accomplish district goals;

(B) Demonstrate how to use district resources to the community to solve issues of joint concern; and

(C) Demonstrate an understanding of ways to use public resources and funds appropriately and effectively to encourage communities to provide new resources to address emerging student problems.

(5) Ethical Leadership: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by acting with integrity, fairly, and in an ethical manner.

(a) Candidates act with integrity. Candidates:

(A) Demonstrate a respect for the rights of others with regard to confidentiality and dignity and engage in honest interactions promote such respect; and

(B) Demonstrate behaviors that are honest and consistent.

(b) Candidates act fairly. Candidates:

(A) Demonstrate the ability to combine impartiality, sensitivity to student diversity, and ethical considerations in their interactions with others;

(B) Make decisions using an inclusive process; and

(C) Understand and avoid any conflict of interest and avoid the appearance of impropriety.

(c) Candidates act ethically. Candidates:

(A) Make and explain decisions based upon ethical and legal principles; and

(B) Demonstrate respect and diligence regarding the law and compliance with its requirements.

(6) Socio-Political Context: Candidates who complete the program are educational leaders who have the knowledge, ability, and cultural competence to improve learning and achievement to ensure success of all students by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

(a) Candidates understand the larger context. Candidates:

(A) Demonstrate the ability to use appropriate research methods, theories, and concepts to improve district operations;

(B) Demonstrate an understanding of the complex causes of poverty and other disadvantages and their effects on families, communities, children, and learning;

(C) Demonstrate an understanding of the policies, laws, and regulations enacted by local, state, and federal authorities affecting a specific district;

(D) Can explain the system for financing public schools and its effects on the equitable distribution of educational opportunities within a district;

(E) Demonstrate the ability to work with political leaders at the local, state, and national level;

(F) Can apply an understanding of how specific laws at the local, state, and federal level affect school districts and residents; and

(G) Espouse positions in response to proposed policy changes that would benefit or harm districts and explain how proposed policies and laws might improve educational and social opportunities for specific communities.

(b) Candidates respond to the larger context. Candidates:

(A) Demonstrate the ability to engage students, parents, members of the school board, and other community members in advocating for adoption of improved policies and laws;

(B) Apply their understanding of the larger political, social, economic, legal, and cultural context to develop activities and policies that benefit their district and its students; and

(C) Demonstrate the ability to communicate regularly with all segments of the district community concerning trends, issues, and policies affecting the district.

(c) Candidates influence the larger context. Candidates:

(A) Demonstrate an understanding of how to develop lines of communication with local, state, and federal authorities and actively advocate for improved policies, laws, and regulations, affecting a specific district, both directly and through organizations representing schools, educators, or others with similar interests; and

(B) Demonstrate the ability to advocate for policies, programs and instructional strategies that promote equitable learning opportunities and

success for all students, regardless of native language, socioeconomic background, ethnicity, gender, disability, or other individual characteristics.

(7) Practicum Experience: The practicum provides significant opportunities for candidates to synthesize and apply the knowledge and practice and develop the skills identified in Standards 1–6 through substantial, sustained, standards-based work in real settings, planned and guided cooperatively by the institution and school district personnel for graduate credit.

(a) The practicum will be substantial. Candidates:

(A) Demonstrate the ability to accept genuine responsibility for leading, facilitating, and making decisions typical of those made by educational leaders. The experience(s) should provide practicum students with substantial responsibilities that increase overtime in amount and complexity and involve direct interaction and involvement with staff, students, parents, and community leaders; and

(B) Each candidate should have a minimum of six months or equivalent of full-time practicum experience. (See, OAR 584-017-0280 Field Experience for Administrator License Program and 584-017-0282 Internship for Administrator License Program)

(b) The practicum will be sustained. Candidates: Participate in planned practicum activities during the entire course of the program, including an extended period of time near the conclusion of the program to allow for candidate application of knowledge and skills on a full-time basis.

(c) The practicum will be standards-based. Candidates:

(A) Apply skills and knowledge articulated in these standards as well as state and local standards for educational leaders; and

(B) Experiences are designed to accommodate candidates' individual needs.

(d) The practica will be in real settings. Candidates:

(A) Experiences occur in multiple district settings that allow for the demonstration of a wide range of relevant knowledge and skills; and

(B) Experiences include work with appropriate community organizations, parent groups and school boards.

(e) The practica will be planned and guided cooperatively. Candidates:

(A) Experiences are planned cooperatively by the individual, the site supervisor, and institution personnel to provide inclusion of appropriate opportunities to apply skills, knowledge, and research contained in the standards. These three individuals work together to meet candidate and program needs; and

(B) Mentors are provided training to guide the candidate during the practicum experience.

(f) The practicum may be for credit. Candidates.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, 342.147 & 342.165

Hist.: TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 10-2006(Temp), f. 6-15-06, cert. ef. 7-1-06 thru 12-27-06; TSPC 12-2006, f. & cert. ef. 11-16-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-017-0280

Field Experience for Administrator License Program

The unit provides practica in public or approved private school settings that ensure the candidate will be able to demonstrate the knowledge, skills, and abilities necessary to be a successful administrator.

(1) The unit sets criteria for admission to and establishes performance standards for successful completion of the practica.

(2) Each candidate for an Initial Administrator License (IAL) completes a practicum in a public or approved private school setting for 360 hours in an elementary school AND in a middle school, junior high or high school under the direct supervision of an institutional supervisor and a licensed school administrator. Each IAL candidate assembles a portfolio which documents satisfactory performance in the standards contained in OAR 584-017-0251.

(3) Each candidate for a Continuing Administrator License (CAL) completes a practicum in a public school or approved private school setting for a minimum of 216 hours or the semester hour or quarter hour equivalency of practicum credit under the direct supervision of an institutional supervisor and a licensed school administrator. Each CAL candidate assembles a portfolio which documents satisfactory performance in the standards contained in OAR 584-017-0261.

(4) The unit will establish and implement policies on supervision of practicum students which will state the responsibilities of unit supervisors and practicum site supervisors and administrators, including the frequency of observations and conferences with the students.

(5) The unit's IAL supervisors will make a minimum of four supportive or evaluative contacts during the practicum.

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(6) At least twice during the IAL practicum, the unit's supervisors will meet with the candidate and the supervising licensed school administrator in joint conferences to discuss the candidate's performance and evaluation.

(7) The unit supervisor and the supervising licensed school administrator jointly determine the candidate has demonstrated in the administrator practicum the knowledge, skills and abilities specified for appropriate the license.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120, 342.147 & 342.165
Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 1-2002, f. & cert. ef. 1-15-02; TSPC 5-2007, f. & cert. ef. 8-15-07

584-017-0282

Internship Experience for Administrator License Program

The unit provides internship experiences in public or approved private school settings that ensure the candidate will be able to demonstrate the knowledge, skills, and abilities necessary to be a successful administrator.

(1) The unit sets criteria for admission and establishes performance standards for successful completion of the internship.

(2) The unit has policies on supervision of interns which state the responsibilities of the institutional supervisors and school-based supervisors including the frequency of observations and conferences with the interns.

(3) The unit will have an intern policy and contract that addresses school-based supervision, unit supervision and other relevant issues.

(4) The unit will provide measurable evidence of implementation, policy effectiveness and quality control.

(5) At least twice during each semester of the internship, the institution's supervisor meets with the candidate and the school-based supervisor in joint conferences to discuss the evaluations, portfolios, and the candidate's progress in meeting the administrator standards in either OAR 584-017-0251 or 584-017-261.

(6) The intern assembles a portfolio. The portfolio must meet the standards in either OAR 584-017-0251 or 584-017-261.

(7) The unit supervisor and the supervising licensed school administrator jointly determine that the intern has demonstrated the knowledge, skills and abilities specified for the appropriate license.

(8) The unit recommends for licensure those candidates who successfully complete the program requirements and demonstrate professional competency.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120, 342.147 & 342.165
Hist.: TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0105

Definitions

As used in OAR chapter 584, division 021, unless otherwise indicated by the context, the following definitions apply:

(1) "Application": A request for an Oregon certificate authorizing service in public schools or a request for reinstatement or renewal of such certificate. As used in these rules, "application" includes the Application Form N-1, the fee, and all supporting documents necessary for the evaluation for the certificate.

(2) "Approved Institutions": Oregon colleges and universities regionally accredited for the preparation of nurses by the Oregon State Board of Nursing or for preparation of teachers by Teacher Standards and Practices Commission and other regionally accredited colleges or universities approved to prepare nurses or teachers by the state or governmental jurisdiction in which the institutions are located. All approved institutions must be accredited by the appropriate regional accrediting association.

(3) "Commission": The Teacher Standards and Practices Commission (TSPC).

(4) "Executive Director": The Executive Director for the Commission.

(5) "Expired Certificate": A certificate for which an application for renewal was not received by TSPC prior to the date of expiration stated on the certificate.

(6) "Joint Application": Submitted by the school board or school superintendent in cooperation with the applicant.

(7) "Major Traffic Violations": Includes reckless driving (ORS 487.550); driving while under the influence of intoxicants (ORS 487.540); failure to perform the duties of a driver involved in an accident or collision (ORS 483.602 and 483.604); fleeing or attempting to elude a police officer (ORS 487.555); driving while license is suspended or revoked (ORS 487.560); or driving after being declared to be a habitual offender (ORS 484.740).

(8) "Misassignment": Assignment of a school nurse in a position requiring a teaching, personnel service, or administrative license.

(9) "Nurse": A registered nurse who holds a current license issued by the Oregon State Board of Nursing. See also School Nurse.

(10) "Personal Qualifications": Personal qualifications for certification including possessing good moral character and mental and physical health necessary for employment as a school nurse.

(11) "Registered Private School": A private school, prekindergarten through grade twelve, registered with the Oregon Department of Education.

(12) "Reinstatement": Restoration of the validity of a certificate which has expired, been revoked, or been surrendered.

(13) "Renewal": Extension of validity of a current certificate. An application for renewal must be submitted prior to the expiration date stated on the certificate.

(14) "School Nurse": A registered nurse who is certified by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health service programs of a school.

(15) "Successful Experience": If the nurse was permitted to fulfill the contract with the district, the experience is deemed successful.

(16) "Volunteer Nurse": A registered nurse who serves without remuneration in a school health services program.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455 - 342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1987, f. & ef. 3-3-87; TS 3-1988, f. & cert. ef. 4-7-88; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0110

General Provisions for School Nurse Certificate

(1) School districts which employ nurses and compensate them for services from public funds are encouraged to employ persons certified as school nurses by the Commission.

(2) School districts may employ nurses who are not certified as school nurses by the Commission. No forfeiture of state school funds will be made for such employment. The district, however, shall not designate such personnel as "school nurses."

(3) A school nurse certificate is not a teaching license. A person holding a school nurse certificate is not subject to the Fair Dismissal Law. See also ORS 342.475(5).

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455 - 342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0115

Types of Nursing Certificates

(1) A Professional School Nurse Certificate is issued to an applicant who meets the requirements set forth in OAR 584-021-0130. The Professional School Nurse Certificate is valid for five years and may be renewed.

(2) An Emergency School Nurse Certificate is issued only when there are insufficient applicants in a region of the state. It is valid for one year and is renewable. (See OAR 584-021-0135 for the requirements for this certificate.)

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455 - 342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0120

Requirements for Applying for Initial Certification

(1) An applicant for the first Oregon School Nurse Certificate must:

(a) Supply all information requested on the application, Form N-1, and sign in the space provided attesting that the information is true and correct;

(b) Provide official transcripts from all colleges and universities attended. Transcripts must bear the seal of the institution and the signature of the registrar;

(c) Submit a current registered nurse license issued by the Oregon State Board of Nursing. A photocopy is acceptable;

(d) Demonstrate knowledge of state and federal statutes prohibiting discrimination;

(e) Submit the evaluation fee(s) as established by OAR 584-021-0170; and

(f) Submit the employing school district's request for certification, and an explanation of why the joint application is being made, if the application is for the Emergency School Nurse Certificate.

ADMINISTRATIVE RULES

(2) A registered nurse who applies for certification and who is employed by a school, school district or education service district to conduct and coordinate a school or district health services program or who serves in such a capacity on a voluntary basis on November 1, 1981 will be issued a certificate under this subsection without further proof of qualification by the applicant.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455–342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0130

Requirements for a Professional School Nurse Certificate

An applicant for a Professional School Nurse Certificate must hold a current registered nurse license issued by the Oregon State Board of Nursing and must submit verification that the following requirements have been met:

(1) The applicant currently holds a Professional School Nurse Certificate in Oregon; or

(2) The applicant must hold a baccalaureate degree from an approved institution; and the applicant must successfully complete thirty clock hours, three quarter hours, or two semester hours of course work which must include the following content areas:

(a) American school law and legal responsibilities of the School Nurse;

- (b) The nursing process in the school setting;
- (c) School health policies, issues and funding;
- (d) Schools and society;
- (e) Mental health and counseling concepts;
- (f) The exceptional child — disabled, gifted, learning disabled;
- (g) Physical and developmental assessment of the school-age child;
- (h) The role and responsibilities of the School Nurse;
- (i) Human growth, development and learning;
- (j) Diversity; and
- (k) School emergencies.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455–342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1997, f. 9-25-97, cert. ef. 1-15-99; TSPC 5-2007, f. & cert. ef. 8-15-07

580-021-0135

Requirements for an Emergency School Nurse Certificate

(1) An Emergency School Nurse Certificate may be issued when there are insufficient applicants in a region of the state. The emergency certificate is valid for one year and issued upon joint application from the employing school board or school superintendent.

(2) An applicant under section (1) of this rule must hold a current registered nurse license issued by the State Board of Nursing.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455–342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0140

Requirements for Applying for Renewal or Reinstatement of Certification

An applicant for renewal or reinstatement of an Oregon School Nurse Certificate must:

(1) Provide the information requested on the Application, Form N-1, and sign in the space provided. The character questions pertaining to dismissal, revocation, and conviction must be answered and supporting materials attached to the application, if necessary;

(2) Provide verification of successful experience as a school nurse during the life of the current certificate, if applicable. Experience must be verified by the superintendent of the district on the application, Form N-1;

(3) Present a statement verifying satisfactory completion of a Commission-approved workshop or course on the laws prohibiting discrimination, if not previously verified;

(4) Submit all required fees;

(5) Provide verification of professional upgrading satisfactory to the school district, if applicable;

(6) Provide evidence satisfactory to the Commission of fitness to serve as school nurse, if the application is for reinstatement of a surrendered or revoked certificate;

(7) Submit the employing school district's request for the certificate if the application is for renewal of an Emergency School Nurse Certificate;

(8) Submit a current registered nurse license issued by the Oregon State Board of Nursing. A photocopy is acceptable; and

(9) Submit official transcripts of nine quarter hours or six semester hours of additional preparation during the life of the current certificate or since expiration of the certificate, if unable to verify adequate or acceptable experience during the life of the certificate.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455–342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0150

Renewal

The Professional School Nurse Certificate may be renewed upon verification that the applicant holds a current registered nurse license issued by the Oregon State Board of Nursing and that either of the following requirements have been met:

(1) The applicant completed at least 960 clock hours of successful school nurse experience during the life of the certificate and completed three quarter hours, two semester hours or 60 clock hours of professional upgrading. Professional upgrading must be approved by the school district as part of the professional improvement program for the school nurse. Professional upgrading may include, but is not limited to: College and university courses, community college courses, established workshops, or planned experiences in nursing; or

(2) The applicant completed nine quarter hours or six semester hours of additional preparation from an approved institution during the life of the current certificate designed to increase competence as a school nurse.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455–342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0155

Emergency School Nurse Certificate Renewal

(1) An Emergency School Nurse Certificate may be renewed for one year upon verification of ten clock hours of professional upgrading as described in OAR 584-021-0150 during the life of the certificate. The application must be submitted jointly with the school district and must include verification that the applicant holds a current registered nurse license issued by the Oregon State Board of Nursing.

(2) There is no limit on the number of renewals permitted if the requirements specified in section (1) of this rule are met for each renewal.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455–342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1987, f. & ef. 3-3-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0160

Incomplete Applications

(1) An incomplete application will not be processed. During the ninety (90) days following the evaluation which determined that the application was incomplete, an applicant may resubmit the application with additional supporting documents necessary for the evaluation for the certificate. If the applicant is eligible, a certificate will be issued at no additional cost. Materials provided following the expiration of ninety (90) days must be accompanied by a new evaluation fee.

(2) A transcript evaluation which does not result in the issuance of a certificate is retained by TSPC for one year. Upon verification during that time of additional preparation correcting the deficiencies for which the certificate was not issued initially, a certificate will be issued at no additional cost.

(3) If the applicant does not qualify for the certificate within one year from the date of the first evaluation, all documents necessary for reevaluation for the certificate must be resubmitted. The reevaluation will be made under rules which are in effect at the time of the reevaluation and the fee for evaluation of an application must be submitted again.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 183, 342.455–342.495
Hist.: TS 4-1982, f. & ef. 7-22-82; TS 6-1983, f. & ef. 10-18-83; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 5-1988, f. 10-6-88, cert. ef. 1-15-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0165

Verifying Knowledge of Laws Prohibiting Discrimination

All applicants must demonstrate knowledge of state and federal statutes prohibiting discrimination as follows:

ADMINISTRATIVE RULES

(1) An applicant may submit an affidavit for the first school nurse certificate assuring that he or she has read Discrimination and the Oregon Educator and has completed the self-study questions. For renewal, the applicant must complete a Commission-approved workshop or course.

(2) An applicant residing outside of the state and not employed by an Oregon school may renew or reinstate an Oregon school nurse certificate upon submission of an affidavit assuring that he or she has read Discrimination and the Oregon Educator and has completed the self-study questions. The applicant must complete a program, workshop, or course as described in section (1) of this rule for the first application following establishment of residence in Oregon or employment by an Oregon school.

(3) An applicant for renewal or reinstatement of an Oregon school nurse certificate who resides in Oregon or who is employed in an Oregon school must demonstrate knowledge in accordance with [through one of the options set forth] in section (1) of this rule if the applicant has not already completed such requirements.

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.123, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0170

Fees for Nursing Certificates

(1) All fees are assessed for evaluation of the application and are non-refundable.

(2) The Commission issues the appropriate certificate at no additional cost if the applicant qualifies for the certificate within ninety (90) days following evaluation of the application except as provided in OAR 584-021-0160(2).

(3) The fee for evaluating an application for a school nurse certificate is \$100.

(4) The fee for evaluating an application for renewal of a certificate is \$100.

(5) The fee for each duplicate certificate is \$20.

(6) The fee to evaluate an application for reinstatement of an expired certificate is \$100 plus a late application fee of \$25 for each month or portion of a month that the certificate has been expired to a maximum of \$200 total.

(7) The fee for evaluating an application for reinstatement of a suspended certificate is \$100.

(8) The fee for evaluating an application for reinstatement of a revoked certificate is \$150 in addition to the \$100 application fee.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.127, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 6-1983, f. & ef. 10-18-83; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 5-1988, f. 10-6-88, cert. ef. 1-15-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TS 5-1994, f. 9-29-94, cert. ef. 10-15-94; TSPC 11-2005(Temp), f. 11-18-05, cert. ef. 1-1-06 thru 6-29-06; TSPC 5-2006, f. & cert. ef. 2-10-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0177

Criminal Records Check Requirement

(1) For the first Oregon certificate as a school nurse, or for reinstatement of a certificate that has been expired for more than three years, the applicant must submit one fingerprint card in a manner specified in the Commission's application packet for checking Oregon and Federal Bureau of Investigation criminal history.

(2) The fee to submit fingerprints for a criminal records check is \$62.

(3) The Commission may issue a temporary or emergency certificate valid until receipt and clearance of fingerprint reports from the Oregon State Police and the Federal Bureau of Investigation.

Stat. Auth.: ORS 181 & 342

Stats. Implemented: ORS 181.533, 183, 342.175 – 342.190, 342.223, 342.455 – 342.495

Hist.: TS 6-1993, f. & cert. ef. 12-7-93; TS 2-1994, f. & cert. ef. 7-19-94; TS 2-1995(Temp), f. 8-16-95, cert. ef. 9-11-95; TS 4-1995, f. & cert. ef. 11-9-95; TSPC 10-2005(Temp), f. & cert. ef. 11-15-05 thru 4-30-06; TSPC 5-2006, f. & cert. ef. 2-10-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0180

Criteria for Granting School Nurse Licenses

The Executive Director may issue certificates, grant reinstatements, and renew certificates when each of the following conditions exists:

(1) All requirements for certification established by law and rules have been met;

(2) The applicant has furnished evidence satisfactory to TSPC of the applicant's fitness to serve as a school nurse;

(3) The Executive Director deems that any "yes" answer on the application's character questions does not adversely affect the applicant's ability to serve as a school nurse.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0185

Criteria for Denying Issuance or Reinstatement of School Nurse Licenses

The Executive Director may deny issuance of certificates or reinstatement of certificates under the same conditions that apply to educator licenses as described in OAR 584-050.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0190

Criteria and Procedures for Denying Renewal of a School Nurse License

(1) The Executive Director may deny renewal of a certificate under the same conditions that apply to educator licenses as described in OAR 584-050

(2) In any case where the Executive Director of TSPC proposes to deny renewal of a certificate, a notice must be furnished the applicant at least ten days prior to the date of denial. Notice must be given personally or by registered mail and must state that the applicant may, prior to the date of denial, request a contested case hearing.

(3) When the applicant requests a hearing, the decision on the denial shall be postponed until the hearing has been held. The current certificate continues in effect despite any expiration dates stated thereon until a formal order of denial has been issued.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.175 – 342.190, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0195

Procedures for Consideration of Other Cases

In a case not covered by OAR 584-021-0180 through 584-021-0190, the Executive Director must refer the application to TSPC for action.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0202

Criteria for Denial of Certification Based on Conviction for Crimes

An applicant for the initial Oregon certificate or for reinstatement of an Oregon certificate that has been lapsed for three years or more must submit to a fingerprint check. If the applicant has been convicted of any of the crimes listed in ORS 342.143 or if the applicant has made a false statement about a conviction, the applicant shall be denied certification.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.175 – 342.190, 342.455 – 342.495

Hist.: TS 2-1994, f. & cert. ef. 7-19-94; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0205

Reinstatement of Revoked or Surrendered School Nurse Certificates

A revoked or surrendered certificate may be reinstated, if the applicant is qualified, for the number of months remaining on the certificate when it was revoked or surrendered. The applicant must hold a current registered nurse license issued by the Oregon State Board of Nursing at the time of reinstatement.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.175 – 342.190, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1987, f. & ef. 3-3-87; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0210

Reinstatement of Expired Certificates

(1) For one year after expiration, a Professional Nurse Certificate may be reinstated upon payment of the required late application fee. Applicable renewal requirements must also be met. (See OAR 584-021-0150 for renewal requirements.)

(2) During the second and subsequent years after expiration, a Professional School Nurse Certificate may be reinstated by completion of nine quarter hours or six semester hours of additional preparation from an

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approved institution designed to increase competence as a school nurse. The applicant also must hold a current registered nurse license issued by the Oregon State Board of Nursing. The additional preparation must be completed within the three-year period prior to application for reinstatement.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.175 – 342.190, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0215

Revocations

(1) Revocations of certificates shall be handled in accordance with ORS 342.175 through 342.190.

(2) Failure to maintain a valid registered nurse license issued by the Oregon State Board of Nursing shall constitute grounds for revocation of a Professional School Nurse Certificate or an Emergency School Nurse Certificate.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.175 – 342.190, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0220

Surrender of Certificate

(1) TSPC may permit a school nurse to voluntarily surrender an Oregon certificate prior to its expiration date if TSPC finds that such action is in the best interest of the public.

(2) In any case, where TSPC has grounds for disciplinary action under ORS 342.175 through 342.190, TSPC may require the school nurse to enter into a stipulation of those facts. This stipulation shall become a part of the person's certification file and may be used as evidence of fitness to serve as a school nurse within the meaning of ORS 342.175 at such times as the person may apply for reinstatement of the certificate.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.175 – 342.190, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0225

Serving Without Proper Certification

(1) School nurses are not teachers and may not be assigned to positions requiring teaching, personnel service, or administrative licensure without proper licensure for such positions. School nurses who serve in positions requiring teaching, personnel service, or administrative licensure without proper licensure may have such action considered as evidence of gross neglect of duty under ORS 342.175. Gross neglect of duty may be grounds for revocation of a school nurse certificate.

(2) TSPC may revoke any certificate upon evidence that the holder or applicant knowingly made false statements to a prospective employing school district concerning the individual's certification status or qualifications for assignment.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0230

Expiration of Certificates

A certificate expires on the date posted on the certificate unless a complete application for renewal is received by TSPC prior to that date. If a certificate expires, reinstatement requirements must be met for further certification.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 2-1989, f. & cert. ef. 2-16-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-021-0235

Issuance — Effective Date of Certificates

A school nurse certificate is valid from the date upon which the applicant was determined by TSPC to be eligible for the certificate or reinstatement. The certificate is effective for the appropriate number of years for that certificate (one or five years) plus that period to the applicant's next birthday upon initial certification.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 – 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-036-0015

Basic and Standard Teaching Licenses with Authorizations and Endorsements

(1) A Basic Teaching License is issued to an applicant who meets the requirements set forth in OAR 584-038-0005.

(a) It is valid for three years and may be renewed under conditions set forth in division 048.

(b) The endorsements are valid only for departmental assignments in elementary, middle, or junior high schools through grade nine if requirements leading to standard licensure are not met. To retain authorization for teaching in a high school, holders of subject matter endorsements must meet renewal requirements leading to standard licensure (See, Division 40 for further information).

(2) A Standard Teaching License is issued to an applicant who meets the requirements set forth in OAR 584-040-0005. The Standard Teaching License is valid for five years and may be renewed. A Standard Teaching License is valid for the same assignments as a Basic Teaching License with similar authorizations and endorsements. In addition, the Standard Teaching License authorizes assignments in grades five through twelve or in preprimary through grade twelve for which a renewed Basic Teaching License may not provide authorization. These authorizations and endorsements are explained in the following sections.

(3) Grade level authorizations are stated on a Basic or Standard Teaching License as follows:

(a) Preprimary through nine;

(b) Preprimary through twelve;

(c) Grades five through nine in an elementary, middle, or junior high school; or

(d) Grades five through twelve.

(4) Assignments: Assignments which are permitted on Basic and Standard Teaching Licenses are stated as endorsements as follows:

(a) Elementary: An elementary subject matter endorsement issued before January 14, 1987 is valid for the self-contained classroom and for departmental assignments in preprimary through grade nine of an elementary, middle, or junior high school except assignments of .51 percent or more in:

(A) Art;

(B) Library media;

(C) Foreign language;

(D) Health;

(E) Home economics;

(F) Technology education;

(G) Music;

(H) Physical education; and

(I) Reading;

(J) ESOL

(b) Elementary: An elementary subject matter endorsement issued after January 14, 1987 is valid for the self-contained classroom and for departmental assignments in preprimary through grade nine of an elementary, middle, or junior high school except assignments of .51 percent or more in:

(A) Art;

(B) Library media;

(C) Foreign language;

(D) Health;

(E) Home economics;

(F) Technology education;

(G) Mathematics;

(H) Music;

(I) Physical education; and

(J) Reading;

(K) ESOL

(c) The elementary endorsement is also valid for assignments in the high school in which the holder is teaching elementary basic skills as it relates to more than one of the following high school subject areas:

(A) Language arts;

(B) Social studies;

(C) Mathematics; or

(D) Reading.

(d) Middle School endorsements: Middle school endorsements in language arts, social studies or science may be added to a Basic or Standard teaching license. These endorsements are valid to teach the subject in grades 5 through 9 in an elementary, middle or junior high school only.

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(e) Subject matter endorsements valid in preprimary through 12: The following subject matter endorsements are valid for teaching in the subject area in grades preprimary through grade twelve:

- (A) Art;
- (B) ESOL;
- (C) Foreign language;
- (D) Health;
- (E) Home economics;
- (F) Technology education;
- (G) Library media;
- (H) Mathematics;
- (I) Music;
- (J) Physical education; or
- (K) Reading.

(5) Special Education Assignments: The appropriate special education endorsement is required for a special education assignment in a state-reimbursed or state-approved program. Special education endorsements are valid in preprimary through grade twelve, but are limited to teaching in the special education endorsement area only.

(a) The Exceptional Learner I and II endorsements are valid for teaching exceptional learners and severe exceptional needs learners, except hearing impaired, speech impaired, and visually impaired, which require the specific endorsement.

(b) The Severe Exceptional Needs Learner endorsement is valid for teaching those defined in OAR 584-036-0005.

(6) Basic special education license must qualify for standard: Upon expiration of the second Basic Teaching License, the holder of a special education endorsement must qualify for a Standard Teaching License with a standard special education endorsement. The severe exceptional needs learner endorsement is an exception to this rule; it may be renewed without completion of a Standard Teaching License. (See OAR 584-048-0030 regarding renewal of the severe exceptional needs learner endorsement.)

(7) Career and Technical Education endorsements: A career and technical education endorsement is valid for teaching in career and technical education programs approved by the Oregon Department of Education and as noted on the license. Any career and technical education endorsement is valid for assignments in diversified occupations or as work experience coordinators.

(8) Assignments in areas where the Commission does not issue an endorsement: Any Oregon teaching license is valid for assignment in areas in which the Commission has no endorsements, including but not limited to:

- (a) Computer education;
 - (b) Personal finance; or
 - (c) Outdoor education.
- (9) Coaching assignments: Any Oregon teaching license is also valid for assignment as an athletic coach.

(10) Assignments in "subjects" contained within an endorsement: Assignments in subjects which are a component of a broader endorsement (such as history, which is subsumed in the social studies endorsement) necessitate the broader endorsement.

(a) Resource room, special teacher assignments: Teachers whose titles are broad (such as resource center, enrichment, learning center, or special teacher, etc.) shall hold the subject matter and grade level endorsements that are most compatible with the curriculum being taught.

(b) Teachers On Special Assignments (TOSA): Any Oregon teaching license is valid for an assignment involving leadership responsibilities, such as planning and development of curriculum, organization and maintenance of professional growth programs for licensed personnel, or improvement of instructional practices, if evaluation of licensed personnel is not required by the position.

(c) Counseling assignments: Any Oregon basic or standard teaching license is valid for .49 or less time as a counselor at the grade levels valid for the teaching license.

(d) Drivers education assignments: A teacher holding a Basic, Standard, or Five-Year Regular Teaching License and the appropriate Oregon motor vehicle operator's license may serve as a driver education instructor for the classroom portion of the course. An instructor who provides the behind-the-wheel portion of the course shall meet requirements established by the Oregon Department of Transportation.

(e) Alternative Education: Any Oregon teaching license is valid to teach any subject or grade level in a public alternative education program. A teaching license is not required to teach in a private alternative education program.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 200, 342.400 & 342.985

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 2-1981(Temp), f. & ef. 8-17-81; TS 1-1982, f. & ef. 1-5-82; TS 6-1982, f. & ef. 12-9-82; TS 3-1983, f. & ef. 5-16-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1987, f. & ef. 3-3-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 3-1988, f. & cert. ef. 4-7-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 3-1989, f. & cert. ef. 7-31-89; TS 5-1989(Temp), f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 2-1990, f. 6-1-90, cert. ef. 6-14-90; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1992, f. & cert. ef. 10-1-92; TS 6-1997, f. 9-25-97, cert. ef. 1-15-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 4-2005(Temp), f. & cert. ef. 5-6-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 5-2007, f. & cert. ef. 8-15-07

584-036-0055

Fees

(1) All fees are assessed for evaluation of the application and are not refundable.

(2) The Commission issues the appropriate license at no additional cost if the applicant qualifies for it within 90 days from the date of the original application.

(3) The fee for evaluating an initial application for the following licenses is \$100:

(a) **Initial I License. The fee for an Initial I Teaching License issued immediately following the Initial Teaching License is \$50.**

- (b) Initial II License;
- (c) Basic License;
- (d) Continuing License;
- (e) Standard License;
- (f) Restricted Transitional License;
- (g) Limited License;
- (h) American Indian Language License;
- (i) Substitute License;
- (j) Restricted Substitute License;
- (k) Exceptional Administrator License;
- (l) Three-Year Career and Technical Education License;
- (m) Five-Year Career and Technical Education License;
- (n) NCLB Alternative Route License;
- (o) Emergency Teaching License;
- (p) Five Year Teaching, Administrator or Personnel Service License.

(4) The fee for evaluating all applications based on completion of an out-of-state educator preparation program or an out of state license is \$120. These licenses include, but are not limited to:

- (a) Unrestricted Transitional License;
 - (b) Initial Teaching License.
- (5) The fee for evaluating an application for renewal of any license is \$100.

(6) The fee for each of the following circumstances is \$20:

- (a) A duplicate license for any reason;
- (b) An approved extension to a provisional license; and
- (c) Adding a district to an existing Restricted Substitute License.

(7) The fee for evaluating an application to add one or more endorsements or authorization levels to a currently valid license is \$100. No additional fee is required to add an endorsement in conjunction with an application for renewal or reinstatement of a license.

(8) The fee to evaluate an application for reinstatement of an expired license is \$100 plus a late application fee of \$25 for each month or portion of a month that the license has been expired to a maximum of \$200 total.

(9) The fee for evaluating an application for reinstatement of a suspended license is \$100.

(10) The fee for evaluating an application for reinstatement of a revoked license is \$150 in addition to the \$100 application fee for a total of \$250.

(11) Forfeiture for a check which the applicant's bank will not honor is \$25, unrelated to any evaluation fees. The total amount due shall be paid in cash or credit at the Commission's office or by a Money Order.

(12) There is no fee for evaluating licensure applications submitted on behalf of teachers participating in exchange programs or on Congressional appointment from foreign countries.

(13) The fee for alternative assessment in lieu of the test of educational specialty is \$100.

(14) The fee for expedited service for an emergency or other license is \$99 plus the fee for the license as defined in this administrative rule.

(15) The fee for registration of a charter school teacher is \$75 which includes the fee for required criminal records and fingerprinting costs.

(16) The fee for renewal of a charter school registration is \$25.

(17) The fee for a criminal records check including fingerprinting is \$62.

(18) The fee for a "highly qualified teacher" evaluation is \$50.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200, 342.400 & 342.985

ADMINISTRATIVE RULES

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 4-1983, f. 5-17-83, ef. 7-1-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 5-1988, f. 10-6-88, cert. ef. 1-15-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TS 5-1994, f. 9-29-95, cert. ef. 10-15-94; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 1-2003, f. & cert. ef. 1-13-03; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 6-2005(Temp), f. & cert. ef. 8-16-05 thru 1-30-06; TSPC 9-2005, f. & cert. ef. 11-15-05; TSPC 11-2005(Temp), f. 11-18-05, cert. ef. 1-1-06 thru 6-29-06; TSPC 5-2006, f. & cert. ef. 2-10-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-036-0081

Conditional Assignment Permits (CAP)

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a school district, registered charter school or registered private school in Oregon may request a conditional assignment permit (CAP) for any educator holding a Initial, Continuing, Basic, Standard or Five-year License. Use of this administrative rule by a charter school or private school is voluntary. However, a CAP may be necessary for an educator teaching out of field in order for the educator to use that experience for purposes of licensure renewal.

(2) The CAP is not a license, but only conditional approval to teach out-of-field for a period not to exceed three years.

(3) The district, charter school or private school applying for a permit is assumed to have informed the educator for which the CAP is being requested. Failure to inform the educator may result in an invalid CAP upon a finding by the Commission that the educator did not grant the district, charter school or private school permission to add the CAP to the educator's license.

(4) Licenses not eligible for a CAP include but are not limited to the following provisional licenses:

- (a) Restricted Transitional;
- (b) Limited Teaching License;
- (c) American Indian Language;
- (d) Teaching Associate License;
- (e) Professional Technical License;
- (f) NCLB Alternative Route License;
- (g) Substitute Teaching License;
- (h) Restricted Substitute Teaching License; or
- (i) Exceptional Administrator License.

(5) This temporary supplemental permit is issued for three years and is not renewable and is not eligible for a 120 day extension beyond its expiration date. The CAP is valid for teaching at one or more designated grade authorization levels not included on the applicant's license, or in one or more designated subject-matter endorsement areas not included on the applicant's license, or both only if the approval has been granted by the Commission.

(6) CAPs will not be backdated to cover improper teaching assignments. Districts and educators who violate the provisions of this rule may be subject to forfeiture of state school funds pursuant to ORS 342.173 and OAR 584-050-0060 to 584-050-0070.

(7) A CAP is required for any amount of time at any:

- (a) Assignment at an unauthorized grade level;
- (b) Teaching assignments for more than 10 hours weekly without the appropriate subject-matter endorsement;

(c) Teaching in more than one unendorsed subject-matter endorsement area;

(d) Administration; school counseling; or school psychology if the educator holds a teaching license only. Educators holding a Basic or Standard Teaching License with an elementary endorsement must only have a CAP for counseling if the assignment exceeds .49 FTE.

(8) The permit is restricted to use within the district, charter school or private school that has applied for it. However, a new district, charter school or private school may request the same type of conditional assignment so long as three years has not elapsed since the date the CAP was first issued.

(9) A CAP for teaching may be issued to an educator holding a Initial, Continuing, Basic, Standard or Five-Year license in teaching, school counseling, school psychology, or administration.

(10) A district, charter school or private school must:

(a) Apply for a CAP by October 31 for the fall term or otherwise within six weeks after the assignment has begun; and

(b) Agree to provide professional assistance specific to the assignment for the educator during the first year of the conditional assignment.

(11) CAPs submitted in error by the district, charter school or private school may be removed upon contacting TSPC and indicating the nature of the error.

(12) A CAP cannot be renewed or later re-issued for the same authorization level or specialty endorsement approved.

(13) After a CAP has expired, the educator must have completed all requirements necessary to add the appropriate endorsement, grade-level authorization or new licensure program in order to continue working in the area in which the educator is not properly licensed.

(14) Districts, charter schools or private schools and co-applicant educators may jointly petition the Executive Director for a hardship extension for one year under the following conditions:

(a) The district, charter school or private school and educator must explain hardship and the exact circumstances that have prevented the educator from obtaining the endorsement, authorization level or license needed to remain in the conditional assignment; and

(b) The educator has made progress toward completing the requirements which includes but is not limited to:

(A) Having taken any applicable subject-matter tests at least two times; or

(B) Has completed at least half of the coursework for any program required to continue to teach the subject; and

(c) The educator and the district, charter school or private school have a plan for completing the requirements for the assignment in the next year.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.143, 342.153, 342.165, 342.223 – 342.232

Hist.: TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-042-0002

Definitions

(1) "Approved Career and Technical Education Program:" A career and technical education program, normally at grades nine through twelve, approved by the Oregon Department of Education.

(2) "Instructor Appraisal Committee:" A seven-member committee approved by the district superintendent on behalf of the school board to evaluate applicants and make recommendations to the Commission and the employing superintendent relative to their licensure and assignment as career and technical education teachers.

(a) Five members of the committee must be employers or employees who are currently engaged in an occupation related to the career and technical education program area. One of these five members may be a community college instructor in a career and technical education program area related to the endorsement of the applicant.

(b) These five public members must all possess current and substantial knowledge of the technical, environmental, and attitudinal requirements of the occupational field.

(A) At least one of the five should also represent the school district's occupational advisory committee for the instructional program to be offered.

(B) One of the two remaining committee members shall be an ODE recognized Regional Coordinator of Career and Technical Education or an appropriate Oregon Department of Education program area specialist.

(C) The seventh member shall be a district administrator or a director of career and technical education.

(D) Ex officio members may also be appointed.

(c) A facilitator must be chosen and trained in operating an instructor appraisal committee. An ODE recognized Regional Coordinator of Career and Technical Education or an appropriate Oregon Department of Education program area specialist may serve as the facilitator.

(d) Reports of evaluations that are satisfactorily completed shall be verified by the signatures of the chair of the applicant's Instructor Appraisal Committee and the Regional Coordinator of Career and Technical Education.

(3) Career and Technical Education endorsements include:

- (a) Communication Journalism;
- (b) Communications Technologies;
- (c) Design & Applied Arts;
- (d) Administrative Services;
- (e) Financial Services;
- (f) Hospitality & Tourism;
- (g) Marketing/Management;
- (h) Health Sciences;
- (i) Leisure & Fitness;
- (j) Education;
- (k) Family/Consumer Sciences;
- (l) Personal Services;
- (m) Legal & Protective Services;
- (n) Social Services;
- (o) Computer Technology;

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- (p) Construction;
- (q) Engineering Technology;
- (r) Mechanical Systems;
- (s) Manufacturing Technology;
- (t) Agricultural Science & Technology;
- (u) Forestry/Natural Resources; and
- (v) Integrated Environmental Technology.

(4) "Career and Technical Education Mentor:" A teacher holding a Five-Year Teaching License, Standard Teaching License, Initial Teaching License or Continuing Teaching License who guides and supports a beginning Career and Technical Education teacher on a Three-Year Career and Technical Education License with instructional planning and preparation, delivery of classroom instruction, classroom management, assessment of student performance, and professional development.

(5) "Career and Technical Education (CTE) Professional Development Plan:" A plan for personal professional growth during the life of the Career and Technical Education license. A three-year CTE professional development plan is required for the Three-Year Career and Technical Education Teaching License.

(a) The employing school district will keep a signed copy of the three-year CTE professional development plan agreement between the teacher and the district. (See OAR 584-042-0006.)

(b) The plan must include assurances that the district has assigned an appropriate administrator to monitor the progress and timely completion of the signed CTE professional development plan.

(c) For applicants holding an unrestricted teaching license prior to applying for the Three-Year Career and Technical Education Teaching License, the scope of the plan shall include activities that address relevant CTE professional development needs identified by the Instructional Appraisal Committee.

(d) For applicants who have not previously held an unrestricted teaching license, the three-year CTE professional development plan must outline how the applicant will acquire fifteen (15) quarter hours or ten (10) semester hours or the equivalent of teacher preparation required for eligibility for a Five-Year Career and Technical Education Teaching License. (See, OAR 584-042-0008.)

(6) "Work Experience:"

(a) Structured work experience is employment that is planned and coordinated to increase specific occupational competence as prescribed by the district's Instructor Appraisal Committee.

(b) Non-structured work experience is documented employment as a qualified worker, completed within the five years prior to application that is related to the instructional area.

(c) One hour of structured work experience related to the program area equals three hours of non-structured work experience.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-042-0006

Requirements for a Three-Year Career and Technical Education Teaching License (Rev. 2003)

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, an applicant may be granted a Three-Year Career and Technical Education Teaching License for one or more Career and Technical Education endorsements below. The Three-Year Career and Technical Education Teaching License is valid to teach in ODE approved Career and Technical Education programs for which the educator is specifically licensed. The license is not eligible for any other district assignment. The license is not eligible for a conditional assignment.

(2) A person may not work in a Career and Technical Education Program unless properly licensed regardless if the educator is licensed in another area.

(a) If an educator holding a Basic, Standard, Initial or Continuing Teaching License is not immediately eligible for a Three-Year Career and Technical Education Teaching License; the educator may be eligible for an Emergency Teaching License in the Career and Technical Education Endorsement area if the educator meets the requirements as it relates to criminal background checks;

(b) Applicants who are not yet licensed by TSPC may be eligible for employment only upon obtaining an Emergency Teaching License prior to employment while the application for the Three-Year Career and Technical Education Teaching License is pending. The Emergency Teaching License will be issued for a period generally not to exceed six (6) months. The Emergency Teaching License may be extended in cases where ODE pro-

gram approval has not yet been obtained. (See, OAR 584-060-0210 for Emergency Teaching License.)

(3) The application shall be a joint application from the applicant and the school district who seeks to employ the applicant. The application must be directly submitted by the applicant only. TSPC will not accept application submitted by third parties.

(4) The application must provide documentation of the following to TSPC:

(a) Evidence the requesting school district has an Oregon Department of Education approved program in the requested Career and Technical Education endorsement area;

(b) The applicant has passed the district's Instructor Appraisal Committee examination and the Instructor Appraisal Committee's approval is submitted on the required form; (See, 584-042-0002 for definition of Instructor Appraisal Committee.)

(c) The district has a signed agreement outlining the three-year career and technical education professional development plan on file; a copy of which is submitted with the application; (See OAR 584-042-0002 for details regarding the plan.)

(d) The district has provided a career and technical education mentor in the career and technical education program area an such mentor is identified in the application materials; and

(e) Evidence the applicant meets the provisions of subsection (5) or (6) below or provides a recommendation from the Oregon Department of Education for a waiver. This evidence must include:

(A) Evidence that the structured or non-structured work experience has been completed and verified as having been completed in the past five years; or

(B) Transcripts documenting completion of an associate's degree; or

(C) The ODE waiver must be signed and dated within 90 days from the date of the application and submitted with the application materials; or

(D) A copy of the industry certification or licensure.

(5) For an applicant holding a teaching license, the work experience must have been performed in the last five years and must include:

(a) Non-structured related work of at least 1920 hours as defined in 584-042-0002(6)(b); or

(b) At least 640 hours of structured related work experience as defined in 584-042-0002(6)(a); or

(c) The equivalent combination of structured and non-structured related work at a technical skill level within the last five years. One hour of structured work experience related to the program area equals three hours of non-structured work experience; or

(d) Industry certification or licensure.

(6) For an applicant who does not hold a teaching license, the applicant must hold an associate's degree or obtain recommendation from the Oregon Department of Education for a waiver of the associate's degree; and

(a) Provide verification that the related work experience includes a minimum of 4,000 hours of non-structured related experience at a technical skill level within the last five years; or

(b) Provide industry certification or licensure; and

(c) Provide documentation that the school district has provided an assigned Career and Technical Education Mentor as defined in 584-042-0002.

(7) The Three-Year Career and Technical Education Teaching License is transferable to another Oregon school district if the new instructional assignment is comparable and in an Oregon Department of Education-approved career and technical education program. The receiving school district superintendent must ensure that the instructor's three-year improvement plan is successfully completed.

(8) The Three-Year Career and Technical Education Teaching License is not renewable.

(9)(a) Upon filing an application and fee in the form and manner required by the commission; a restricted extension to the Three-Year Career and Technical Education Teaching License may be issued for up to one year.

(b) To be eligible for the restricted extension the following must be filed:

(A) A joint application between the educator and the employing school district;

(B) A description of the extenuating circumstances that have prevented the educator from completing the requirements for the Three-Year Career and Technical Education Teaching License within the life of the Three-Year Career and Technical Education Teaching License; and

(C) A description of the steps the district will take to ensure the applicant will qualify for the Five-Year Career and Technical Education

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Teaching License upon expiration of the restricted extension to the Three-Year Career and Technical Education Teaching License.

(10) If the application and fee for the Five-Year Career and Technical Education Teaching License is received prior to the expiration of the Three-Year Career and Technical Education Teaching License, the license will remain valid for another 120 days following the expiration of the license. The applicant and co-applicant district must provide documentation that the requirements for the Five Year Career and Technical Education Teaching License have been met prior to the expiration of the 120 days after the Three-Year Career and Technical Education Teaching License has expired to remain continuously licensed in this area.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TSPC 3-2002, f. 3-15-02, cert. ef. 1-15-03; TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07

584-042-0008

Five-Year Career and Technical Education Teaching License (Rev. 2003)

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, an applicant may be granted a Five-Year Career and Technical Education Teaching License, valid for five years of teaching in an approved career and technical education program, may be issued. The Five-Year Career and Technical Education Teaching License is valid to teach in ODE approved career and technical education programs for which the educator is specifically licensed. The license is not eligible for any other district assignment.

(2) The application shall be a joint application from the applicant and the school district who seeks to employ the applicant. The application must be directly submitted by the applicant only. TSPC will not accept application submitted by third parties.

(3) The application must provide documentation that the applicant:

(a) Meets all the requirements for the Three Year Career and Technical Education Teaching License as set forth in OAR 584-042-0006; and

(b) Has one year of career and technical education teaching experience while holding a career and technical education license as verified on a Professional Educational Experience Report Form (PEER); and

(c) Has attained a passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant held an Oregon educator license before 1985 or has a regionally accredited doctor's degree; and

(d) Has attained a passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission; and

(e) Has completed 15 quarter hours of teaching methodology and/or structured work experience as advised by the Instructor Appraisal Committee. The applicant must submit transcripts or other credible evidence that provisions of this subsection have been met.

(4) Preparation for the Five-Year Career and Technical Education Teaching License may be completed at an approved teacher education institution; a community college; or through inservice instruction approved by the employing school district. If formal credit is not granted by a college or university, 30 clock hours of inservice shall be equivalent to one quarter hour of credit.

(5) The Five-Year Career and Technical Education Teaching License may be transferred to another Oregon school district if the new instructional assignment is comparable and in a career and technical education program approved by the Oregon Department of Education.

(6)(a) The Five-Year Career and Technical Education Teaching License is renewable upon joint application of the employing school board or school superintendent and the instructor under the following conditions:

(b) Completion of 125 clock hours or the equivalent of continuing professional development (CPD);

(A) CPD includes, but is not limited to:

(i) College and university coursework;

(ii) Community college course; or

(iii) Established workshops or planned experiences in business and industry.

(B) One quarter hour of college credit shall be equivalent to 20 clock hours of CPD; and 1 semester hour of college credit shall be equivalent to 30 clock hours of CPD. (See also OAR 584-090-0005 et seq for additional details.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TSPC 3-2002, f. 3-15-02, cert. ef. 1-15-03; TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07

584-042-0009

Adding Career and Technical Education Endorsements

Career and Technical Education endorsements may be added to initial, continuing, basic, standard, and five-year teaching licenses. Eligibility for the endorsement is determined under one the following conditions:

(1) Recommendation by an approved teacher education institution in one or more of the career and technical education areas in one of the following endorsements:

(a) Agricultural Science and Technology;

(b) General Business Education;

(c) Family and Consumer Sciences;

(d) Marketing; or

(e) Technology Education.

(2) Verification the applicant holds a current career and technical education teaching license issued by another state in the area of the endorsement seeking to be added; or

(3) Verification of one year of career and technical education teaching experience while holding a Three-Year Career and Technical Education Teaching License and verification by the district's superintendent that the three-year improvement plan designed by the Instructor Appraisal Committee has been completed.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-048-0040

Career and Technical Education Teaching License Renewal

(1)(a) The Three-Year Career and Technical Education Teaching License is not renewable. To obtain further career and technical education licensure, the applicant must qualify for the Five-Year Career and Technical Education Teaching License upon expiration of the Three-Year Career and Technical Education Teaching License. (See OAR 584-042-0008 for requirements for the Five-Year Career and Technical Education Teaching License.)

(b) In extenuating circumstances, an applicant may be eligible for a restricted extension to the Three-Year Career and Technical Education Teaching License. (See OAR 584-042-0006.)

(2)(a) The Five-Year Career and Technical Education Teaching License may be renewed upon joint application of the employing school district and the instructor and upon completion, during the life of the license, of 125 clock hours or the equivalent of continuing professional development (CPD).

(b) CPD may include, but is not limited to, college and university courses, community college courses, established workshops, or planned experiences in business and industry.

(c) If formal credit is granted, one quarter hour of credit equals 20 clock hours and one semester hour equals 30 clock hours of CPD.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78 except section (2)(a), ef. 1-1-80; TS 3-1978, f. 7-24-78, ef. 1-1-79; TS 6-1980, f. & ef. 12-23-80; TS 1-1982, f. & ef. 1-5-82; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 3-1988, f. & cert. ef. 4-7-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-048-0045

Renewal of Five-Year Career and Technical Education License

(1) A person who holds a Five-Year Regular or Standard Teaching License with a career and technical education endorsement must meet only the requirements for renewal of the license to retain the career and technical education endorsement.

(2) For renewal of a career and technical education endorsement on a Basic Teaching License, the applicant must complete the academic preparation required for renewal of the Basic Teaching License with authorization for grades five through twelve.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-1-83; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07

584-060-0014

Initial Teaching License for Out-of-State Candidate First Application

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who is applying for licensure in Oregon for the first time and has completed an out-of-state approved teacher-education program shall be granted an Initial Teaching License for eighteen (18) months.

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(2) The Initial Teaching License is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty. (See 584-060-0052 for Authorization Levels.)

(3) To be eligible for an Initial Teaching License, an out-of-state applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator; and

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure; and

(c) Complete an initial teacher education program in any U.S. jurisdiction, or complete a foreign program evaluated as satisfactory by an Oregon institution approved to offer the corresponding program; and Applicants who have completed programs from states other than Oregon will be required to submit a C-2 form from the institution granting program completion, in addition to transcripts, verifying completion of the teacher education program. A license from another state valid for unrestricted full time teaching may be accepted in lieu of a C-2. A teaching license issued by the U.S. Department of Defense will be considered as a license from another state. Completion of alternative routes teaching programs through school districts or other avenues are subject to Executive Director approval;

(d) Furnish fingerprints in the manner prescribed by the commission and satisfy the requirements of OAR 584-036-0060 Character Questions to Establish Fitness to Serve as an Educator. (See also, OAR 584-036-0062 for Criminal Records Check Requirement;)

(f) Complete a recent experience during the three-year period immediately preceding application; and (See OAR 584-005-0005(50) for definition of Recent Experience;)

(4) Upon expiration of the Initial Teaching License the applicant must apply for an Initial I Teaching License. Qualified applicants will be issued an Initial I Teaching License for 18 months plus time to the applicant's next birthday.

(5) To be eligible for an Initial I Teaching License, an applicant must:

(a) Receive a passing score as currently specified by the commission on a test of basic verbal and computational skills; and (See 584-060-0002(7) for definition of Basic Skills Tests;)

(b) Receive a passing score as currently specified by the commission on each of one or more tests of subject mastery for licensure endorsement or authorization; and

(A) Any subject-matter test, except the basic skills tests, may be waived if the applicant demonstrates special academic preparation satisfactory to the commission together with five years of experience teaching the specific subject matter on a license valid for the assignment in a public school or regionally accredited private school in a U.S. jurisdiction before holding any Oregon license. The five years of experience must be acquired entirely outside of the state of Oregon and must be obtained while holding an out-of-state license valid for the assignment; or

(B) Some applicants may be eligible for alternative assessment for waiver of the subject-matter tests only. (See OAR 584-052-0030 to 0033 regarding Alternative Assessment guidelines and regulations.)

(c) Receive a passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission.

(d) Provide a copy of a recognized and current standard first aid card pursuant to ORS 342.126.

(6) The Initial I Teaching License may be renewed two times for three years upon showing progress toward completion of the renewal requirements as described in OAR 584-060-0013 during the life of the Initial I Teaching License under the following conditions: The progress must meet or exceed the equivalent of 3 semester hours or 4.5 quarter hours of graduate coursework germane to the license or directly germane to public school employment. (See, OAR 584-060-0012, Initial I Teaching License Requirements and 584-060-0013, Initial II Teaching License Requirements for further information related to continuous renewal and retention of the Initial I and Initial II Teaching Licenses.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.165, 342.136, 342.223 - 342.232

Hist.: TSPC 1-2007(Temp), f. & cert. ef. 3-30-07 thru 9-26-07; TSPC 5-2007, f. & cert. ef. 8-15-07

584-060-0051

Teaching Authorization Levels

(1) Teachers must prepare for one or more authorization levels at the early childhood, elementary, middle or high school levels in addition to satisfying the Objectives for Initial Teaching License in OAR 584-017-0100.

(2) Demonstrated competency at these developmental levels indicates the teacher knows, understands and can apply developmental psychology and learning theory appropriate to student age and grade within cultural and community contexts, and can apply an articulated philosophy of education capable of ensuring that students at a particular authorization level will learn to think critically and integrate knowledge across disciplines.

(3) A first Initial Teaching License is authorized for levels on the basis of professional education, experience, previous licensure, and specialized academic course work.

(4) Early Childhood Education (ECE) Authorization: The early childhood education (ECE) authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in prekindergarten (pre k) through grade four (4) in a school designated as a pre-primary school, a primary school, or an elementary school. (See, OAR 584-017-0110 for ECE authorization competencies and OAR 584-017-0175 for adding an authorization level to a license.)

(a) The ECE authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in prekindergarten (pre k) through grade four (4) in a school designated as a preprimary school, a primary school, or an elementary school.

(b) The ECE authorization level with a multiple subjects endorsement is not valid for assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(5) Elementary (ELEM) Authorization: The Elementary (ELEM) authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades three (3) through eight (8) in an elementary classroom or in a self-contained 5th or 6th grade classroom in a middle school. (See, OAR 584-017-0120 for ELEM authorization competencies and OAR 584-017-0175 for adding an authorization level to a license.)

(a) The ELEM authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades three (3) through eight (8) in a school designated as an elementary school with the Oregon Department of Education; or in a self-contained 5th or 6th grade classroom in a middle school.

(b) The ELEM authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(c) The ELEM authorization is valid for assignments in special education in grades three (3) through eight (8) in a school designated as an elementary school; middle school; or junior high school.

(6) The Middle-Level (ML) Authorization: The Middle-Level (ML) authorization level for candidates seeking multiple subjects endorsement requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades five (5) through nine (9). The placement may only be in the nine (9) grade if it is located in a middle school or junior high school. Additionally, the ML authorization requires in-depth knowledge of one subject-matter or specialty endorsement appropriate to middle-level teaching assignments. (See, OAR 584-017-0130 for further ML authorization requirements; 584-060-0062 for ML endorsements; and 584-017-0175 for adding an authorization level to a license.)

(a) The ML authorization is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades five (5) through nine (9) of a school designated as an elementary, middle, or junior high school, or high school.

(b) The ML authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(7) The high school authorization level requires completion of an approved program and qualification for at least one subject-matter endorse-

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ment appropriate to secondary schools by passing the required Commission-approved test or tests of subject mastery in the endorsement area, together with completion of a practicum experience with students in one or more grades between grades nine (9) through twelve (12). The high school (HS) authorization is valid for teaching one or more integrated or departmentalized subjects, with which the license must be endorsed, in grades nine (9) through twelve (12) of a school designated as a high school. (See OAR 584-017-0140 for HS authorization requirements; 584-060-0062 for HS endorsements; and 584-017-0175 for adding an authorization level to a license.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 143, 342.153, 342.165 & 342.223 - 232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 4-2002, f. & cert. ef. 5-21-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 2-2005, f. & cert. ef. 4-15-05; TSPC 4-2005(Temp), f. & cert. ef. 5-6-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07

584-060-0071

Endorsements Requiring Multiple Authorization Levels

(1) There are several specialties in which endorsement of a teaching license must apply to more than one level of authorization.

(a) Multiple-subject endorsement is not required at any level for these specialties, meaning that a subject mastery test is required, but the Multiple Subjects Examination (MSE) is not. However, passage of the MSE alone, will not qualify an applicant for addition of the multiple subjects endorsement on licenses endorsed in specialty areas provided for under this rule.

(b) Passage of the MSE may be necessary in order for a newly hired teacher with a special education or an ESOL endorsement to meet the definition of highly qualified under the federal No Child Left Behind Act (NCLBA) or under the Individuals with Disabilities Education Improvement Act (IDEIA) in the position in which they are hired.

(2)(a) Teachers of the following specialty areas must qualify, through approved academic preparation in the desired authorization levels and through supervised work experience or student teaching, for authorization at any of the following two levels: early childhood and elementary; or elementary and middle-level; or middle-level and high school:

(A) Art;

(B) Bilingual education with English for speakers of other languages (ESOL);

(C) ESOL;

(D) Music;

(E) Physical education;

(F) Adaptive physical education;

(G) Reading; and

(H) Special education.

(b) Candidates completing a practica experience at either early childhood or elementary and at either middle or high school level shall qualify for authorization for prekindergarten (pre k) through grade twelve (12).

(c) Teachers of special education must complete preparation in the full continuum of disabilities: mild, moderate, and severe.

(3) Library media specialists must qualify, through approved academic preparation and through supervised work experience or student teaching, for authorization at all four levels: early childhood, elementary, middle-level, and high school.

(4)(a) Special education endorsements in the following areas must qualify, through approved academic preparation and through supervised work experience or student teaching, for authorization at all four levels: early childhood, elementary, middle-level, and high school:

(A) Communication disorders;

(B) Hearing impairments; or

(C) Visual impairments.

(b) Teachers applying for the visual impairments endorsement must demonstrate proficiency in reading and writing Braille by obtaining a certificate of competency from the National Library Service for the Blind and Physically Handicapped or an equivalent certificate currently approved by the commission.

(c) Teachers applying for the communication disorders endorsement may obtain authorization at all four levels by earning a certificate of clinical competence from the American Speech and Hearing Association or successor approved by the commission.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-065-0110

Knowledge, Skills and Abilities for Library Media Endorsement

(1) Completion of a commission-approved library media academic program, to include completion of a practicum experience and passage of the commission-approved subject-matter examination is required in order to add the Library Media Endorsement to any Initial or Continuing Teaching License. (See, OAR 584-060-0071.)

(2) The endorsement is valid for assignments in library media programs in grades prekindergarten through twelve (12).

(3) Library Media candidates demonstrate skill in use of information and ideas: Candidates must:

(a) Encourage reading and lifelong learning by stimulating interests and fostering competencies in the effective use of ideas and information. Candidates:

(A) Demonstrate ways to establish and maintain a positive educational climate in the library media center;

(B) Identify relationships among facilities, programs, and environment that impact student learning; and

(C) Plan and organize library media centers according to their use by the learning community.

(b) Apply a variety of strategies to ensure access to resources and information in a variety of formats, to all members of the learning community. Candidates:

(A) Support flexible and open access for the library media center and its services;

(B) Identify barriers to equitable access to resources and services;

(C) Facilitate access to information in print, nonprint, and electronic formats; and

(D) Comply with and communicate the legal and ethical codes of the profession.

(c) Promote efficient and ethical information-seeking behavior as part of the school library program and its services. Candidates:

(A) Model strategies to locate, evaluate and use information for specific purposes;

(B) Identify and address student interests and motivations;

(C) Interact with the learning community to access, communicate and interpret intellectual content; and

(D) Adhere to and communicate legal and ethical policies.

(d) Create a positive educational environment which promotes reading, literacy, and use of appropriate technology for diverse learners. Candidates:

(A) Are aware of major trends in reading material for children and youth;

(B) Select materials in multiple formats to address the needs and interests of diverse young readers and learners; and

(C) Use a variety of strategies to promote leisure reading. They model their personal enjoyment of reading in order to promote the habits of creative expression and lifelong reading.

(4) Library Media Candidates demonstrate skill in teaching and learning. Candidates must:

(a) Model and promote collaborative planning and the use of technology tools with teachers in order to teach concepts and skills of information processes integrated with classroom curriculum. Candidates:

(A) Work with classroom teachers to co-plan, co-teach, and co-assess information skills instruction. The library media specialist as teacher of information skills makes use of a variety of instructional strategies and assessment tools; and

(B) Analyze the role of student interest and motivation in instructional design. Student learning experiences are created, implemented and evaluated in partnership with teachers and other educators.

(b) Partner with other education professionals to develop and deliver an integrated information literacy curriculum. Candidates:

(A) Employ strategies to integrate the information literacy curriculum with content curriculum;

(B) Incorporate technology to promote efficient and equitable access to information beyond print resources; and

(C) Assist students to use technology to access, analyze, and present information.

(c) Design and implement instruction that supports student interests, needs, and experiences to assure successful learning. Candidates:

(A) Design library media instruction that assesses learner needs, instructional methodologies, and information processes to assure that each is integral to information skills instruction; and

(B) Support the learning of all students and other members of the learning community, including those with diverse learning styles, abilities

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and needs. Information skills instruction is based on student interests and learning needs and is linked to student achievement.

(5) Demonstrated skill in professional collaboration and leadership. Candidates must:

(a) Provide leadership and establish connections with the greater library and education community. Candidates:

(A) Demonstrate the potential for establishing connections to other libraries and the larger library community for resource sharing, networking, and developing common policies and procedures;

(B) Articulate the role of their professional associations and journals in their own professional growth;

(C) Model, share, and promote ethical and legal principles of education and librarianship; and

(D) Acknowledge the importance of participating on school and district committees and in faculty staff development opportunities.

(b) Articulate the relationship of the library media program with current educational trends and important issues. Candidates:

(A) Recognize the role of other educational professionals and professional associations;

(B) Translate for the school the ways in which the library program can enhance school improvement efforts; and

(C) Use information found in professional journals to improve library practice

(c) Provide and promote learning opportunities for the school community with a focus on information technology, information literacy, and literature appreciation. Candidates:

(A) Are able to articulate the relationship of the library media program with current educational trends and important issues;

(B) Recognize the role of other educational professionals and professional associations;

(C) Translate for the school the ways in which the library program can enhance school improvement efforts; and

(D) Use information found in professional journals to improve library practice.

(6) Administer the library media program in order to support the mission of the school, and according to the principles of best practice in library science and program administration. Candidates must:

(a) Apply leadership, collaboration and technology skills to design and manage a student-centered program that is current, comprehensive, and integrated within the school. Candidates: Develop and evaluate policies and procedures that support the mission of the school and address specific needs of the library media program, such as collection development and maintenance, challenged materials and acceptable use policies.

(b) Ensure their school library programs focus on students' diverse learning and achievement. Candidates:

(A) Support intellectual freedom and privacy of users; and

(B) Plan for efficient use of resources and technology to meet diverse user needs.

(c) Adhere to the principles of the school library profession which include selecting, organizing, managing, and developing procedures and policies for print and electronic information resources. Candidates:

(A) Select, analyze, and evaluate print, nonprint and electronic resources using professional selection tools and evaluation criteria to develop a quality collection designed to meet diverse curricular and personal needs; and

(B) Organize the library media facility and its collections – print, nonprint and electronic, according to standard accepted practice.

(d) Assess and manage financial, physical, and human resources. Candidates:

(A) Apply accepted management principles and practices that relate to personnel, financial and operational issues; and

(B) Plan adequate space for individuals, small groups and whole classes.

(7) Skill in use of technology. Candidates must:

(a) Demonstrate a sound understanding of technology operations and concepts;

(b) Implement curriculum plans that include methods and strategies for applying technology to maximize student learning;

(c) Use technology to enhance their productivity and professional practice; and

(d) Understand the social, ethical, and legal issues surrounding the use of technology in schools and apply those principles in practice.

(8) Skill in cultural competency. Candidates must:

(a) Strive to enhance resources, services, programs and instructional strategies that promote equitable learning opportunities and success for all

students, regardless of native language, socioeconomic background, ethnicity, gender, disability, or other individual characteristics; and

(b) Ensure that staff and students have access to all library resources to assist them in working effectively with those in the school community with different native languages, socioeconomic backgrounds, ethnicities, genders, disabilities, and other individual characteristics.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.232

Hist.: TSPC 5-2007, f. & cert. ef. 8-15-07

584-070-0014

Initial II School Counselor License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted an Initial II School Counselor License for three years.

(2) The Initial II School Counselor License is valid as designated for regular counseling at early childhood and elementary grade levels; at elementary and middle-level grade levels; or at middle and high school grade levels, or at all four levels.

(a) The license is also valid for substitute counseling at any level; and

(b) The license is also valid for substitute teaching at any level in any specialty

(3)(a) To be eligible for an Initial II School Counselor License, the applicant must complete six (6) semester hours or nine (9) quarter hours of graduate level academic credit from a regionally accredited college or university.

(b) The graduate level credit must:

(A) Be completed after the Initial I School Counselor License has first been issued; and

(B) Be germane to the School Counselor License or directly germane to public school employment.

(4) The Initial II School Counselor License may be renewed repeatedly for three years upon completion of:

(a) Any one of the following educational experiences as a licensed educator on a license appropriate for the assignment:

(A) One academic year full-time; or

(B) Two academic years half-time or more; or

(C) One hundred and eighty (180) days as a substitute; or

(D) Completion of six (6) semester hours or nine (9) quarter hours of preparation completed in an approved institution during the life of the current counseling license; or

(E) A combination of (A)-(D) above may be submitted in satisfaction of this requirement in which one quarter hour of preparation equals 20 days of successful experience or;

(F) Meeting any of the special provisions for renewal contained in OARs 584-048-0015; 584-048-0020 or 584-048-0067; and

(b) A professional development plan in accordance with OAR 584-090.

(5) A school counselor may choose to become eligible for the Continuing School Counselor License in lieu of obtaining the Initial II School Counselor License. (See OAR 584-070-0022 Continuing School Counselor License.)

(6) Educators issued an Initial School Counselor License prior to July 1, 2005 must meet the requirements of this rule prior to the expiration of ten years from the date the first Initial School Counselor License was issued. The additional year granted to licensees holding an Initial School Counselor License prior to October 13, 2003, will be included in the ten year calculation for meeting the requirements of this rule.

(7) Educators issued an Initial School Counselor License after June 30, 2005 must meet the requirements of this rule prior to the expiration of nine years from the date the first Initial School Counselor License was issued.

(8) This rule applies to all Initial School Counselor Licenses issued after January 1999.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07

584-070-0111

Transitional School Counselor License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Transitional School Counselor License.

(2)(a) The Transitional School Counselor License is issued for three years and is non-renewable except under extenuating circumstances described below in subsection 6 of this rule.

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(b) The educator must qualify for an Initial II School Counselor License upon expiration of ten years following the date the first Initial or Transitional School Counselor License was issued if the license was issued prior to July 1, 2005. All School Counselor Licenses issued after June 30, 2005 must qualify for an Initial II School Counselor License upon the expiration of nine years following the date the first Initial or Transitional School Counselor License was issued and.

(3) The Transitional School Counselor License is valid for regular or substitute school counseling at all age or grade levels. Applicants who wish to counsel more than three years will be advised on how they can qualify for the Initial I or the Initial II School Counselor License, for which they may apply at any time.

(4) To be eligible for a Transitional School Counselor License, the applicant must have:

(a)(A) A master's or higher degree in counseling, education, or related behavioral sciences, including but not limited to social work or psychology, from a regionally accredited institution or an approved foreign equivalent; or

(B) Have held an unrestricted school counseling license in any state;

(b) Demonstrate knowledge of applicable civil rights laws or a sign affidavit indicating the applicant has read the Discrimination and the Oregon Educator publication. The knowledge of civil rights laws requirement must be fulfilled prior to issuance of any next stage license;

(c) Furnish fingerprints in the manner prescribed by the commission; and

(d) An applicant without an approved first aid card must obtain one within 90 days of receiving the license. An emergency license will be issued to the educator for up to 90 days until the applicant has demonstrated possession of a valid first aid card.

(5) The Transitional School Counselor License will not be restricted as to employer if the applicant has held an unrestricted license for school counseling in any state or completed an approved graduate program in school counseling in any state.

(6)(a) Upon filing an application and fee in the form and manner required by the commission; a restricted extension to the Transitional School Counselor License may be issued for up to one year.

(b) To be eligible for the restricted extension the following must be filed:

(A) A joint application between the educator and the employing school district;

(B) A description of the extenuating circumstances that have prevented the educator from completing the requirements for the Initial I or Initial II School Counselor License within the life of the Transitional School Counselor License; and

(C) A description of the steps the district will take to ensure the applicant will qualify for the Initial I or Initial II School Counselor License upon expiration of the restricted extension to the Transitional School Counselor License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.123, 342.125, 342.126, 342.127 & 342.165

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 3-2001, f. & cert. ef. 6-21-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 5-2007, f. & cert. ef. 8-15-07

584-070-0112

Restricted Transitional School Counselor License

(1) Upon filing a correct and complete application with a co-applicant district in form and manner prescribed by the commission, a qualified applicant may be granted a Restricted Transitional School Counselor License.

(2) The Restricted Transitional School Counselor is issued for three years and is non-renewable.

(3) The Restricted Transitional School Counselor License will be restricted for use within a district that has applied for it jointly with the counselor and may not be used for substitute teaching unless the educator also holds another license valid for substitute teaching issued by the commission.

(4) To be eligible for a Restricted Transitional School Counselor License, the applicant must have all of the following:

(a) An application that includes the following:

(A) A joint request by an employing district; and

(B) The applicant counselor's qualifications summarized on a submitted resume; and

(C) A statement from the district describing the circumstances that prevent hiring a school counselor with an unrestricted license for the position being filled; and

(b) A bachelor's or higher degree from a regionally accredited institution or approved foreign equivalent;

(c) Demonstrated knowledge of applicable civil rights laws or a sign affidavit indicating the applicant has read the Discrimination and the Oregon Educator publication. The knowledge of civil rights laws requirement must be fulfilled prior to issuance of any next stage license;

(d) Furnished fingerprints and passed a background check in the manner prescribed by the commission;

(e) A current first aid card. An applicant without a first aid card must obtain one within 90 days of receiving the license. An emergency license will be issued to the educator for up to 90 days until the applicant has demonstrated possession of a valid first aid card; and

(f) One of the following:

(A) Enrolled in an Oregon-approved school counselor program and have completed approximately one-half of the program; or

(B) Has been a full-time certified Child Development Specialist (CDS) for at least three academic years.

(5) The Restricted Transitional School Counselor License is not transferable to another district. However, another district may co-apply for a Restricted Transitional School Counselor License for any time remaining in the three years from the date the first Restricted Transitional School Counselor License was issued. A C-1 application and fee must accompany the request.

(6)(a) Upon filing an application and fee in the form and manner required by the commission; a restricted extension to the Restricted Transitional School Counselor License may be issued for up to one year.

(b) To be eligible for the restricted extension the following must be filed:

(A) A joint application between the educator and the employing school district;

(B) A description of the extenuating circumstances that have prevented the educator from completing the requirements for the Initial I or Initial II School Counselor License within the life of the Restricted Transitional School Counselor License; and

(C) A description of the steps the district will take to ensure the applicant will qualify for the Initial I or Initial II School Counselor License upon expiration of the restricted extension to the Restricted Transitional School Counselor License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.123, 342.125, 342.126, 342.127 & 342.165

Hist.: TSPC 5-2007, f. & cert. ef. 8-15-07

584-070-0211

Initial School Psychologist License

Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted an Initial School Psychologist License. This license is issued for three years plus time to the applicant's next birth date and is renewable twice under conditions specified below. It is valid for school psychology at all age or grade levels, for substitute counseling at any level, and for substitute teaching at any level in any specialty.

(1) To be eligible for an Initial School Psychologist License, an applicant must satisfy all of the following general preparation requirements:

(a) A master's or higher degree in the behavioral sciences or their derivative therapeutic professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with an equally accredited bachelor's degree in any field.

(b) Completion in Oregon or another U.S. jurisdiction, as part of the master's degree or separately, of an initial graduate program in school psychology at an institution approved for psychologist education by the commission.

(c) Completion of a clinical practicum approved by the commission which may include experience in a public service agency serving persons of school age, as part of the initial graduate program or separately.

(d) Completion of a practicum approved by the commission in school psychology, including full-time experience with early childhood or elementary students and with middle level or high school students, as part of the initial graduate program or separately; or else completion of one academic year of supervised full-time experience in a broad range of school psychologist services.

(e) A passing score as currently specified by the commission on a test of professional knowledge for school psychologists, or five years of experience practicing school psychology on a license valid for the assignment full time in a public school or regionally accredited private school in a U.S. jurisdiction before holding any Oregon license.

ADMINISTRATIVE RULES

(f) A passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant held an Oregon educator license before 1985 or has a regionally accredited doctor's degree.

(g) A passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission.

(2) The degree, program, and practicum requirements specified in subsection (1)(a) through (1)(d) above can be satisfied by obtaining certification from the National Association of School Psychologists.

(3) To be eligible for an Initial School Psychologist License, an applicant must satisfy a recent experience requirement in one of the following ways during the three-year period immediately preceding application:

(a) Completion of an approved school psychologist education program; or

(b) Beginning and completion in a public school or regionally accredited private school in a U.S. jurisdiction of at least one academic year as a full-time licensed educator or two consecutive years as a half-time licensed educator on any license appropriate for the assignment, or equivalent experience as in a state or federal school; or

(c) Receipt of 6 semester hours or 9 quarter hours of academic credit, germane to psychologist licensure, from a regionally accredited college or university.

(4) To be eligible for an Initial School Psychologist License, an applicant must furnish fingerprints in the manner prescribed by the commission.

(5) The Initial School Psychologist License can be renewed twice for three years upon completion of recent educational experience verified by either:

(a) Completion of one academic year of educational work in any capacity at full time or two consecutive years at half-time, or 180 days of substitution in psychology or counseling or teaching, in one or more of the following organizations: a public school or a regionally accredited private school in any U.S. governmental jurisdiction, a state or federal school in Oregon, an Oregon private elementary or secondary school registered by the state Department of Education, an Oregon private proprietary career school licensed by the superintendent of public instruction, a degree-granting college or university in Oregon, a special state-supported school in Oregon, the state Department of Education itself, the Teacher Standards and Practices Commission, the Department of Human Resources, a juvenile court school in Oregon, an Oregon education service district, or a school operated by the U.S. Department of Defense; or

(b) Completion of 6 semester hours or 9 quarter hours of preparation completed in an approved institution during the life of the current school psychologist license.

NOTE: See OAR 584-048-0067 for Special Provisions for renewing an Initial School Psychologist License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 143, 342.153, 342.165 & 342.223 - 232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 5-2007, f. & cert. ef. 8-15-07

584-080-0171

Emergency Administrator License

(1) An Emergency Administrator License may be issued to a qualified applicant upon joint application with the district and the applicant when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(2) The district must file an electronic C-3 form in conjunction with the joint application if the license needs to be issued under expedited service pursuant to OAR 584-036-0070.

(3) The Emergency Administrator License is valid for regular or substitute administration at all grade levels. The Emergency Administrator License is restricted to the district which co-applied for the license with the educator.

(4) The Emergency Administrator License shall be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. The Executive Director may consider efforts the educator has made in meeting licensure requirements.

(5) An Emergency Administrator License is not renewable and generally will not exceed one year unless the educator or the district has presented unusual extenuating circumstances to the Executive Director. In rare circumstances when the district demonstrates continuing need, an Emergency Administrator License may be extended beyond one year for a period to be determined by the Executive Director.

(6) The Emergency Administrator License is not subject to the 120 days allowed for licensure renewal purposes under ORS 342.127(4).

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120 - 143, 342.153, 342.165 & 342.223 - 342

Hist.: TSPC 8-2004(Temp), f. & cert. ef. 9-10-04 thru 3-9-05; Suspended by TSPC 9-2004(Temp), f. & cert. ef. 9-5-04 thru 3-9-05; TSPC 10-2004(Temp), f. & cert. ef. 10-20-04 thru 3-1-05; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0011

Highly Qualified Elementary Teacher New to the Profession

Teachers new to the profession teaching multiple subjects in grades kindergarten through eight (8) in an Oregon elementary school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Initial, or an Approved NCLB Alternative Route Teaching License; and

(2) Be properly assigned to a self-contained classroom in grades kindergarten (k) through eight (8).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0016

Highly Qualified Elementary Teacher Not New to the Profession

Teachers not new to the profession teaching multiple subjects in grades kindergarten (k) through eight (8) in an Oregon elementary school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary Teaching License, or an Approved NCLB Alternative Route Teaching License; and

(2) Pass a multiple subject rigorous state test appropriate for grades kindergarten (K) through eight (8); or

(3) Meet one of the Elementary Highly Objective Uniform State Standard of Evaluation (HOUSSE) standards as follows:

(a) Complete an approved elementary teacher education program or the coursework equivalent to sixty-quarter hours distributed as follows:

(A) Eighteen quarter or twelve semester hours in language arts;

(B) Twelve quarter or eight semester hours in mathematics;

(C) Nine quarter or six semester hours in science;

(D) Nine quarter or six semester hours in U.S. history, cultural geography, and other social sciences;

(E) Three quarter or two semester hours in health education;

(F) Three quarter or two semester hours in physical education;

(G) Three quarter or two semester hours in music education;

(H) Three quarter or two semester hours in art education; or

(b) Complete the TSPC Alternative Assessment procedure; or

(c) Obtain a certificate as Early Childhood Generalist, Early Childhood Art, Early Childhood Music, or Early Childhood ESOL from the National Board for Professional Teaching Standards; or

(d) Hold a Standard Teaching License with a Standard elementary endorsement; and

(e) Be properly assigned to a self-contained classroom in grades kindergarten (K) through eight (8) of an Oregon elementary school.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0021

Highly Qualified Middle Level Teacher New to the Profession

(1) Teachers new to the profession teaching core academic subjects in grades seven (7) and eight (8) in an Oregon middle, junior high school, or a high school that includes grades seven (7) and eight (8), must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(a) Hold a Basic, Initial, or *Approved NCLB Alternative Route Teaching License* authorized to teach in any one of the core academic areas and satisfy one of the following:

(A) Pass a rigorous state exam in the core academic subject matter area; or

(B) Hold an undergraduate major in the subject core academic matter area; or

(C) Hold a graduate degree in the core academic subject matter area; or

(D) Complete coursework equivalent to an undergraduate major in the core academic subject; and

(b) Be properly assigned in the core academic subject matter area in grades seven (7) or eight (8).

ADMINISTRATIVE RULES

(2) Teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0026

Highly Qualified Middle Level Teacher Not New to the Profession

Teachers not new to the profession teaching core academic subjects in grades seven (7) and eight (8) in an Oregon middle or junior high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary, Five-Year Secondary, or an Approved NCLB Alternative Route Teaching License and satisfy one of the following:

(a) Pass the prescribed rigorous state exam in the core academic subject; or

(b) Hold an undergraduate major in the core academic subject area(s); or

(c) Hold a graduate degree in the core academic subject area(s); or

(d) Complete coursework equivalent to an undergraduate major in the core academic subject area; or

(e) Hold advanced certification or credentialing in the core academic subject area; or

(f) Meet the HOUSSE requirements as defined in OAR 584-100-0038; and

(g) Be properly assigned in the core academic subject area in grades seven (7) or eight (8).

(2) Teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area pursuant to OAR 584-100-0038.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0031

Highly Qualified Secondary Teacher New to the Profession

(1) Teachers new to the profession teaching core academic subjects in grades nine (9) through twelve (12) in an Oregon high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(a) Hold a Basic, Initial, or an *Approved NCLB Alternative Route Teaching License* with an endorsement in the core academic subjects taught; and

(b) Be properly assigned in the core academic subject area in grades nine (9) through twelve (12).

(2) New secondary teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area if they have a major or coursework equivalent to a major in the core academic subject, but lack the endorsement on the license.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0036

Highly Qualified Secondary Teacher Not New to the Profession

Teachers not new to the profession teaching core academic subjects in grades nine (9) through twelve (12) in an Oregon high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Standard, Initial, Continuing, Five Year Teaching License, or an *Approved NCLB Alternative Route Teaching License* with an endorsement in the core academic area(s) taught; or

(2) Meet the HOUSSE requirements for high school teachers as defined in 584-100-0038; and

(3) Be properly assigned in the core academic subject area in grades nine (9) through twelve (12).

(4) Teachers on an approved conditional assignment permit for any core academic subject may be highly qualified based on completed coursework in the core academic subject area pursuant to OAR 584-100-0038.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0066

Highly Qualified Elementary Special Education Teacher (K-8)

Special Education teachers who are new or not new to the profession and who are providing direct instruction in core academic subjects in grades kindergarten (k) through grades eight (8) to students identified as special education students are highly qualified under the following conditions. The teacher:

(1) Holds a Basic, Standard, Initial, Continuing, or Five-Year Elementary Teaching License, with a special education endorsement and is appropriately assigned on that license; and

(2) Meets the federal definition of Highly Qualified Teacher for elementary teachers in OAR 584-100-0011 if new to the profession; or

(3) Meets the federal definition of Highly Qualified Teacher for elementary teachers in OAR 584-100-0016 if not new to the profession; and

(4) Teaches only in kindergarten (k) through grade eight (8) in a self-contained special education classroom.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0071

Highly Qualified Secondary Special Education Teacher (9-12)

Special Education teachers who are new or not new to the profession and who are providing direct instruction in core academic subjects in grades nine (9) through grades twelve (12) to students identified as special education students are highly qualified under the following conditions. The teacher:

(1) Holds a Basic, Standard, Initial, Continuing, or Five-Year Teaching License, with a special education endorsement and is properly assigned in accordance with endorsement; and

(2) Has met the federal definition for highly qualified elementary teacher new or not new to the profession and is teaching special education students who are performing at or below grade eight (8); or

(3) Has met the federal definition for highly qualified secondary teacher new or not new to the profession for each core academic subject the teacher is teaching to students who are performing above the eighth (8th) grade level.

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 10-2004(Temp), f. & cert. ef. 10-20-04 thru 3-1-05; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0091

Licensed and Registered Elementary Charter School Teacher

Charter School teachers teaching in prekindergarten (pre k) through grade eight (8) self-contained classrooms must meet the following criteria:

(1) Licensed or previously licensed teachers must meet the highly qualified teacher definition for new or not new to the profession for elementary teachers. (See, OAR 584-100-0011 and 584-100-0016.)

(2) Registered teachers must hold a bachelor's degree and demonstrate subject matter competency by passing the appropriate rigorous multiple subjects state test or meet the HOUSSE provisions of OAR 584-100-0016(3).

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125
Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0096

Licensed and Registered Middle-Level or Secondary Charter School Teacher

(1) Licensed or previously licensed middle-level or secondary charter school teachers teaching in grades seven (7) through twelve (12) must meet the highly qualified teacher definition for new or not new to the profession for middle-level or secondary teachers. (See, OAR 584-100-0026, 584-100-0036 or 584-100-0038.)

(2) Registered middle-level or secondary charter school teachers teaching in departmentalized middle level grades seven (7) through twelve (12) must hold a bachelor's degree and must meet the highly qualified teacher definition for new or not new to the profession for middle-level or secondary teachers. (See, OAR 584-100-0026, 584-100-0036 or 584-100-0038.)

Stat. Auth: ORS 342
Stats. Implemented: ORS 342.125

ADMINISTRATIVE RULES

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0101

Licenses Considered "Full State Certification"

The following Oregon Teaching Licenses are considered to meet full state certification under the No Child Left Behind federal act:

- (1) Basic Teaching License; or
- (2) Standard Teaching License; or
- (3) Initial Teaching License; or
- (4) Continuing Teaching License; or
- (5) Five-Year Elementary Teaching License; or
- (6) Five-Year Secondary Teaching License; or
- (7) Approved NCLB Alternative Route Teaching License.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

584-100-0106

Licenses Not Considered to be "Full State Certification"

The following Oregon Teaching Licenses are not considered to meet full state certification under the No Child Left Behind federal act:

- (1) Personnel Service License:
 - (a) School Counseling;
 - (b) School Psychologist;
 - (c) Supervisor;
- (2) Limited Student Services License;
- (3) Restricted or unrestricted Transitional Counselor License;
- (4) Restricted or unrestricted School Psychologist License;
- (5) Teaching Associate License;
- (6) Substitute Teaching License;
- (7) American Indian Languages License;
- (8) Emergency Teaching License;
- (9) Restricted Transitional Teaching License (See OAR 584-100-0041 for possible *Approved NCLB Alternative Route Teaching License* eligibility.);
- (10) Limited Teaching License; or
- (11) Administrative License.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07

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115-070-0000	7-1-07	Amend(T)	8-1-07	123-065-1720	1-8-07	Amend(T)	2-1-07
115-070-0035	7-1-07	Amend(T)	8-1-07	123-065-1720	7-1-07	Amend	7-1-07
122-001-0035	6-29-07	Adopt(T)	8-1-07	123-065-1740	1-8-07	Amend(T)	2-1-07
123-065-0000	1-8-07	Amend(T)	2-1-07	123-065-1740	7-1-07	Amend	7-1-07
123-065-0000	7-1-07	Amend	7-1-07	123-065-2520	1-8-07	Amend(T)	2-1-07
123-065-0010	1-8-07	Amend(T)	2-1-07	123-065-2520	7-1-07	Amend	7-1-07
123-065-0010	7-1-07	Amend	7-1-07	123-065-2530	1-8-07	Amend(T)	2-1-07
123-065-0049	1-8-07	Suspend	2-1-07	123-065-2530	7-1-07	Amend	7-1-07
123-065-0057	1-8-07	Adopt(T)	2-1-07	123-065-2550	1-8-07	Amend(T)	2-1-07
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123-065-0059	7-1-07	Am. & Ren.	7-1-07	123-065-3000	1-8-07	Amend(T)	2-1-07
123-065-0080	1-8-07	Amend(T)	2-1-07	123-065-3000	7-1-07	Amend	7-1-07
123-065-0080	7-1-07	Amend	7-1-07	123-065-3030	1-8-07	Amend(T)	2-1-07
123-065-0090	1-8-07	Amend(T)	2-1-07	123-065-3030	7-1-07	Amend	7-1-07
123-065-0090	7-1-07	Amend	7-1-07	123-065-3130	1-8-07	Amend(T)	2-1-07
123-065-0100	1-8-07	Amend(T)	2-1-07	123-065-3130	7-1-07	Amend	7-1-07
123-065-0100	7-1-07	Amend	7-1-07	123-065-3200	1-8-07	Amend(T)	2-1-07
123-065-0140	1-8-07	Amend(T)	2-1-07	123-065-3200	7-1-07	Amend	7-1-07
123-065-0140	7-1-07	Amend	7-1-07	123-065-3230	1-8-07	Amend(T)	2-1-07
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123-065-3330	1-8-07	Amend(T)	2-1-07	125-007-0200(T)	12-28-06	Repeal	2-1-07
123-065-3330	7-1-07	Amend	7-1-07	125-007-0210	12-28-06	Amend	2-1-07
123-065-3400	1-8-07	Amend(T)	2-1-07	125-007-0210(T)	12-28-06	Repeal	2-1-07
123-065-3400	7-1-07	Amend	7-1-07	125-007-0220	12-28-06	Amend	2-1-07
123-065-3480	1-8-07	Amend(T)	2-1-07	125-007-0220(T)	12-28-06	Repeal	2-1-07
123-065-3480	7-1-07	Amend	7-1-07	125-007-0230	12-28-06	Amend	2-1-07
123-065-3850	1-8-07	Amend(T)	2-1-07	125-007-0230(T)	12-28-06	Repeal	2-1-07
123-065-3850	7-1-07	Amend	7-1-07	125-007-0240	12-28-06	Amend	2-1-07
123-065-4020	1-8-07	Amend(T)	2-1-07	125-007-0240(T)	12-28-06	Repeal	2-1-07
123-065-4020	7-1-07	Amend	7-1-07	125-007-0250	12-28-06	Amend	2-1-07
123-065-4260	1-8-07	Amend(T)	2-1-07	125-007-0250(T)	12-28-06	Repeal	2-1-07
123-065-4260	7-1-07	Amend	7-1-07	125-007-0260	12-28-06	Amend	2-1-07
123-065-4310	1-8-07	Amend(T)	2-1-07	125-007-0260(T)	12-28-06	Repeal	2-1-07
123-065-4310	7-1-07	Amend	7-1-07	125-007-0270	12-28-06	Amend	2-1-07
123-065-4323	1-8-07	Amend(T)	2-1-07	125-007-0270(T)	12-28-06	Repeal	2-1-07
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123-065-4328	7-1-07	Amend	7-1-07	125-007-0290	12-28-06	Amend	2-1-07
123-065-4380	1-8-07	Amend(T)	2-1-07	125-007-0290(T)	12-28-06	Repeal	2-1-07
123-065-4380	7-1-07	Amend	7-1-07	125-007-0300	12-28-06	Amend	2-1-07
123-065-4440	1-8-07	Amend(T)	2-1-07	125-007-0300(T)	12-28-06	Repeal	2-1-07
123-065-4440	7-1-07	Amend	7-1-07	125-007-0310	12-28-06	Amend	2-1-07
123-065-4450	1-8-07	Amend(T)	2-1-07	125-007-0310(T)	12-28-06	Repeal	2-1-07
123-065-4450	7-1-07	Amend	7-1-07	125-007-0320	12-28-06	Amend	2-1-07
123-065-4470	1-8-07	Amend(T)	2-1-07	125-007-0320(T)	12-28-06	Repeal	2-1-07
123-065-4470	7-1-07	Amend	7-1-07	125-007-0330	12-28-06	Amend	2-1-07
123-065-4550	1-8-07	Amend(T)	2-1-07	125-007-0330(T)	12-28-06	Repeal	2-1-07
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123-065-4610	1-8-07	Amend(T)	2-1-07	125-022-0100	1-10-07	Repeal	9-1-07
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123-065-7500	7-1-07	Amend	7-1-07	137-025-0210	1-1-07	Amend	1-1-07
123-065-8200	1-8-07	Amend(T)	2-1-07	137-025-0280	1-1-07	Amend	1-1-07
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137-055-3240	7-2-07	Amend	8-1-07	150-309.100(3)-(C)	1-1-07	Amend	2-1-07
137-055-4320	1-2-07	Amend	2-1-07	150-311.672(1)(a)	1-1-07	Amend	2-1-07
137-055-5035	4-2-07	Adopt	5-1-07	150-311.708	1-1-07	Amend	2-1-07
137-055-5510	1-2-07	Amend	2-1-07	150-314.385(1)-(B)	1-1-07	Amend	2-1-07
137-055-6010	1-2-07	Adopt	2-1-07	150-314.385(3)	1-1-07	Amend	2-1-07
137-055-6020	1-2-07	Amend	2-1-07	150-314.402(6)	7-31-07	Adopt	9-1-07
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137-055-6024	1-2-07	Amend	2-1-07	150-314.415(5)(a)	1-1-07	Amend	2-1-07
137-055-6025	1-2-07	Amend	2-1-07	150-314.665(2)-(A)	7-31-07	Amend	9-1-07
137-055-6120	1-2-07	Amend	2-1-07	150-314.665(2)-(C)	7-31-07	Adopt	9-1-07
137-055-6210	1-2-07	Amend	2-1-07	150-314.665(3)	1-1-07	Adopt	2-1-07
137-079-0110	4-16-07	Adopt	5-1-07	150-314.665(4)	1-1-07	Amend	2-1-07
137-079-0120	4-16-07	Adopt	5-1-07	150-314.724(3)	7-31-07	Amend	9-1-07
137-079-0130	4-16-07	Adopt	5-1-07	150-315.068	1-1-07	Amend	2-1-07
137-079-0140	4-16-07	Adopt	5-1-07	150-315.156	1-1-07	Amend	2-1-07
137-079-0150	4-16-07	Adopt	5-1-07	150-315.511(6)	1-1-07	Repeal	2-1-07
137-079-0170	4-16-07	Adopt	5-1-07	150-316.007-(B)	1-1-07	Amend	2-1-07
137-079-0180	4-16-07	Adopt	5-1-07	150-316.153	1-1-07	Adopt	2-1-07
137-079-0190	4-16-07	Adopt	5-1-07	150-316.162(2)(j)	2-1-07	Amend	3-1-07
137-079-0200	4-16-07	Adopt	5-1-07	150-316.212	1-1-07	Amend	2-1-07
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137-097-0160	4-16-07	Adopt	5-1-07	150-317.090	1-1-07	Amend	2-1-07
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162-040-0130	6-30-07	Amend	7-1-07	250-018-0020	3-21-07	Amend	5-1-07
162-040-0135	6-30-07	Amend	7-1-07	250-018-0020(T)	3-21-07	Repeal	5-1-07
162-040-0140	6-30-07	Amend	7-1-07	250-018-0040	1-9-07	Amend(T)	2-1-07
162-040-0146	6-30-07	Amend	7-1-07	250-018-0040	3-21-07	Amend	5-1-07
162-040-0148	6-30-07	Amend	7-1-07	250-018-0040(T)	3-21-07	Repeal	5-1-07
162-040-0155	6-30-07	Amend	7-1-07	250-018-0050	1-9-07	Amend(T)	2-1-07
162-040-0160	6-30-07	Amend	7-1-07	250-018-0050	3-21-07	Amend	5-1-07
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165-012-0005	7-16-07	Amend(T)	9-1-07	250-018-0080	3-21-07	Amend	5-1-07
165-012-0050	12-29-06	Amend	2-1-07	250-018-0080(T)	3-21-07	Repeal	5-1-07
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250-018-0110	3-21-07	Adopt	5-1-07	259-009-0062	1-12-07	Amend	2-1-07
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250-020-0261	5-2-07	Amend(T)	6-1-07	259-012-0010	11-20-06	Amend	1-1-07
250-020-0290	5-2-07	Suspend	6-1-07	259-012-0010(T)	11-20-06	Repeal	1-1-07
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255-032-0031	2-1-07	Adopt(T)	3-1-07	259-060-0065	2-15-07	Amend	3-1-07
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331-555-0010	4-1-07	Amend	5-1-07	333-010-0650	4-13-07	Adopt	5-1-07
331-565-0030	4-1-07	Amend	5-1-07	333-010-0660	4-13-07	Adopt	5-1-07
331-565-0060	4-1-07	Amend	5-1-07	333-011-0200	12-1-06	Adopt	1-1-07
331-565-0085	4-1-07	Adopt	5-1-07	333-012-0270	1-16-07	Amend	3-1-07
331-575-0040	4-1-07	Amend	5-1-07	333-018-0005	1-16-07	Amend	3-1-07
331-715-0030	4-1-07	Amend	5-1-07	333-018-0018	12-18-06	Amend	1-1-07
333-001-0010	6-1-07	Repeal	7-1-07	333-018-0030	1-16-07	Amend	3-1-07
333-002-0010	11-16-06	Amend	1-1-07	333-030-0005	7-13-07	Amend	8-1-07
333-002-0035	11-16-06	Amend	1-1-07	333-030-0010	7-13-07	Amend	8-1-07
333-002-0040	11-16-06	Amend	1-1-07	333-030-0015	7-13-07	Amend	8-1-07
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333-030-0030	7-13-07	Amend	8-1-07	333-100-0055	3-1-07	Amend	4-1-07
333-030-0035	7-13-07	Amend	8-1-07	333-100-0057	3-1-07	Amend	4-1-07
333-030-0040	7-13-07	Amend	8-1-07	333-100-0060	3-1-07	Amend	4-1-07
333-030-0045	7-13-07	Amend	8-1-07	333-100-0065	3-1-07	Amend	4-1-07
333-030-0050	7-13-07	Amend	8-1-07	333-100-0070	3-1-07	Amend	4-1-07
333-030-0055	7-13-07	Amend	8-1-07	333-100-0080	3-1-07	Amend	4-1-07
333-030-0060	7-13-07	Amend	8-1-07	333-102-0001	3-1-07	Amend	4-1-07
333-030-0065	7-13-07	Amend	8-1-07	333-102-0005	3-1-07	Amend	4-1-07
333-030-0070	7-13-07	Amend	8-1-07	333-102-0010	3-1-07	Amend	4-1-07
333-030-0075	7-13-07	Amend	8-1-07	333-102-0015	3-1-07	Amend	4-1-07
333-030-0080	7-13-07	Amend	8-1-07	333-102-0020	3-1-07	Amend	4-1-07
333-030-0085	7-13-07	Amend	8-1-07	333-102-0025	3-1-07	Amend	4-1-07
333-030-0090	7-13-07	Amend	8-1-07	333-102-0030	3-1-07	Amend	4-1-07
333-030-0095	7-13-07	Amend	8-1-07	333-102-0035	3-1-07	Amend	4-1-07
333-030-0100	7-13-07	Amend	8-1-07	333-102-0040	3-1-07	Amend	4-1-07
333-030-0103	7-13-07	Adopt	8-1-07	333-102-0075	3-1-07	Amend	4-1-07
333-030-0105	7-13-07	Amend	8-1-07	333-102-0101	3-1-07	Amend	4-1-07
333-030-0110	7-13-07	Amend	8-1-07	333-102-0103	3-1-07	Amend	4-1-07
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333-030-0120	7-13-07	Amend	8-1-07	333-102-0110	3-1-07	Amend	4-1-07
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333-039-0015	6-20-07	Amend	8-1-07	333-102-0125	3-1-07	Amend	4-1-07
333-039-0055	6-20-07	Amend	8-1-07	333-102-0130	3-1-07	Amend	4-1-07
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333-054-0030	12-27-06	Amend	2-1-07	333-102-0245	3-1-07	Amend	4-1-07
333-054-0030(T)	12-27-06	Repeal	2-1-07	333-102-0247	3-1-07	Amend	4-1-07
333-054-0040	12-27-06	Amend	2-1-07	333-102-0250	3-1-07	Amend	4-1-07
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333-060-0020	12-13-06	Amend	1-1-07	333-102-0275	3-1-07	Amend	4-1-07
333-060-0105	7-13-07	Amend	8-1-07	333-102-0285	3-1-07	Amend	4-1-07
333-060-0170	7-13-07	Amend	8-1-07	333-102-0290	3-1-07	Amend	4-1-07
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333-060-0207	7-13-07	Adopt	8-1-07	333-102-0297	3-1-07	Amend	4-1-07
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333-102-0910	3-1-07	Amend	4-1-07	333-113-0105	3-1-07	Amend	4-1-07
333-103-0001	3-1-07	Amend	4-1-07	333-113-0110	3-1-07	Amend	4-1-07
333-103-0003	3-1-07	Amend	4-1-07	333-113-0115	3-1-07	Amend	4-1-07
333-103-0005	3-1-07	Amend	4-1-07	333-113-0120	3-1-07	Amend	4-1-07
333-103-0010	3-1-07	Amend	4-1-07	333-113-0125	3-1-07	Amend	4-1-07
333-103-0015	3-1-07	Amend	4-1-07	333-113-0130	3-1-07	Amend	4-1-07
333-103-0020	3-1-07	Amend	4-1-07	333-113-0135	3-1-07	Amend	4-1-07
333-103-0025	3-1-07	Amend	4-1-07	333-113-0140	3-1-07	Amend	4-1-07
333-103-0030	3-1-07	Amend	4-1-07	333-113-0145	3-1-07	Amend	4-1-07
333-103-0035	3-1-07	Amend	4-1-07	333-113-0150	3-1-07	Amend	4-1-07
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333-105-0440	3-1-07	Amend	4-1-07	333-113-0325	3-1-07	Amend	4-1-07
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333-116-0255	3-1-07	Amend	4-1-07	333-116-0700	3-1-07	Amend	4-1-07
333-116-0260	3-1-07	Amend	4-1-07	333-116-0710	3-1-07	Amend	4-1-07
333-116-0280	3-1-07	Amend	4-1-07	333-116-0715	3-1-07	Amend	4-1-07
333-116-0290	3-1-07	Amend	4-1-07	333-116-0720	3-1-07	Amend	4-1-07
333-116-0300	3-1-07	Amend	4-1-07	333-116-0730	3-1-07	Amend	4-1-07
333-116-0310	3-1-07	Amend	4-1-07	333-116-0740	3-1-07	Amend	4-1-07
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333-116-0360	3-1-07	Amend	4-1-07	333-116-0820	3-1-07	Amend	4-1-07
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333-116-0525	3-1-07	Amend	4-1-07	333-118-0090	3-1-07	Amend	4-1-07
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333-120-0170	3-1-07	Amend	4-1-07	333-250-0048	2-1-07	Amend	3-1-07
333-120-0180	3-1-07	Amend	4-1-07	333-250-0049	2-1-07	Amend	3-1-07
333-120-0190	3-1-07	Amend	4-1-07	333-250-0050	2-1-07	Amend	3-1-07
333-120-0200	3-1-07	Amend	4-1-07	333-250-0060	2-1-07	Amend	3-1-07
333-120-0210	3-1-07	Amend	4-1-07	333-250-0070	2-1-07	Amend	3-1-07
333-120-0215	3-1-07	Amend	4-1-07	333-250-0080	2-1-07	Amend	3-1-07
333-120-0220	3-1-07	Amend	4-1-07	333-250-0090	2-1-07	Repeal	3-1-07
333-120-0230	3-1-07	Amend	4-1-07	333-250-0100	2-1-07	Amend	3-1-07
333-120-0240	3-1-07	Amend	4-1-07	333-255-0000	2-1-07	Amend	3-1-07
333-120-0250	3-1-07	Amend	4-1-07	333-255-0010	2-1-07	Amend	3-1-07
333-120-0260	3-1-07	Amend	4-1-07	333-255-0020	2-1-07	Amend	3-1-07
333-120-0300	3-1-07	Amend	4-1-07	333-255-0030	2-1-07	Amend	3-1-07
333-120-0310	3-1-07	Amend	4-1-07	333-255-0040	2-1-07	Amend	3-1-07
333-120-0320	3-1-07	Amend	4-1-07	333-255-0050	2-1-07	Amend	3-1-07
333-120-0330	3-1-07	Amend	4-1-07	333-255-0060	2-1-07	Amend	3-1-07
333-120-0400	3-1-07	Amend	4-1-07	333-255-0070	2-1-07	Amend	3-1-07
333-120-0410	3-1-07	Amend	4-1-07	333-255-0071	2-1-07	Amend	3-1-07
333-120-0420	3-1-07	Amend	4-1-07	333-255-0072	2-1-07	Amend	3-1-07
333-120-0430	3-1-07	Amend	4-1-07	333-255-0073	2-1-07	Amend	3-1-07
333-120-0440	3-1-07	Amend	4-1-07	333-255-0079	2-1-07	Amend	3-1-07
333-120-0450	3-1-07	Amend	4-1-07	333-255-0080	2-1-07	Amend	3-1-07
333-120-0460	3-1-07	Amend	4-1-07	333-255-0081	2-1-07	Amend	3-1-07
333-120-0500	3-1-07	Amend	4-1-07	333-255-0082	2-1-07	Amend	3-1-07
333-120-0510	3-1-07	Amend	4-1-07	333-255-0090	2-1-07	Amend	3-1-07
333-120-0520	3-1-07	Amend	4-1-07	333-255-0091	2-1-07	Amend	3-1-07
333-120-0530	3-1-07	Amend	4-1-07	333-255-0092	2-1-07	Amend	3-1-07
333-120-0540	3-1-07	Amend	4-1-07	333-255-0093	2-1-07	Amend	3-1-07
333-120-0550	3-1-07	Amend	4-1-07	333-265-0130	2-1-07	Amend	3-1-07
333-120-0560	3-1-07	Amend	4-1-07	334-001-0012	6-29-07	Amend	8-1-07
333-120-0600	3-1-07	Amend	4-1-07	334-001-0012	7-3-07	Amend	8-1-07
333-120-0610	3-1-07	Amend	4-1-07	334-010-0010	6-29-07	Amend	8-1-07
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333-120-0660	3-1-07	Amend	4-1-07	335-010-0070	2-1-07	Amend	3-1-07
333-120-0670	3-1-07	Amend	4-1-07	335-060-0005	2-1-07	Amend	3-1-07
333-120-0680	3-1-07	Amend	4-1-07	335-070-0020	2-1-07	Amend	3-1-07
333-120-0690	3-1-07	Amend	4-1-07	335-070-0030	2-1-07	Amend	3-1-07
333-120-0700	3-1-07	Amend	4-1-07	335-070-0040	2-1-07	Amend	3-1-07
333-120-0710	3-1-07	Amend	4-1-07	335-070-0050	2-1-07	Amend	3-1-07
333-120-0720	3-1-07	Amend	4-1-07	335-070-0055	2-1-07	Amend	3-1-07
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340-041-0016	3-15-07	Amend	4-1-07	340-228-0630	12-22-06	Adopt	2-1-07
340-041-0021	3-15-07	Amend	4-1-07	340-228-0632	12-22-06	Adopt	2-1-07
340-041-0028	3-14-07	Amend	4-1-07	340-228-0634	12-22-06	Adopt	2-1-07
340-041-0028	3-15-07	Amend	4-1-07	340-228-0636	12-22-06	Adopt	2-1-07
340-041-0032	3-15-07	Amend	4-1-07	340-228-0638	12-22-06	Adopt	2-1-07
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340-041-0235	3-15-07	Amend	4-1-07	340-228-0660	12-22-06	Adopt	2-1-07
340-041-0260	3-15-07	Amend	4-1-07	340-228-0662	12-22-06	Adopt	2-1-07
340-041-0271	3-15-07	Amend	4-1-07	340-228-0664	12-22-06	Adopt	2-1-07
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340-200-0040	6-28-07	Amend	8-1-07	340-232-0020	4-12-07	Amend	5-1-07
340-202-0090	4-12-07	Amend	5-1-07	340-238-0040	12-22-06	Amend	2-1-07
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340-242-0420	4-12-07	Amend	5-1-07	345-021-0010	5-15-07	Amend	6-1-07
340-242-0430	4-12-07	Amend	5-1-07	345-021-0050	5-15-07	Amend	6-1-07
340-242-0440	4-12-07	Amend	5-1-07	345-021-0055	5-15-07	Amend	6-1-07
340-244-0030	12-22-06	Amend	2-1-07	345-021-0080	5-15-07	Amend	6-1-07
340-244-0040	12-22-06	Amend	2-1-07	345-021-0090	5-15-07	Amend	6-1-07
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345-001-0060	5-15-07	Amend	6-1-07	345-022-0070	5-15-07	Amend	6-1-07
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345-015-0120	5-15-07	Amend	6-1-07	345-026-0048	5-15-07	Amend	6-1-07
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345-015-0160	5-15-07	Amend	6-1-07	345-026-0100	5-15-07	Repeal	6-1-07
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345-029-0000	5-15-07	Amend	6-1-07	345-092-0050	5-15-07	Amend	6-1-07
345-029-0005	5-15-07	Amend	6-1-07	345-092-0060	5-15-07	Repeal	6-1-07
345-029-0010	5-15-07	Amend	6-1-07	345-092-0070	5-15-07	Repeal	6-1-07
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411-050-0445	7-1-07	Amend	8-1-07	411-346-0150	7-5-07	Amend	8-1-07
411-050-0447	1-1-07	Amend	2-1-07	411-346-0160	7-5-07	Amend	8-1-07
411-050-0450	1-1-07	Amend	2-1-07	411-346-0165	7-5-07	Amend	8-1-07
411-050-0455	1-1-07	Amend	2-1-07	411-346-0170	7-5-07	Amend	8-1-07
411-050-0460	1-1-07	Amend	2-1-07	411-346-0180	7-5-07	Amend	8-1-07
411-050-0465	1-1-07	Amend	2-1-07	411-346-0190	7-5-07	Amend	8-1-07
411-050-0480	1-1-07	Amend	2-1-07	411-346-0200	7-5-07	Amend	8-1-07
411-050-0481	1-1-07	Amend	2-1-07	411-346-0210	7-5-07	Amend	8-1-07
411-050-0483	1-1-07	Amend	2-1-07	411-346-0220	7-5-07	Amend	8-1-07
411-050-0485	1-1-07	Amend	2-1-07	411-346-0230	7-5-07	Amend	8-1-07
411-050-0487	1-1-07	Amend	2-1-07	413-015-0100	3-20-07	Amend	5-1-07
411-050-0491	1-1-07	Adopt	2-1-07	413-015-0105	3-20-07	Amend	5-1-07
411-066-0000	5-15-07	Amend(T)	6-1-07	413-015-0110	3-20-07	Amend	5-1-07
411-066-0005	5-15-07	Amend(T)	6-1-07	413-015-0115	3-20-07	Amend	5-1-07
411-066-0010	5-15-07	Amend(T)	6-1-07	413-015-0120	3-20-07	Repeal	5-1-07
411-066-0015	5-15-07	Adopt(T)	6-1-07	413-015-0125	3-20-07	Amend	5-1-07
411-066-0020	5-15-07	Amend(T)	6-1-07	413-015-0200	3-20-07	Amend	5-1-07
411-070-0130	3-13-07	Amend	4-1-07	413-015-0205	3-20-07	Amend	5-1-07
411-330-0020	7-1-07	Amend(T)	8-1-07	413-015-0210	3-20-07	Amend	5-1-07
411-330-0030	7-1-07	Amend(T)	8-1-07	413-015-0211	3-20-07	Amend	5-1-07
411-335-0010	1-1-07	Amend	2-1-07	413-015-0212	3-20-07	Amend	5-1-07
411-335-0020	1-1-07	Amend	2-1-07	413-015-0213	3-20-07	Amend	5-1-07
411-335-0030	1-1-07	Amend	2-1-07	413-015-0215	3-20-07	Amend	5-1-07
411-335-0050	1-1-07	Amend	2-1-07	413-015-0220	3-20-07	Amend	5-1-07
411-335-0060	1-1-07	Amend	2-1-07	413-015-0225	3-20-07	Amend	5-1-07
411-335-0070	1-1-07	Amend	2-1-07	413-015-0300	3-20-07	Amend	5-1-07
411-335-0080	1-1-07	Amend	2-1-07	413-015-0302	3-20-07	Amend	5-1-07
411-335-0090	1-1-07	Amend	2-1-07	413-015-0305	3-20-07	Amend	5-1-07
411-335-0100	1-1-07	Amend	2-1-07	413-015-0310	3-20-07	Amend	5-1-07
411-335-0110	1-1-07	Amend	2-1-07	413-015-0400	3-20-07	Amend	5-1-07
411-335-0120	1-1-07	Amend	2-1-07	413-015-0405	3-20-07	Amend	5-1-07
411-335-0130	1-1-07	Amend	2-1-07	413-015-0409	3-20-07	Adopt	5-1-07
411-335-0140	1-1-07	Amend	2-1-07	413-015-0415	3-20-07	Adopt	5-1-07
411-335-0150	1-1-07	Amend	2-1-07	413-015-0420	3-20-07	Adopt	5-1-07
411-335-0160	1-1-07	Amend	2-1-07	413-015-0425	3-20-07	Adopt	5-1-07
411-335-0170	1-1-07	Amend	2-1-07	413-015-0430	3-20-07	Adopt	5-1-07

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413-015-0440	3-20-07	Adopt	5-1-07	413-020-0233	5-1-07	Adopt	6-1-07
413-015-0445	3-20-07	Adopt	5-1-07	413-020-0236	5-1-07	Adopt	6-1-07
413-015-0450	3-20-07	Adopt	5-1-07	413-020-0240	5-1-07	Amend	6-1-07
413-015-0455	3-20-07	Am. & Ren.	5-1-07	413-020-0245	5-1-07	Adopt	6-1-07
413-015-0460	3-20-07	Adopt	5-1-07	413-020-0250	5-1-07	Repeal	6-1-07
413-015-0465	3-20-07	Adopt	5-1-07	413-020-0255	5-1-07	Adopt	6-1-07
413-015-0470	3-20-07	Adopt	5-1-07	413-020-0260	5-1-07	Repeal	6-1-07
413-015-0475	3-20-07	Adopt	5-1-07	413-020-0270	5-1-07	Repeal	6-1-07
413-015-0480	3-20-07	Adopt	5-1-07	413-030-0000	3-20-07	Amend	5-1-07
413-015-0485	3-20-07	Renumber	5-1-07	413-030-0003	3-20-07	Adopt	5-1-07
413-015-0500	3-20-07	Repeal	5-1-07	413-030-0006	3-20-07	Am. & Ren.	5-1-07
413-015-0505	3-20-07	Repeal	5-1-07	413-030-0009	3-20-07	Adopt	5-1-07
413-015-0510	3-20-07	Repeal	5-1-07	413-030-0010	3-20-07	Repeal	5-1-07
413-015-0511	3-20-07	Repeal	5-1-07	413-030-0013	3-20-07	Adopt	5-1-07
413-015-0512	3-20-07	Repeal	5-1-07	413-030-0016	3-20-07	Adopt	5-1-07
413-015-0513	3-20-07	Repeal	5-1-07	413-030-0019	3-20-07	Adopt	5-1-07
413-015-0514	3-20-07	Repeal	5-1-07	413-030-0023	3-20-07	Adopt	5-1-07
413-015-0600	3-20-07	Repeal	5-1-07	413-030-0026	3-20-07	Adopt	5-1-07
413-015-0605	3-20-07	Repeal	5-1-07	413-030-0030	3-20-07	Amend	5-1-07
413-015-0610	3-20-07	Repeal	5-1-07	413-040-0000	3-20-07	Amend	5-1-07
413-015-0615	3-20-07	Repeal	5-1-07	413-040-0005	3-20-07	Amend	5-1-07
413-015-0700	3-20-07	Repeal	5-1-07	413-040-0006	3-20-07	Adopt	5-1-07
413-015-0705	3-20-07	Repeal	5-1-07	413-040-0008	3-20-07	Am. & Ren.	5-1-07
413-015-0710	3-20-07	Repeal	5-1-07	413-040-0009	3-20-07	Adopt	5-1-07
413-015-0715	3-20-07	Repeal	5-1-07	413-040-0010	3-20-07	Amend	5-1-07
413-015-0720	3-20-07	Repeal	5-1-07	413-040-0011	3-20-07	Adopt	5-1-07
413-015-0725	3-20-07	Repeal	5-1-07	413-040-0013	3-20-07	Adopt	5-1-07
413-015-0730	3-20-07	Repeal	5-1-07	413-040-0016	3-20-07	Am. & Ren.	5-1-07
413-015-0735	3-20-07	Repeal	5-1-07	413-040-0017	3-20-07	Amend	5-1-07
413-015-0800	3-20-07	Repeal	5-1-07	413-040-0021	3-20-07	Repeal	5-1-07
413-015-0900	3-20-07	Repeal	5-1-07	413-040-0024	3-20-07	Adopt	5-1-07
413-015-0905	3-20-07	Repeal	5-1-07	413-040-0027	3-20-07	Repeal	5-1-07
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413-015-1110	3-20-07	Amend	5-1-07	413-040-0042	3-20-07	Repeal	5-1-07
413-015-1120	3-20-07	Amend	5-1-07	413-040-0047	3-20-07	Repeal	5-1-07
413-015-1125	3-20-07	Amend	5-1-07	413-040-0052	3-20-07	Repeal	5-1-07
413-020-0000	3-20-07	Amend	5-1-07	413-040-0057	3-20-07	Repeal	5-1-07
413-020-0005	3-20-07	Amend	5-1-07	413-040-0061	3-20-07	Repeal	5-1-07
413-020-0010	3-20-07	Amend	5-1-07	413-040-0071	3-20-07	Repeal	5-1-07
413-020-0020	3-20-07	Amend	5-1-07	413-070-0300	5-1-07	Amend	6-1-07
413-020-0025	3-20-07	Adopt	5-1-07	413-070-0310	5-1-07	Amend	6-1-07
413-020-0040	3-20-07	Amend	5-1-07	413-070-0320	5-1-07	Amend	6-1-07
413-020-0045	3-20-07	Adopt	5-1-07	413-070-0340	5-1-07	Amend	6-1-07
413-020-0050	3-20-07	Amend	5-1-07	413-070-0345	5-1-07	Am. & Ren.	6-1-07
413-020-0060	3-20-07	Adopt	5-1-07	413-070-0350	5-1-07	Amend	6-1-07
413-020-0065	3-20-07	Adopt	5-1-07	413-070-0360	5-1-07	Amend	6-1-07
413-020-0070	3-20-07	Adopt	5-1-07	413-070-0370	5-1-07	Amend	6-1-07
413-020-0075	3-20-07	Adopt	5-1-07	413-070-0380	5-1-07	Amend	6-1-07
413-020-0080	3-20-07	Adopt	5-1-07	413-070-0400	5-1-07	Amend	6-1-07
413-020-0085	3-20-07	Adopt	5-1-07	413-070-0410	5-1-07	Amend	6-1-07
413-020-0090	3-20-07	Adopt	5-1-07	413-070-0420	5-1-07	Repeal	6-1-07
413-020-0200	5-1-07	Amend	6-1-07	413-070-0430	5-1-07	Amend	6-1-07
413-020-0210	5-1-07	Amend	6-1-07	413-070-0440	5-1-07	Amend	6-1-07
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413-070-0470	5-1-07	Amend	6-1-07	413-090-0170(T)	4-1-07	Repeal	5-1-07
413-070-0480	5-1-07	Amend	6-1-07	413-090-0180	4-1-07	Amend	5-1-07
413-070-0490	5-1-07	Amend	6-1-07	413-090-0180(T)	4-1-07	Repeal	5-1-07
413-070-0600	3-20-07	Amend	5-1-07	413-090-0190	4-1-07	Amend	5-1-07
413-070-0610	3-20-07	Repeal	5-1-07	413-090-0190(T)	4-1-07	Repeal	5-1-07
413-070-0620	3-20-07	Amend	5-1-07	413-090-0200	4-1-07	Amend	5-1-07
413-070-0625	3-20-07	Adopt	5-1-07	413-090-0200(T)	4-1-07	Repeal	5-1-07
413-070-0630	3-20-07	Amend	5-1-07	413-090-0210	4-1-07	Amend	5-1-07
413-070-0640	3-20-07	Amend	5-1-07	413-090-0210(T)	4-1-07	Repeal	5-1-07
413-070-0645	3-20-07	Adopt	5-1-07	413-090-0220	4-1-07	Repeal	5-1-07
413-070-0650	3-20-07	Repeal	5-1-07	413-090-0220(T)	4-1-07	Repeal	5-1-07
413-070-0800	3-20-07	Amend	5-1-07	413-100-0000	8-1-07	Amend	9-1-07
413-070-0810	3-20-07	Amend	5-1-07	413-100-0010	8-1-07	Amend	9-1-07
413-070-0820	3-20-07	Repeal	5-1-07	413-100-0020	2-7-07	Amend(T)	3-1-07
413-070-0830	3-20-07	Amend	5-1-07	413-100-0020	8-1-07	Amend	9-1-07
413-070-0840	3-20-07	Amend	5-1-07	413-100-0020(T)	8-1-07	Repeal	9-1-07
413-070-0850	3-20-07	Repeal	5-1-07	413-100-0030	8-1-07	Amend	9-1-07
413-070-0855	3-20-07	Amend	5-1-07	413-100-0040	8-1-07	Amend	9-1-07
413-070-0860	3-20-07	Amend	5-1-07	413-100-0050	8-1-07	Repeal	9-1-07
413-070-0870	3-20-07	Amend	5-1-07	413-100-0060	8-1-07	Amend	9-1-07
413-070-0880	3-20-07	Amend	5-1-07	413-100-0070	8-1-07	Amend	9-1-07
413-080-0040	3-20-07	Amend	5-1-07	413-100-0080	8-1-07	Amend	9-1-07
413-080-0045	3-20-07	Repeal	5-1-07	413-100-0090	8-1-07	Amend	9-1-07
413-080-0050	3-20-07	Amend	5-1-07	413-100-0100	8-1-07	Repeal	9-1-07
413-080-0052	3-20-07	Adopt	5-1-07	413-100-0110	8-1-07	Amend	9-1-07
413-080-0055	3-20-07	Amend	5-1-07	413-100-0120	8-1-07	Amend	9-1-07
413-080-0059	3-20-07	Adopt	5-1-07	413-100-0130	2-7-07	Amend(T)	3-1-07
413-080-0059	5-15-07	Amend(T)	6-1-07	413-100-0130	8-1-07	Amend	9-1-07
413-080-0063	3-20-07	Adopt	5-1-07	413-100-0130(T)	8-1-07	Repeal	9-1-07
413-080-0067	3-20-07	Am. & Ren.	5-1-07	413-100-0135	2-7-07	Amend(T)	3-1-07
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413-090-0000(T)	4-1-07	Repeal	5-1-07	413-100-0135(T)	8-1-07	Repeal	9-1-07
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413-090-0005(T)	4-1-07	Repeal	5-1-07	413-100-0160	8-1-07	Amend	9-1-07
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413-090-0030	4-1-07	Amend	5-1-07	413-100-0190	8-1-07	Amend	9-1-07
413-090-0030(T)	4-1-07	Repeal	5-1-07	413-100-0200	8-1-07	Amend	9-1-07
413-090-0040	4-1-07	Amend	5-1-07	413-100-0210	8-1-07	Amend	9-1-07
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413-090-0120	4-1-07	Amend	5-1-07	413-100-0272	8-1-07	Repeal	9-1-07
413-090-0120(T)	4-1-07	Repeal	5-1-07	413-100-0274	8-1-07	Repeal	9-1-07
413-090-0130	4-1-07	Amend	5-1-07	413-100-0276	8-1-07	Repeal	9-1-07
413-090-0130(T)	4-1-07	Repeal	5-1-07	413-100-0280	8-1-07	Amend	9-1-07
413-090-0140	4-1-07	Amend	5-1-07	413-100-0290	8-1-07	Repeal	9-1-07
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413-090-0150	4-1-07	Amend	5-1-07	413-100-0310	8-1-07	Amend	9-1-07
413-090-0150(T)	4-1-07	Repeal	5-1-07	413-100-0320	8-1-07	Amend	9-1-07
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413-120-0030	8-1-07	Amend	9-1-07	413-200-0296	3-20-07	Adopt	5-1-07
413-120-0033	8-1-07	Amend	9-1-07	413-200-0296	7-13-07	Amend(T)	8-1-07
413-120-0035	8-1-07	Amend	9-1-07	413-200-0296	7-13-07	Amend(T)	8-1-07
413-120-0040	2-26-07	Amend(T)	4-1-07	413-200-0296	7-13-07	Amend(T)	8-1-07
413-120-0040	8-1-07	Amend	9-1-07	413-200-0296	7-13-07	Amend(T)	8-1-07
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413-120-0060	8-1-07	Amend	9-1-07	413-200-0306	3-20-07	Amend	5-1-07
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413-120-0075	8-1-07	Amend	9-1-07	413-200-0306	7-13-07	Amend(T)	8-1-07
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413-120-0080	8-1-07	Amend	9-1-07	413-200-0306	7-13-07	Amend(T)	8-1-07
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413-200-0272	7-13-07	Amend(T)	8-1-07	413-200-0314	3-20-07	Am. & Ren.	5-1-07
413-200-0272	7-13-07	Amend(T)	8-1-07	413-200-0314	7-13-07	Amend(T)	8-1-07
413-200-0272	7-13-07	Amend(T)	8-1-07	413-200-0314	7-13-07	Amend(T)	8-1-07
413-200-0272	7-13-07	Amend(T)	8-1-07	413-200-0314	7-13-07	Amend(T)	8-1-07
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413-200-0274	7-13-07	Amend(T)	8-1-07	413-200-0335	7-13-07	Amend(T)	8-1-07
413-200-0274	7-13-07	Amend(T)	8-1-07	413-200-0335	7-13-07	Amend(T)	8-1-07
413-200-0274	7-13-07	Amend(T)	8-1-07	413-200-0335	7-13-07	Amend(T)	8-1-07
413-200-0274	7-13-07	Amend(T)	8-1-07	413-200-0335	7-13-07	Amend(T)	8-1-07
413-200-0274	7-13-07	Amend(T)	8-1-07	413-200-0335	7-13-07	Amend(T)	8-1-07
413-200-0276	3-20-07	Adopt	5-1-07	413-200-0335(T)	7-13-07	Suspend	8-1-07
413-200-0278	3-20-07	Adopt	5-1-07	413-200-0335(T)	7-13-07	Suspend	8-1-07
413-200-0278	7-13-07	Amend(T)	8-1-07	413-200-0338	3-20-07	Repeal	5-1-07
413-200-0278	7-13-07	Amend(T)	8-1-07	413-200-0341	3-20-07	Repeal	5-1-07
413-200-0278	7-13-07	Amend(T)	8-1-07	413-200-0345	3-20-07	Repeal	5-1-07
413-200-0278	7-13-07	Amend(T)	8-1-07	413-200-0348	3-20-07	Amend	5-1-07
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413-200-0281	7-13-07	Amend(T)	8-1-07	413-200-0354	3-20-07	Adopt	5-1-07
413-200-0281	7-13-07	Amend(T)	8-1-07	413-200-0354	7-13-07	Amend(T)	8-1-07
413-200-0281	7-13-07	Amend(T)	8-1-07	413-200-0354	7-13-07	Amend(T)	8-1-07
413-200-0281	7-13-07	Amend(T)	8-1-07	413-200-0354	7-13-07	Amend(T)	8-1-07
413-200-0281	7-13-07	Amend(T)	8-1-07	413-200-0354	7-13-07	Amend(T)	8-1-07
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413-200-0285	3-20-07	Adopt	5-1-07	413-200-0358	3-20-07	Am. & Ren.	5-1-07
413-200-0287	3-20-07	Adopt	5-1-07	413-200-0358	7-13-07	Amend(T)	8-1-07
413-200-0287	7-13-07	Amend(T)	8-1-07	413-200-0358	7-13-07	Amend(T)	8-1-07
413-200-0287	7-13-07	Amend(T)	8-1-07	413-200-0358	7-13-07	Amend(T)	8-1-07
413-200-0287	7-13-07	Amend(T)	8-1-07	413-200-0358	7-13-07	Amend(T)	8-1-07
413-200-0287	7-13-07	Amend(T)	8-1-07	413-200-0362	3-20-07	Am. & Ren.	5-1-07
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413-200-0371	7-13-07	Amend(T)	8-1-07	414-350-0100	7-13-07	Amend	8-1-07
413-200-0371	7-13-07	Amend(T)	8-1-07	414-350-0110	12-1-06	Amend	1-1-07
413-200-0376	3-20-07	Repeal	5-1-07	414-350-0120	12-1-06	Amend	1-1-07
413-200-0377	3-20-07	Amend	5-1-07	414-350-0120	7-13-07	Amend	8-1-07
413-200-0379	3-20-07	Am. & Ren.	5-1-07	414-350-0180	7-13-07	Amend	8-1-07
413-200-0379	7-13-07	Amend(T)	8-1-07	415-012-0050	5-25-07	Amend	7-1-07
413-200-0379	7-13-07	Amend(T)	8-1-07	415-012-0080	5-25-07	Amend	7-1-07
413-200-0379	7-13-07	Amend(T)	8-1-07	415-051-0120	7-24-07	Repeal	9-1-07
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413-200-0383	3-20-07	Adopt	5-1-07	415-056-0005	3-8-07	Amend	4-1-07
413-200-0383	7-13-07	Amend(T)	8-1-07	415-056-0010	3-8-07	Amend	4-1-07
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413-200-0390	7-13-07	Amend(T)	8-1-07	416-115-0030	2-13-07	Adopt	3-1-07
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413-200-0390	7-13-07	Amend(T)	8-1-07	416-115-0060	2-13-07	Adopt	3-1-07
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416-530-0130	7-13-07	Amend	8-1-07	437-002-0060	5-15-07	Amend	9-1-07
416-530-0140	7-13-07	Amend	8-1-07	437-002-0120	11-30-06	Amend	1-1-07
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423-045-0120	2-12-07	Adopt	3-1-07	438-022-0005	3-1-07	Amend	3-1-07
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423-045-0175	2-12-07	Adopt	3-1-07	441-730-0120	12-21-06	Amend	2-1-07
423-045-0185	2-12-07	Adopt	3-1-07	441-730-0255	12-21-06	Adopt	2-1-07
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459-009-0084	11-24-06	Amend	1-1-07	461-110-0510	1-1-07	Repeal	2-1-07
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459-050-0077	5-1-07	Adopt	3-1-07	461-115-0540	1-1-07	Amend	2-1-07
459-050-0077	7-26-07	Amend	9-1-07	461-115-0651	1-1-07	Amend	2-1-07
459-050-0090	2-16-07	Amend(T)	4-1-07	461-115-0705	1-1-07	Amend	2-1-07
459-050-0090	7-26-07	Amend	9-1-07	461-115-0705	7-1-07	Amend	8-1-07
459-050-0150	1-23-07	Amend	3-1-07	461-120-0005	1-1-07	Repeal	2-1-07
459-076-0001	4-4-07	Amend	5-1-07	461-120-0030	7-1-07	Amend	8-1-07
459-076-0020	4-4-07	Amend	5-1-07	461-120-0125	1-1-07	Amend	2-1-07
459-076-0050	4-4-07	Amend	5-1-07	461-120-0210	4-1-07	Amend	5-1-07
459-076-0060	4-4-07	Amend	5-1-07	461-120-0230	4-1-07	Repeal	5-1-07
459-080-0100	11-24-06	Amend	1-1-07	461-120-0235	4-1-07	Repeal	5-1-07
461-001-0000	1-1-07	Amend	2-1-07	461-120-0610	1-1-07	Repeal	2-1-07
461-001-0000	4-1-07	Amend	5-1-07	461-125-0255	4-1-07	Amend	5-1-07
461-001-0015	1-1-07	Adopt	2-1-07	461-125-0370	1-1-07	Amend	2-1-07
461-001-0015	7-1-07	Amend	8-1-07	461-125-0370	4-1-07	Amend	5-1-07
461-001-0020	1-1-07	Adopt	2-1-07	461-130-0310	1-1-07	Amend	2-1-07
461-001-0030	4-1-07	Amend	5-1-07	461-130-0315	1-1-07	Amend	2-1-07
461-005-0735	4-1-07	Repeal	5-1-07	461-130-0325	1-1-07	Amend	2-1-07
461-025-0310	4-1-07	Amend	5-1-07	461-130-0327	1-1-07	Amend	2-1-07
461-025-0310	7-1-07	Amend	8-1-07	461-130-0335	1-1-07	Amend	2-1-07
461-025-0315	7-1-07	Amend	8-1-07	461-135-0010	1-1-07	Amend	2-1-07
461-025-0350	7-1-07	Amend	8-1-07	461-135-0010	7-1-07	Amend	8-1-07
461-101-0010	7-1-07	Amend	8-1-07	461-135-0070	1-1-07	Amend	2-1-07
461-105-0010	1-1-07	Amend	2-1-07	461-135-0070	4-1-07	Amend	5-1-07
461-105-0010	4-1-07	Amend	5-1-07	461-135-0075	1-1-07	Amend	2-1-07
461-105-0060	4-1-07	Amend	5-1-07	461-135-0210	1-1-07	Amend	2-1-07
461-105-0060	7-1-07	Amend	8-1-07	461-135-0400	1-1-07	Amend	2-1-07
461-105-0130	4-1-07	Amend	5-1-07	461-135-0475	1-1-07	Amend	2-1-07
461-105-0150	4-1-07	Amend	5-1-07	461-135-0491	4-1-07	Adopt	5-1-07
461-105-0150	7-1-07	Amend	8-1-07	461-135-0492	4-1-07	Adopt	5-1-07

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461-135-0494	4-1-07	Adopt	5-1-07	461-145-0140	4-1-07	Amend	5-1-07
461-135-0495	4-1-07	Adopt	5-1-07	461-145-0175	1-1-07	Amend	2-1-07
461-135-0496	4-1-07	Adopt	5-1-07	461-145-0185	1-1-07	Adopt	2-1-07
461-135-0497	4-1-07	Adopt	5-1-07	461-145-0220	1-1-07	Amend	2-1-07
461-135-0506	1-1-07	Amend	2-1-07	461-145-0250	1-1-07	Amend	2-1-07
461-135-0510	1-1-07	Amend	2-1-07	461-145-0250	4-1-07	Amend	5-1-07
461-135-0510	7-1-07	Amend	8-1-07	461-145-0280	1-1-07	Amend	2-1-07
461-135-0520	1-1-07	Amend	2-1-07	461-145-0280	7-1-07	Amend	8-1-07
461-135-0550	7-1-07	Amend	8-1-07	461-145-0310	1-1-07	Amend	2-1-07
461-135-0708	1-1-07	Amend	2-1-07	461-145-0320	7-1-07	Amend	8-1-07
461-135-0725	1-1-07	Amend	2-1-07	461-145-0330	1-1-07	Amend	2-1-07
461-135-0730	4-1-07	Amend	5-1-07	461-145-0330	7-1-07	Amend	8-1-07
461-135-0750	1-1-07	Amend	2-1-07	461-145-0340	1-1-07	Amend	2-1-07
461-135-0750	4-1-07	Amend	5-1-07	461-145-0343	1-1-07	Adopt	2-1-07
461-135-0780	1-1-07	Amend	2-1-07	461-145-0380	4-1-07	Amend	5-1-07
461-135-0950	1-1-07	Amend	2-1-07	461-145-0420	4-1-07	Amend	5-1-07
461-135-0950	7-1-07	Amend	8-1-07	461-145-0433	4-1-07	Amend	5-1-07
461-135-0960	1-1-07	Amend	2-1-07	461-145-0440	1-1-07	Amend	2-1-07
461-135-1110	7-1-07	Amend	8-1-07	461-145-0455	4-1-07	Amend	5-1-07
461-135-1225	7-1-07	Amend	8-1-07	461-145-0470	1-1-07	Amend	2-1-07
461-140-0040	4-1-07	Amend	5-1-07	461-145-0470	7-1-07	Amend	8-1-07
461-140-0120	4-1-07	Amend	5-1-07	461-145-0490	4-1-07	Amend	5-1-07
461-140-0210	1-1-07	Amend	2-1-07	461-145-0490	7-1-07	Amend	8-1-07
461-140-0220	1-1-07	Amend	2-1-07	461-145-0505	1-1-07	Amend	2-1-07
461-140-0242	1-1-07	Amend	2-1-07	461-145-0510	4-1-07	Amend	5-1-07
461-140-0242	1-1-07	Amend	2-1-07	461-145-0540	1-1-07	Amend	2-1-07
461-140-0242	4-1-07	Amend	5-1-07	461-145-0540	1-1-07	Amend	2-1-07
461-140-0242	7-1-07	Amend	8-1-07	461-145-0540	4-1-07	Amend	5-1-07
461-140-0270	1-1-07	Amend	2-1-07	461-145-0570	1-1-07	Amend	2-1-07
461-140-0296	1-1-07	Amend	2-1-07	461-145-0580	1-1-07	Amend	2-1-07
461-140-0296	4-1-07	Amend	5-1-07	461-145-0582	7-1-07	Amend	8-1-07
461-140-0296	7-1-07	Amend	8-1-07	461-145-0600	4-1-07	Amend	5-1-07
461-140-0300	1-1-07	Amend	2-1-07	461-145-0920	4-1-07	Amend	5-1-07
461-145-0001	1-1-07	Amend	2-1-07	461-145-0930	4-1-07	Amend	5-1-07
461-145-0005	4-1-07	Amend	5-1-07	461-150-0010	1-1-07	Repeal	2-1-07
461-145-0008	4-1-07	Amend	5-1-07	461-150-0055	1-1-07	Amend	2-1-07
461-145-0010	4-1-07	Amend	5-1-07	461-150-0070	1-1-07	Amend	2-1-07
461-145-0020	1-1-07	Amend	2-1-07	461-150-0080	1-1-07	Amend	2-1-07
461-145-0020	4-1-07	Amend	5-1-07	461-155-0030	7-1-07	Amend(T)	8-1-07
461-145-0022	1-1-07	Amend	2-1-07	461-155-0180	1-24-07	Amend	3-1-07
461-145-0022	4-1-07	Amend	5-1-07	461-155-0225	1-1-07	Amend	2-1-07
461-145-0025	1-1-07	Amend	2-1-07	461-155-0225	4-1-07	Amend	5-1-07
461-145-0030	4-1-07	Amend	5-1-07	461-155-0235	1-24-07	Amend	3-1-07
461-145-0040	7-1-07	Amend	8-1-07	461-155-0250	1-1-07	Amend	2-1-07
461-145-0050	4-1-07	Amend	5-1-07	461-155-0250	3-1-07	Amend(T)	4-1-07
461-145-0055	1-1-07	Amend	2-1-07	461-155-0250	3-9-07	Amend(T)	4-1-07
461-145-0055	4-1-07	Repeal	5-1-07	461-155-0250	4-1-07	Amend	5-1-07
461-145-0060	4-1-07	Amend	5-1-07	461-155-0250	4-1-07	Amend(T)	5-1-07
461-145-0086	4-1-07	Am. & Ren.	5-1-07	461-155-0250	7-1-07	Amend	8-1-07
461-145-0100	4-1-07	Amend	5-1-07	461-155-0250(T)	3-9-07	Suspend	4-1-07
461-145-0105	7-1-07	Amend	8-1-07	461-155-0250(T)	4-1-07	Suspend	5-1-07
461-145-0108	1-1-07	Amend	2-1-07	461-155-0270	1-1-07	Amend	2-1-07
461-145-0120	4-1-07	Amend	5-1-07	461-155-0290	3-1-07	Amend(T)	4-1-07
461-145-0130	1-1-07	Amend	2-1-07	461-155-0290	4-1-07	Amend	5-1-07
461-145-0130	4-1-07	Amend	5-1-07	461-155-0291	3-1-07	Amend(T)	4-1-07

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461-155-0295	3-1-07	Amend(T)	4-1-07	461-190-0310	1-1-07	Amend	2-1-07
461-155-0295	4-1-07	Amend	5-1-07	461-195-0301	1-1-07	Amend	2-1-07
461-155-0300	1-1-07	Amend	2-1-07	461-195-0305	1-1-07	Amend	2-1-07
461-155-0530	4-1-07	Amend	5-1-07	461-195-0310	1-1-07	Amend	2-1-07
461-155-0660	1-1-07	Amend	2-1-07	461-195-0325	1-1-07	Amend	2-1-07
461-155-0670	4-1-07	Amend	5-1-07	461-195-0511	1-1-07	Amend	2-1-07
461-160-0010	1-1-07	Amend	2-1-07	461-195-0521	7-1-07	Amend	8-1-07
461-160-0015	1-1-07	Amend	2-1-07	461-195-0541	1-1-07	Amend	2-1-07
461-160-0020	1-1-07	Repeal	2-1-07	461-195-0541	4-1-07	Amend	5-1-07
461-160-0055	1-1-07	Amend	2-1-07	461-195-0611	1-1-07	Amend	2-1-07
461-160-0090	1-1-07	Amend	2-1-07	462-160-0010	3-7-07	Repeal	4-1-07
461-160-0400	1-1-07	Amend	2-1-07	462-160-0020	3-7-07	Repeal	4-1-07
461-160-0415	1-1-07	Amend	2-1-07	462-160-0030	3-7-07	Repeal	4-1-07
461-160-0430	1-1-07	Amend	2-1-07	462-160-0100	3-7-07	Adopt	4-1-07
461-160-0500	1-1-07	Amend	2-1-07	462-160-0100(T)	3-7-07	Repeal	4-1-07
461-160-0560	1-1-07	Am. & Ren.	2-1-07	462-160-0110	3-7-07	Adopt	4-1-07
461-160-0580	1-1-07	Amend	2-1-07	462-160-0110(T)	3-7-07	Repeal	4-1-07
461-160-0580	4-1-07	Amend	5-1-07	462-160-0120	3-7-07	Adopt	4-1-07
461-160-0610	1-1-07	Amend	2-1-07	462-160-0120(T)	3-7-07	Repeal	4-1-07
461-160-0610	4-1-07	Amend	5-1-07	462-160-0130	3-7-07	Adopt	4-1-07
461-160-0610	7-1-07	Amend	8-1-07	462-160-0130(T)	3-7-07	Repeal	4-1-07
461-160-0620	1-1-07	Amend	2-1-07	462-160-0140	3-7-07	Adopt	4-1-07
461-160-0620	4-1-07	Amend	5-1-07	462-160-0140	3-7-07	Amend(T)	4-1-07
461-160-0620	7-1-07	Amend	8-1-07	462-160-0140	8-6-07	Amend	9-1-07
461-160-0780	1-1-07	Amend	2-1-07	462-160-0140(T)	3-7-07	Repeal	4-1-07
461-165-0060	7-1-07	Amend	8-1-07	462-200-0630	7-1-07	Suspend	8-1-07
461-165-0120	4-1-07	Amend	5-1-07	462-210-0030	7-1-07	Amend	5-1-07
461-165-0180	1-1-07	Amend	2-1-07	462-220-0030	7-1-07	Amend	5-1-07
461-170-0020	1-1-07	Amend	2-1-07	462-220-0070	7-1-07	Amend	5-1-07
461-170-0020	4-1-07	Amend	5-1-07	462-220-0090	7-1-07	Adopt	5-1-07
461-170-0035	4-1-07	Amend	5-1-07	471-030-0017	7-14-07	Amend	8-1-07
461-170-0101	1-1-07	Amend	2-1-07	471-030-0074	12-3-06	Amend(T)	1-1-07
461-170-0102	1-1-07	Amend	2-1-07	471-030-0074	1-29-07	Amend	3-1-07
461-170-0103	1-1-07	Amend	2-1-07	471-030-0075	12-3-06	Amend(T)	1-1-07
461-170-0130	1-1-07	Amend	2-1-07	471-030-0075	1-29-07	Amend	3-1-07
461-175-0010	1-1-07	Amend	2-1-07	471-031-0181	2-1-07	Adopt	3-1-07
461-175-0010	7-1-07	Amend	8-1-07	471-040-0010	12-3-06	Amend	1-1-07
461-175-0030	1-1-07	Repeal	2-1-07	471-040-0040	12-3-06	Amend	1-1-07
461-175-0050	4-1-07	Amend	5-1-07	471-040-0041	12-3-06	Adopt	1-1-07
461-175-0200	7-1-07	Amend	8-1-07	571-004-0016	2-14-07	Amend(T)	3-1-07
461-175-0206	4-1-07	Amend	5-1-07	571-004-0016	8-1-07	Amend	9-1-07
461-175-0230	7-1-07	Amend	8-1-07	571-011-0015	3-1-07	Amend	4-1-07
461-175-0250	1-1-07	Amend	2-1-07	571-021-0005	2-14-07	Suspend	3-1-07
461-175-0250	7-1-07	Amend	8-1-07	571-021-0005	8-1-07	Repeal	9-1-07
461-175-0270	4-1-07	Amend	5-1-07	571-021-0009	2-14-07	Suspend	3-1-07
461-180-0010	4-1-07	Amend	5-1-07	571-021-0009	8-1-07	Repeal	9-1-07
461-180-0020	4-1-07	Amend	5-1-07	571-021-0015	2-14-07	Suspend	3-1-07
461-180-0044	1-1-07	Amend	2-1-07	571-021-0015	8-1-07	Repeal	9-1-07
461-180-0044	4-1-07	Amend	5-1-07	571-021-0019	2-14-07	Suspend	3-1-07
461-180-0085	1-1-07	Amend	2-1-07	571-021-0019	8-1-07	Repeal	9-1-07
461-180-0090	1-1-07	Amend	2-1-07	571-021-0024	2-14-07	Suspend	3-1-07
461-185-0050	1-1-07	Amend	2-1-07	571-021-0024	8-1-07	Repeal	9-1-07
461-190-0110	1-1-07	Am. & Ren.	2-1-07	571-021-0029	2-14-07	Suspend	3-1-07
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571-021-0035	2-14-07	Suspend	3-1-07	571-021-0215	2-14-07	Adopt(T)	3-1-07
571-021-0035	8-1-07	Repeal	9-1-07	571-021-0215	8-1-07	Adopt	9-1-07
571-021-0038	2-14-07	Suspend	3-1-07	571-021-0220	2-14-07	Adopt(T)	3-1-07
571-021-0038	8-1-07	Repeal	9-1-07	571-021-0220	8-1-07	Adopt	9-1-07
571-021-0040	2-14-07	Suspend	3-1-07	571-021-0230	2-14-07	Adopt(T)	3-1-07
571-021-0040	8-1-07	Repeal	9-1-07	571-021-0230	8-1-07	Adopt	9-1-07
571-021-0045	2-14-07	Suspend	3-1-07	571-021-0240	2-14-07	Adopt(T)	3-1-07
571-021-0045	8-1-07	Repeal	9-1-07	571-021-0240	8-1-07	Adopt	9-1-07
571-021-0050	2-14-07	Suspend	3-1-07	571-021-0250	2-14-07	Adopt(T)	3-1-07
571-021-0050	8-1-07	Repeal	9-1-07	571-021-0250	8-1-07	Adopt	9-1-07
571-021-0055	2-14-07	Suspend	3-1-07	571-023-0000	2-14-07	Adopt(T)	3-1-07
571-021-0055	8-1-07	Repeal	9-1-07	571-023-0000	8-1-07	Adopt	9-1-07
571-021-0056	2-14-07	Suspend	3-1-07	571-023-0005	2-14-07	Amend(T)	3-1-07
571-021-0056	8-1-07	Repeal	9-1-07	571-023-0005	8-1-07	Amend	9-1-07
571-021-0057	2-14-07	Suspend	3-1-07	571-023-0010	2-14-07	Suspend	3-1-07
571-021-0057	8-1-07	Repeal	9-1-07	571-023-0010	8-1-07	Repeal	9-1-07
571-021-0060	2-14-07	Suspend	3-1-07	571-023-0015	2-14-07	Suspend	3-1-07
571-021-0060	8-1-07	Repeal	9-1-07	571-023-0015	8-1-07	Repeal	9-1-07
571-021-0064	2-14-07	Suspend	3-1-07	571-023-0020	2-14-07	Suspend	3-1-07
571-021-0064	8-1-07	Repeal	9-1-07	571-023-0020	8-1-07	Repeal	9-1-07
571-021-0068	2-14-07	Suspend	3-1-07	571-023-0025	2-14-07	Amend(T)	3-1-07
571-021-0068	8-1-07	Repeal	9-1-07	571-023-0025	8-1-07	Amend	9-1-07
571-021-0070	2-14-07	Suspend	3-1-07	571-023-0030	2-14-07	Suspend	3-1-07
571-021-0070	8-1-07	Repeal	9-1-07	571-023-0030	8-1-07	Repeal	9-1-07
571-021-0072	2-14-07	Suspend	3-1-07	571-023-0035	2-14-07	Suspend	3-1-07
571-021-0072	8-1-07	Repeal	9-1-07	571-023-0035	8-1-07	Repeal	9-1-07
571-021-0073	2-14-07	Suspend	3-1-07	571-023-0040	2-14-07	Suspend	3-1-07
571-021-0073	8-1-07	Repeal	9-1-07	571-023-0040	8-1-07	Repeal	9-1-07
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571-021-0100	8-1-07	Adopt	9-1-07	571-023-0100	8-1-07	Adopt	9-1-07
571-021-0105	2-14-07	Adopt(T)	3-1-07	571-023-0105	2-14-07	Adopt(T)	3-1-07
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571-021-0110	2-14-07	Adopt(T)	3-1-07	571-023-0110	2-14-07	Adopt(T)	3-1-07
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571-021-0115	8-1-07	Adopt	9-1-07	571-023-0115	8-1-07	Adopt	9-1-07
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571-021-0125	8-1-07	Adopt	9-1-07	571-040-0010	8-1-07	Adopt	9-1-07
571-021-0130	2-14-07	Adopt(T)	3-1-07	571-040-0015	2-14-07	Adopt(T)	3-1-07
571-021-0130	8-1-07	Adopt	9-1-07	571-040-0015	8-1-07	Adopt	9-1-07
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571-021-0150	8-1-07	Adopt	9-1-07	571-040-0050	2-14-07	Am. & Ren.(T)	3-1-07
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571-021-0160	8-1-07	Adopt	9-1-07	571-040-0070	2-14-07	Am. & Ren.(T)	3-1-07
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571-021-0200	8-1-07	Adopt	9-1-07	571-040-0200	8-1-07	Am. & Ren.	9-1-07
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571-040-0240	2-14-07	Suspend	3-1-07	571-100-0020	8-1-07	Adopt	9-1-07
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571-040-0243	8-1-07	Am. & Ren.	9-1-07	571-100-0030	8-1-07	Adopt	9-1-07
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571-040-0251	2-14-07	Am. & Ren.(T)	3-1-07	571-100-0040	8-1-07	Adopt	9-1-07
571-040-0253	2-14-07	Suspend	3-1-07	571-100-0050	2-20-07	Adopt(T)	4-1-07
571-040-0253	8-1-07	Repeal	9-1-07	571-100-0050	8-1-07	Adopt	9-1-07
571-040-0260	8-1-07	Am. & Ren.	9-1-07	571-100-0060	2-20-07	Adopt(T)	4-1-07
571-040-0261	2-14-07	Am. & Ren.(T)	3-1-07	571-100-0060	8-1-07	Adopt	9-1-07
571-040-0263	8-1-07	Am. & Ren.	9-1-07	571-100-0070	2-20-07	Adopt(T)	4-1-07
571-040-0270	8-1-07	Am. & Ren.	9-1-07	571-100-0070	8-1-07	Adopt	9-1-07
571-040-0271	8-1-07	Am. & Ren.	9-1-07	571-100-0080	2-20-07	Adopt(T)	4-1-07
571-040-0280	2-14-07	Suspend	3-1-07	571-100-0080	8-1-07	Adopt	9-1-07
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571-040-0320	8-1-07	Am. & Ren.	9-1-07	571-100-0100	8-1-07	Adopt	9-1-07
571-040-0350	8-1-07	Am. & Ren.	9-1-07	571-100-0110	2-20-07	Adopt(T)	4-1-07
571-040-0352	8-1-07	Am. & Ren.	9-1-07	571-100-0110	8-1-07	Adopt	9-1-07
571-040-0360	8-1-07	Am. & Ren.	9-1-07	571-100-0120	2-20-07	Adopt(T)	4-1-07
571-040-0361	8-1-07	Am. & Ren.	9-1-07	571-100-0120	8-1-07	Adopt	9-1-07
571-040-0370	8-1-07	Am. & Ren.	9-1-07	571-100-0130	2-20-07	Adopt(T)	4-1-07
571-040-0371	8-1-07	Am. & Ren.	9-1-07	571-100-0130	8-1-07	Adopt	9-1-07
571-040-0380	2-14-07	Amend(T)	3-1-07	571-100-0140	2-20-07	Adopt(T)	4-1-07
571-040-0380	8-1-07	Amend	9-1-07	571-100-0140	8-1-07	Adopt	9-1-07
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571-040-0382	8-1-07	Amend	9-1-07	571-100-0150	8-1-07	Adopt	9-1-07
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571-040-0390	8-1-07	Amend	9-1-07	571-100-0160	8-1-07	Adopt	9-1-07
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571-050-0115	6-4-07	Adopt(T)	7-1-07	577-070-0005	1-5-07	Amend	2-1-07
571-050-0120	6-4-07	Adopt(T)	7-1-07	577-070-0010	1-5-07	Amend	2-1-07
571-050-0125	6-4-07	Adopt(T)	7-1-07	577-070-0015	1-5-07	Amend	2-1-07
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578-072-0091	6-7-07	Amend	7-1-07	581-011-0052	4-27-07	Adopt	6-1-07
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579-040-0030	5-15-07	Amend	9-1-07	581-015-0087	4-25-07	Repeal	6-1-07
579-040-0030	8-15-07	Amend	9-1-07	581-015-0111	4-25-07	Repeal	6-1-07
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579-070-0041	8-15-07	Amend	9-1-07	581-015-0805	4-25-07	Repeal	6-1-07
579-070-0042	8-15-07	Amend	9-1-07	581-015-0811	4-25-07	Repeal	6-1-07
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580-043-0100	8-23-07	Adopt(T)	9-1-07	581-015-2115	4-25-07	Am. & Ren.	6-1-07
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629-022-0300	1-11-07	Amend	2-1-07	635-006-1015(T)	1-12-07	Repeal	2-1-07
629-022-0310	1-11-07	Repeal	2-1-07	635-006-1035	1-12-07	Amend	2-1-07
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635-017-0090	6-1-07	Amend	6-1-07	635-042-0010	2-14-07	Amend	3-1-07
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635-023-0095	2-1-07	Amend(T)	3-1-07	635-042-0135	1-1-07	Amend(T)	2-1-07
635-023-0095	2-14-07	Amend	3-1-07	635-042-0135	2-13-07	Amend(T)	3-1-07
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731-001-0570	3-26-07	Repeal	5-1-07	734-051-0070	1-26-07	Amend	3-1-07
731-001-0580	3-26-07	Repeal	5-1-07	734-051-0115	1-26-07	Amend	3-1-07
731-001-0590	3-26-07	Repeal	5-1-07	734-051-0125	1-26-07	Amend	3-1-07
731-001-0600	3-26-07	Repeal	5-1-07	734-051-0145	1-26-07	Amend	3-1-07
731-001-0610	3-26-07	Repeal	5-1-07	734-051-0155	1-26-07	Amend	3-1-07
731-001-0620	3-26-07	Repeal	5-1-07	734-051-0225	1-26-07	Amend	3-1-07
731-001-0630	3-26-07	Repeal	5-1-07	734-051-0285	1-26-07	Amend	3-1-07
731-001-0640	3-26-07	Repeal	5-1-07	734-051-0295	1-26-07	Amend	3-1-07
731-001-0650	3-26-07	Repeal	5-1-07	734-051-0500	1-26-07	Amend	3-1-07
731-001-0660	3-26-07	Repeal	5-1-07	734-051-0510	1-26-07	Amend	3-1-07
731-001-0670	3-26-07	Repeal	5-1-07	734-059-0020	7-19-07	Adopt(T)	9-1-07
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731-001-0690	3-26-07	Repeal	5-1-07	734-059-0030	7-19-07	Adopt(T)	9-1-07
731-001-0700	3-26-07	Repeal	5-1-07	734-059-0050	7-19-07	Adopt(T)	9-1-07
731-001-0710	3-26-07	Repeal	5-1-07	734-082-0005	7-19-07	Amend	9-1-07
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734-082-0035	7-19-07	Amend	9-1-07	736-004-0070	4-13-07	Amend	5-1-07
734-082-0040	7-19-07	Amend	9-1-07	736-004-0080	4-13-07	Amend	5-1-07
734-082-0051	7-19-07	Amend	9-1-07	736-004-0085	4-13-07	Amend	5-1-07
734-082-0101	7-19-07	Amend	9-1-07	736-017-0000	12-15-06	Adopt	1-1-07
735-022-0000	11-17-06	Amend	1-1-07	736-017-0005	12-15-06	Adopt	1-1-07
735-022-0020	11-17-06	Repeal	1-1-07	736-017-0010	12-15-06	Adopt	1-1-07
735-022-0030	11-17-06	Amend	1-1-07	736-017-0015	12-15-06	Adopt	1-1-07
735-022-0040	11-17-06	Amend	1-1-07	736-017-0020	12-15-06	Adopt	1-1-07
735-022-0070	11-17-06	Amend	1-1-07	736-017-0025	12-15-06	Adopt	1-1-07
735-022-0080	11-17-06	Amend	1-1-07	736-017-0030	12-15-06	Adopt	1-1-07
735-022-0090	11-17-06	Amend	1-1-07	736-017-0035	12-15-06	Adopt	1-1-07
735-028-0020	11-17-06	Amend	1-1-07	736-017-0040	12-15-06	Adopt	1-1-07
735-034-0050	5-24-07	Amend(T)	7-1-07	736-017-0050	12-15-06	Adopt	1-1-07
735-040-0030	11-17-06	Amend	1-1-07	736-040-0025	7-1-07	Amend	9-1-07
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735-062-0040	9-1-07	Amend	7-1-07	736-146-0015	2-7-07	Adopt	3-1-07
735-062-0080	12-13-06	Amend	1-1-07	736-146-0020	2-7-07	Adopt	3-1-07
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735-062-0090	6-5-07	Amend	7-1-07	736-146-0030	2-7-07	Adopt	3-1-07
735-062-0092	8-1-07	Adopt	7-1-07	736-146-0040	2-7-07	Adopt	3-1-07
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735-062-0140	12-13-06	Amend	1-1-07	736-146-0060	2-7-07	Adopt	3-1-07
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735-062-0150	2-26-07	Amend	4-1-07	736-146-0080	2-7-07	Adopt	3-1-07
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736-201-0080	7-1-07	Adopt	6-1-07	800-010-0041	2-1-07	Amend	2-1-07
736-201-0085	7-1-07	Adopt	6-1-07	800-010-0050	2-1-07	Amend	2-1-07
736-201-0090	7-1-07	Adopt	6-1-07	800-014-0070	2-1-07	Amend	2-1-07
736-201-0095	7-1-07	Adopt	6-1-07	800-015-0005	2-1-07	Amend	2-1-07
736-201-0100	7-1-07	Adopt	6-1-07	800-015-0010	2-1-07	Amend	2-1-07
736-201-0105	7-1-07	Adopt	6-1-07	800-015-0020	2-1-07	Amend	2-1-07
736-201-0110	7-1-07	Adopt	6-1-07	800-020-0015	2-1-07	Amend	2-1-07
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736-201-0120	7-1-07	Adopt	6-1-07	800-020-0030	2-1-07	Amend	2-1-07
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736-201-0130	7-1-07	Adopt	6-1-07	800-020-0065	2-1-07	Amend	2-1-07
736-201-0135	7-1-07	Adopt	6-1-07	800-025-0023	2-1-07	Amend	2-1-07
736-201-0140	7-1-07	Adopt	6-1-07	800-025-0027	2-1-07	Amend	2-1-07
736-201-0145	7-1-07	Adopt	6-1-07	800-025-0040	2-1-07	Amend	2-1-07
736-201-0150	7-1-07	Adopt	6-1-07	800-025-0050	2-1-07	Amend	2-1-07
736-201-0155	7-1-07	Adopt	6-1-07	800-025-0060	2-1-07	Amend	2-1-07
736-201-0160	7-1-07	Adopt	6-1-07	801-001-0035	1-1-07	Amend	2-1-07
736-201-0165	7-1-07	Adopt	6-1-07	801-005-0010	1-1-07	Amend	2-1-07
736-201-0170	7-1-07	Adopt	6-1-07	801-010-0010	1-1-07	Amend	2-1-07
736-201-0175	7-1-07	Adopt	6-1-07	801-010-0050	1-1-07	Amend	2-1-07
736-201-0180	7-1-07	Adopt	6-1-07	801-010-0065	1-1-07	Amend	2-1-07
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737-015-0070	4-1-07	Amend	5-1-07	801-020-0690	1-1-07	Amend	2-1-07
737-015-0080	4-1-07	Repeal	5-1-07	801-030-0005	1-1-07	Amend	2-1-07
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737-015-0100	4-1-07	Amend	5-1-07	801-030-0015	1-1-07	Amend	2-1-07
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808-003-0450	8-1-07	Adopt	9-1-07	812-004-0420	1-1-07	Amend	1-1-07
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809-010-0025	7-1-07	Amend	8-1-07	812-004-0480	1-1-07	Amend	1-1-07
809-015-0010	3-14-07	Amend	4-1-07	812-004-0500	1-1-07	Amend	1-1-07
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812-001-0130	1-1-07	Amend	1-1-07	812-004-0520	1-1-07	Amend	1-1-07
812-001-0135	1-1-07	Adopt	1-1-07	812-004-0520	7-1-07	Amend	8-1-07
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812-004-0195	1-1-07	Amend	1-1-07	812-009-0090	1-1-07	Amend	1-1-07
812-004-0210	1-1-07	Amend	1-1-07	812-009-0100	1-1-07	Amend	1-1-07
812-004-0240	1-1-07	Amend	1-1-07	812-009-0120	1-1-07	Amend	1-1-07
812-004-0250	1-1-07	Amend	1-1-07	812-009-0140	1-1-07	Amend	1-1-07
812-004-0260	1-1-07	Amend	1-1-07	812-009-0160	1-1-07	Amend	1-1-07
812-004-0300	1-1-07	Amend	1-1-07	812-009-0160	7-1-07	Amend	8-1-07
812-004-0320	1-1-07	Amend	1-1-07	812-009-0200	1-1-07	Amend	1-1-07
812-004-0340	1-1-07	Amend	1-1-07	812-009-0220	1-1-07	Amend	1-1-07
812-004-0350	1-1-07	Amend	1-1-07	812-009-0400	1-1-07	Amend	1-1-07

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812-010-0020	1-1-07	Amend	1-1-07	813-012-0150	1-11-07	Amend	2-1-07
812-010-0040	1-1-07	Amend	1-1-07	813-012-0160	1-11-07	Amend	2-1-07
812-010-0085	1-1-07	Amend	1-1-07	813-012-0170	1-11-07	Amend	2-1-07
812-010-0090	1-1-07	Amend	1-1-07	813-012-0180	1-11-07	Adopt	2-1-07
812-010-0100	1-1-07	Amend	1-1-07	813-030-0005	1-11-07	Amend	2-1-07
812-010-0110	1-1-07	Amend	1-1-07	813-030-0010	1-11-07	Amend	2-1-07
812-010-0120	1-1-07	Amend	1-1-07	813-030-0020	1-11-07	Amend	2-1-07
812-010-0140	1-1-07	Amend	1-1-07	813-030-0025	1-11-07	Amend	2-1-07
812-010-0200	1-1-07	Amend	1-1-07	813-030-0030	1-11-07	Amend	2-1-07
812-010-0220	1-1-07	Amend	1-1-07	813-030-0031	1-11-07	Amend	2-1-07
812-010-0260	1-1-07	Amend	1-1-07	813-030-0032	1-11-07	Amend	2-1-07
812-010-0290	1-1-07	Amend	1-1-07	813-030-0034	1-11-07	Amend	2-1-07
812-010-0300	1-1-07	Amend	1-1-07	813-030-0035	1-11-07	Amend	2-1-07
812-010-0320	1-1-07	Amend	1-1-07	813-030-0040	1-11-07	Amend	2-1-07
812-010-0340	1-1-07	Amend	1-1-07	813-030-0044	1-11-07	Amend	2-1-07
812-010-0360	1-1-07	Amend	1-1-07	813-030-0046	1-11-07	Amend	2-1-07
812-010-0380	1-1-07	Amend	1-1-07	813-030-0047	1-11-07	Amend	2-1-07
812-010-0420	1-1-07	Amend	1-1-07	813-030-0060	1-11-07	Amend	2-1-07
812-010-0425	1-1-07	Amend	1-1-07	813-030-0062	1-11-07	Amend	2-1-07
812-010-0430	1-1-07	Amend	1-1-07	813-030-0066	1-11-07	Amend	2-1-07
812-010-0460	1-1-07	Amend	1-1-07	813-030-0067	1-11-07	Amend	2-1-07
812-010-0470	1-1-07	Amend	1-1-07	813-030-0068	1-11-07	Amend	2-1-07
812-010-0480	1-1-07	Amend	1-1-07	813-030-0070	1-11-07	Adopt	2-1-07
813-010-0006	1-11-07	Amend	2-1-07	813-035-0005	1-11-07	Amend	2-1-07
813-010-0011	1-11-07	Amend	2-1-07	813-035-0011	1-11-07	Amend	2-1-07
813-010-0016	1-11-07	Amend	2-1-07	813-035-0016	1-11-07	Amend	2-1-07
813-010-0021	1-11-07	Amend	2-1-07	813-035-0018	1-11-07	Amend	2-1-07
813-010-0023	1-11-07	Repeal	2-1-07	813-035-0021	1-11-07	Amend	2-1-07
813-010-0024	1-11-07	Repeal	2-1-07	813-035-0029	1-11-07	Amend	2-1-07
813-010-0028	1-11-07	Repeal	2-1-07	813-035-0033	1-11-07	Amend	2-1-07
813-010-0029	1-11-07	Amend	2-1-07	813-035-0036	1-11-07	Amend	2-1-07
813-010-0032	1-11-07	Amend	2-1-07	813-035-0040	1-11-07	Amend	2-1-07
813-010-0033	1-11-07	Amend	2-1-07	813-035-0045	1-11-07	Amend	2-1-07
813-010-0036	1-11-07	Amend	2-1-07	813-035-0051	1-11-07	Amend	2-1-07
813-010-0042	1-11-07	Amend	2-1-07	813-035-0070	1-11-07	Adopt	2-1-07
813-010-0051	1-11-07	Amend	2-1-07	813-035-0700	1-11-07	Repeal	2-1-07
813-010-0700	1-11-07	Amend	2-1-07	813-035-0705	1-11-07	Repeal	2-1-07
813-010-0705	1-11-07	Amend	2-1-07	813-035-0710	1-11-07	Repeal	2-1-07
813-010-0710	1-11-07	Amend	2-1-07	813-035-0715	1-11-07	Repeal	2-1-07
813-010-0715	1-11-07	Amend	2-1-07	813-035-0720	1-11-07	Repeal	2-1-07
813-010-0720	1-11-07	Amend	2-1-07	813-038-0005	5-10-07	Adopt	6-1-07
813-010-0740	1-11-07	Adopt	2-1-07	813-038-0010	5-10-07	Adopt	6-1-07
813-012-0010	1-11-07	Amend	2-1-07	813-038-0015	5-10-07	Adopt	6-1-07
813-012-0020	1-11-07	Amend	2-1-07	813-038-0020	5-10-07	Adopt	6-1-07
813-012-0030	1-11-07	Amend	2-1-07	813-038-0025	5-10-07	Adopt	6-1-07
813-012-0040	1-11-07	Amend	2-1-07	813-038-0030	5-10-07	Adopt	6-1-07
813-012-0050	1-11-07	Amend	2-1-07	813-038-0035	5-10-07	Adopt	6-1-07
813-012-0060	1-11-07	Amend	2-1-07	813-038-0040	5-10-07	Adopt	6-1-07
813-012-0070	1-11-07	Amend	2-1-07	813-042-0000	1-11-07	Adopt	2-1-07
813-012-0080	1-11-07	Amend	2-1-07	813-042-0000(T)	1-11-07	Repeal	2-1-07
813-012-0090	1-11-07	Amend	2-1-07	813-042-0010	1-11-07	Adopt	2-1-07
813-012-0100	1-11-07	Amend	2-1-07	813-042-0010(T)	1-11-07	Repeal	2-1-07
813-012-0110	1-11-07	Amend	2-1-07	813-042-0020	1-11-07	Adopt	2-1-07
813-012-0120	1-11-07	Amend	2-1-07	813-042-0020(T)	1-11-07	Repeal	2-1-07
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813-042-0040	1-11-07	Adopt	2-1-07	813-120-0100(T)	1-11-07	Repeal	2-1-07
813-042-0040(T)	1-11-07	Repeal	2-1-07	813-130-0000	1-11-07	Amend	2-1-07
813-042-0050	1-11-07	Adopt	2-1-07	813-130-0000(T)	1-11-07	Repeal	2-1-07
813-042-0050(T)	1-11-07	Repeal	2-1-07	813-130-0010	1-11-07	Amend	2-1-07
813-042-0060	1-11-07	Adopt	2-1-07	813-130-0010(T)	1-11-07	Repeal	2-1-07
813-042-0060(T)	1-11-07	Repeal	2-1-07	813-130-0020	1-11-07	Amend	2-1-07
813-042-0070	1-11-07	Adopt	2-1-07	813-130-0020(T)	1-11-07	Repeal	2-1-07
813-042-0070(T)	1-11-07	Repeal	2-1-07	813-130-0030	1-11-07	Amend	2-1-07
813-042-0080	1-11-07	Adopt	2-1-07	813-130-0030(T)	1-11-07	Repeal	2-1-07
813-042-0080(T)	1-11-07	Repeal	2-1-07	813-130-0040	1-11-07	Amend	2-1-07
813-042-0090	1-11-07	Adopt	2-1-07	813-130-0040(T)	1-11-07	Repeal	2-1-07
813-042-0090(T)	1-11-07	Repeal	2-1-07	813-130-0050	1-11-07	Amend	2-1-07
813-042-0100	1-11-07	Adopt	2-1-07	813-130-0050(T)	1-11-07	Repeal	2-1-07
813-042-0100(T)	1-11-07	Repeal	2-1-07	813-130-0060	1-11-07	Amend	2-1-07
813-042-0110	1-11-07	Adopt	2-1-07	813-130-0060(T)	1-11-07	Repeal	2-1-07
813-042-0110(T)	1-11-07	Repeal	2-1-07	813-130-0070	1-11-07	Amend	2-1-07
813-060-0005	1-11-07	Amend	2-1-07	813-130-0070(T)	1-11-07	Repeal	2-1-07
813-060-0010	1-11-07	Amend	2-1-07	813-130-0080	1-11-07	Amend	2-1-07
813-060-0020	1-11-07	Amend	2-1-07	813-130-0080(T)	1-11-07	Repeal	2-1-07
813-060-0025	1-11-07	Amend	2-1-07	813-130-0090	1-11-07	Amend	2-1-07
813-060-0030	1-11-07	Amend	2-1-07	813-130-0090(T)	1-11-07	Repeal	2-1-07
813-060-0031	1-11-07	Amend	2-1-07	813-130-0100	1-11-07	Amend	2-1-07
813-060-0032	1-11-07	Amend	2-1-07	813-130-0100(T)	1-11-07	Repeal	2-1-07
813-060-0036	1-11-07	Adopt	2-1-07	813-130-0110	1-11-07	Amend	2-1-07
813-060-0038	1-11-07	Am. & Ren.	2-1-07	813-130-0110(T)	1-11-07	Repeal	2-1-07
813-060-0040	1-11-07	Amend	2-1-07	813-130-0120	1-11-07	Amend	2-1-07
813-060-0044	1-11-07	Amend	2-1-07	813-130-0120(T)	1-11-07	Repeal	2-1-07
813-060-0045	1-11-07	Amend	2-1-07	813-130-0130	1-11-07	Amend	2-1-07
813-060-0047	1-11-07	Amend	2-1-07	813-130-0130(T)	1-11-07	Repeal	2-1-07
813-060-0055	1-11-07	Amend	2-1-07	813-130-0140	1-11-07	Adopt	2-1-07
813-060-0056	1-11-07	Amend	2-1-07	813-130-0140(T)	1-11-07	Repeal	2-1-07
813-060-0061	1-11-07	Amend	2-1-07	813-205-0000	1-11-07	Amend	2-1-07
813-060-0062	1-11-07	Amend	2-1-07	813-205-0000(T)	1-11-07	Repeal	2-1-07
813-060-0065	1-11-07	Amend	2-1-07	813-205-0010	1-11-07	Amend	2-1-07
813-060-0070	1-11-07	Adopt	2-1-07	813-205-0010(T)	1-11-07	Repeal	2-1-07
813-090-0031	1-11-07	Amend	2-1-07	813-205-0020	1-11-07	Amend	2-1-07
813-090-0031(T)	1-11-07	Repeal	2-1-07	813-205-0020(T)	1-11-07	Repeal	2-1-07
813-090-0035	1-11-07	Amend	2-1-07	813-205-0030	1-11-07	Amend	2-1-07
813-090-0035(T)	1-11-07	Repeal	2-1-07	813-205-0030(T)	1-11-07	Repeal	2-1-07
813-090-0036	1-11-07	Amend	2-1-07	813-205-0040	1-11-07	Amend	2-1-07
813-090-0036(T)	1-11-07	Repeal	2-1-07	813-205-0040(T)	1-11-07	Repeal	2-1-07
813-090-0070	1-11-07	Amend	2-1-07	813-205-0050	1-11-07	Amend	2-1-07
813-090-0070(T)	1-11-07	Repeal	2-1-07	813-205-0050(T)	1-11-07	Repeal	2-1-07
813-110-0010	1-11-07	Amend	2-1-07	813-205-0051	1-11-07	Amend	2-1-07
813-110-0010(T)	1-11-07	Repeal	2-1-07	813-205-0051(T)	1-11-07	Repeal	2-1-07
813-110-0015	1-11-07	Amend	2-1-07	813-205-0052	1-11-07	Adopt	2-1-07
813-110-0015(T)	1-11-07	Repeal	2-1-07	813-205-0052(T)	1-11-07	Repeal	2-1-07
813-110-0030	1-11-07	Amend	2-1-07	813-205-0060	1-11-07	Amend	2-1-07
813-110-0030(T)	1-11-07	Repeal	2-1-07	813-205-0060(T)	1-11-07	Repeal	2-1-07
813-110-0033	1-11-07	Amend	2-1-07	813-205-0070	1-11-07	Amend	2-1-07
813-110-0033(T)	1-11-07	Repeal	2-1-07	813-205-0070(T)	1-11-07	Repeal	2-1-07
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813-110-0035(T)	1-11-07	Repeal	2-1-07	813-205-0080(T)	1-11-07	Repeal	2-1-07
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813-205-0100(T)	1-11-07	Repeal	2-1-07	820-020-0025	11-21-06	Amend	1-1-07
813-205-0110	1-11-07	Adopt	2-1-07	820-020-0030	11-21-06	Amend	1-1-07
813-205-0110(T)	1-11-07	Repeal	2-1-07	820-020-0035	11-21-06	Amend	1-1-07
813-205-0120	1-11-07	Adopt	2-1-07	820-020-0045	11-21-06	Amend	1-1-07
813-205-0120(T)	1-11-07	Repeal	2-1-07	820-040-0040	11-21-06	Amend	1-1-07
813-205-0130	1-11-07	Adopt	2-1-07	836-020-0770	2-12-07	Amend	3-1-07
813-205-0130(T)	1-11-07	Repeal	2-1-07	836-031-0800	2-12-07	Adopt	3-1-07
818-001-0015	3-1-07	Repeal	4-1-07	836-031-0805	2-12-07	Adopt	3-1-07
818-001-0021	3-1-07	Repeal	4-1-07	836-031-0810	2-12-07	Adopt	3-1-07
818-001-0087	5-1-07	Amend	6-1-07	836-031-0815	2-12-07	Adopt	3-1-07
818-012-0030	3-1-07	Amend	4-1-07	836-043-0110	1-17-07	Amend	3-1-07
818-035-0025	5-1-07	Amend	6-1-07	836-071-0146	1-1-08	Adopt	4-1-07
818-035-0040	5-1-07	Amend	6-1-07	836-071-0180	1-1-08	Amend	4-1-07
818-035-0072	5-1-07	Adopt	6-1-07	836-071-0215	1-1-08	Amend	4-1-07
820-001-0000	11-21-06	Amend	1-1-07	836-071-0220	1-1-08	Amend	4-1-07
820-001-0020	11-21-06	Amend	1-1-07	836-071-0242	1-1-08	Amend	4-1-07
820-010-0010	11-21-06	Amend	1-1-07	836-071-0250	1-1-08	Amend	4-1-07
820-010-0010	4-5-07	Amend	5-1-07	837-012-0305	1-1-07	Amend	2-1-07
820-010-0200	11-21-06	Amend	1-1-07	837-012-0310	1-1-07	Amend	2-1-07
820-010-0204	11-21-06	Adopt	1-1-07	837-012-0315	1-1-07	Amend	2-1-07
820-010-0205	11-21-06	Amend	1-1-07	837-012-0320	1-1-07	Amend	2-1-07
820-010-0206	11-21-06	Adopt	1-1-07	837-012-0325	1-1-07	Amend	2-1-07
820-010-0207	11-21-06	Amend	1-1-07	837-012-0330	1-1-07	Amend	2-1-07
820-010-0208	11-21-06	Adopt	1-1-07	837-012-0340	1-1-07	Amend	2-1-07
820-010-0210	4-5-07	Amend	5-1-07	837-012-0350	1-1-07	Amend	2-1-07
820-010-0225	11-21-06	Amend	1-1-07	837-012-0360	1-1-07	Amend	2-1-07
820-010-0226	11-21-06	Adopt	1-1-07	837-012-0370	1-1-07	Amend	2-1-07
820-010-0227	11-21-06	Adopt	1-1-07	837-012-1200	12-1-06	Amend	1-1-07
820-010-0228	11-21-06	Adopt	1-1-07	837-012-1210	12-1-06	Amend	1-1-07
820-010-0230	11-21-06	Amend	1-1-07	837-012-1220	12-1-06	Amend	1-1-07
820-010-0230	4-5-07	Amend	5-1-07	837-012-1230	12-1-06	Amend	1-1-07
820-010-0231	11-21-06	Adopt	1-1-07	837-012-1240	12-1-06	Amend	1-1-07
820-010-0231	4-5-07	Amend	5-1-07	837-012-1250	12-1-06	Amend	1-1-07
820-010-0255	11-21-06	Amend	1-1-07	837-012-1260	12-1-06	Amend	1-1-07
820-010-0300	11-21-06	Amend	1-1-07	837-012-1270	12-1-06	Amend	1-1-07
820-010-0305	11-21-06	Amend	1-1-07	837-012-1280	12-1-06	Amend	1-1-07
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820-010-0325	8-15-07	Amend	9-1-07	837-012-1300	12-1-06	Amend	1-1-07
820-010-0400	11-21-06	Adopt	1-1-07	837-012-1310	12-1-06	Amend	1-1-07
820-010-0605	11-21-06	Amend	1-1-07	837-012-1320	12-1-06	Amend	1-1-07
820-010-0617	11-21-06	Amend	1-1-07	837-012-1330	12-1-06	Amend	1-1-07
820-010-0618	11-21-06	Repeal	1-1-07	837-012-1340	12-1-06	Amend	1-1-07
820-010-0620	12-5-06	Amend(T)	1-1-07	837-012-1350	12-1-06	Amend	1-1-07
820-010-0620	8-15-07	Amend	9-1-07	837-012-1360	12-1-06	Amend	1-1-07
820-010-0621	12-5-06	Adopt(T)	1-1-07	837-012-1370	12-1-06	Amend	1-1-07
820-010-0621	4-5-07	Adopt	5-1-07	837-012-1380	12-1-06	Amend	1-1-07
820-010-0622	11-21-06	Amend	1-1-07	837-012-1390	12-1-06	Amend	1-1-07
820-010-0635	11-21-06	Amend	1-1-07	837-012-1400	12-1-06	Amend	1-1-07
820-010-0635	4-5-07	Amend	5-1-07	837-012-1410	12-1-06	Amend	1-1-07
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837-020-0060	4-1-07	Amend	5-1-07	839-025-0700	3-30-07	Amend	5-1-07
837-020-0065	4-1-07	Amend	5-1-07	839-025-0700	4-1-07	Amend	5-1-07
837-020-0070	4-1-07	Amend	5-1-07	839-025-0700	4-2-07	Amend	5-1-07
837-020-0075	4-1-07	Amend	5-1-07	839-025-0700	4-30-07	Amend	6-1-07
837-020-0080	4-1-07	Amend	5-1-07	839-025-0700	5-31-07	Amend	7-1-07
837-020-0085	4-1-07	Amend	5-1-07	839-025-0700	6-11-07	Amend	7-1-07
837-020-0105	4-1-07	Amend	5-1-07	839-025-0700	6-28-07	Amend	8-1-07
837-020-0115	4-1-07	Amend	5-1-07	839-025-0700	6-28-07	Amend	8-1-07
837-020-0120	4-1-07	Amend	5-1-07	839-025-0700	7-1-07	Amend	8-1-07
837-020-0125	4-1-07	Amend	5-1-07	839-025-0700	7-12-07	Amend	8-1-07
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837-035-0020	7-2-07	Adopt(T)	8-1-07	839-025-0750	1-1-07	Amend	2-1-07
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837-035-0140	7-2-07	Adopt(T)	8-1-07	845-005-0415	5-14-07	Amend(T)	6-1-07
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837-035-0180	7-2-07	Adopt(T)	8-1-07	845-006-0482	4-1-07	Amend	5-1-07
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837-035-0220	7-2-07	Adopt(T)	8-1-07	845-015-0199	1-1-07	Repeal	3-1-07
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837-035-0260	7-2-07	Adopt(T)	8-1-07	845-016-0010	9-1-07	Amend	4-1-07
837-035-0280	7-2-07	Adopt(T)	8-1-07	845-016-0015	9-1-07	Amend	4-1-07
837-035-0300	7-2-07	Adopt(T)	8-1-07	845-016-0016	9-1-07	Adopt	4-1-07
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839-004-0021	7-18-07	Amend(T)	9-1-07	847-008-0022	1-24-07	Amend	3-1-07
839-005-0010	2-2-07	Amend	3-1-07	847-008-0023	1-24-07	Amend	3-1-07
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839-006-0206	2-1-07	Amend	3-1-07	847-010-0073	1-24-07	Amend	3-1-07
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847-080-0002	1-24-07	Amend	3-1-07	855-006-0005	12-19-06	Amend	2-1-07
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848-040-0150	4-1-07	Amend	4-1-07	855-065-0001	12-19-06	Amend	2-1-07
848-040-0155	4-1-07	Amend	4-1-07	855-065-0005	12-19-06	Amend	2-1-07
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918-261-0034	1-1-07	Adopt	2-1-07	951-003-0005	11-17-06	Amend	1-1-07
918-261-0040	4-1-07	Amend	5-1-07	951-004-0000	11-17-06	Adopt	1-1-07
918-281-0020	1-1-07	Amend	2-1-07	951-004-0001	11-17-06	Adopt	1-1-07
918-395-0400	1-1-07	Amend	2-1-07	951-004-0002	11-17-06	Adopt	1-1-07
918-400-0260	12-29-06	Repeal	2-1-07	951-004-0003	11-17-06	Adopt	1-1-07
918-400-0455	1-1-07	Amend	2-1-07	951-004-0004	11-17-06	Adopt	1-1-07
918-400-0458	1-1-07	Adopt	2-1-07	951-005-0000	11-16-06	Adopt	1-1-07
918-400-0660	10-1-07	Amend	8-1-07	951-005-0001	11-16-06	Adopt	1-1-07
918-440-0010	4-1-07	Amend	3-1-07	951-005-0002	11-16-06	Adopt	1-1-07
918-460-0010	4-1-07	Amend	3-1-07	972-030-0010	7-31-07	Amend	9-1-07
918-460-0015	4-1-07	Amend	3-1-07	972-030-0020	7-31-07	Amend	9-1-07
918-480-0010	4-1-07	Amend	3-1-07				

