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Supplements the 2007 *Oregon Administrative Rules Compilation*

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Secretary of State

INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule's "History"

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

The *Oregon Administrative Rules Compilation* and the *Oregon Bulletin* are available in electronic and printed formats. Electronic versions are available through the Oregon State Archives Website at http://arcweb.sos.state.or.us. Printed copies of these publications are deposited in Oregon's Public Documents Depository Libraries listed in OAR 543-070-0000 and may be ordered by contacting: Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, OR 97310, (503) 373-0701, 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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COMMENTS DUE: May 2, 2007
PROJECT LOCATION: Lots 7, 8, 9, 16, and 17, Townsend Business Park, Fairview, Oregon (street address: 23303 NE Sandy Boulevard, Fairview, Oregon).
PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Prospective Purchaser Agreement (PPA) with Birtcher Development & Investments, LLC. for certain real property located at 23303 NE Sandy Boulevard, Fairview, Oregon (Townsend Farms Property).
HIGHLIGHTS: The Townsend Farms Property is owned by Townsend Business Park, Inc. The parcels proposed to be purchased by Birtcher Development & Investments, LLC (Birtcher) are vacant and have been used in commercial agricultural production since the early 1900s. The site operators, the Townsend family, have grown, harvested and processed berries and other agricultural products on the subject lots and adjacent land. Agricultural chemicals were used during this time frame, resulting in the release of such chemicals onto the ground. Recent sampling and analysis of the subject lots has shown that certain of those agricultural chemicals remain in the surface and shallow subsurface soils.

The Prospective Purchaser Agreement will require Birtcher to implement certain agreed-upon remedial measures to address contamination on the subject lots at the Townsend Farms Property. Those measures will include: appropriate management of soils on site during redevelopment and construction activities with all necessary precautions taken to protect workers, visitors and adjacent properties and persons; sampling and analysis of the soils prior to final construction of site improvements; coordination of the design and construction of site improvements, including buildings, pavement, and stormwater management structures, to constitute a protective cap over site soils; and, implementation of institutional controls if shown to be necessary as a result of the sampling and analysis of site soils.

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

The proposed Prospective Purchaser Agreement will provide Birtcher with a release from liability for claims by the State of Oregon under ORS 465.255 relating to historical releases of hazardous substances at or from the site. DEQ otherwise retains all existing rights it may have as to other parties who may be potentially liable for the releases.
HOW TO COMMENT: Written comments concerning the proposed Prospective Purchaser Agreement should be sent to Charlie Landman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm May 2, 2007. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Prospective Purchaser Agreement and DEQ file on the Townsend Farms Property may be reviewed at DEQ's Northwest Region East Side Office in Gresham by contacting Paul Seidel at (503) 667-8414, extension 55002.

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

A CHANCE TO COMMENT ON PROPOSED APPROVAL OF CLEANUP AT HALTON VOITH UIC SITE

COMMENTS DUE: April 30, 2007
PROJECT LOCATION: 6654 NE 47th Avenue, Portland, Oregon
PROPOSAL: Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on the no further action recommendation for the Halton Voith site.
HIGHLIGHTS: The Halton Voith site had been utilized historically for industrial uses. Floor drains lead to an Underground Injection Control (UIC or drywell) system. Petroleum hydrocarbon, solvent, lead and chromium contamination were discovered in the UIC system. The system was excavated to the extent possible and 800 tons of soil was taken to Hillsboro Landfill for disposal. Monitoring wells were installed to analyze groundwater quality at the site. Petroleum hydrocarbons, volatile organic compounds and lead contamination remain in deeper soils in the UIC area in excess of generic Risk Based Criteria. However, it does not appear that the UIC system has impacted groundwater and a risk assessment was completed that indicates remaining contamination in soil does not pose an unacceptable risk to human health and the environment. DEQ is therefore proposing a no further action (NFA) determination for the UIC area.
HOW TO COMMENT: The project file is available for public review. To schedule an appointment, contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Mike Greenburg, 503-229-5153. Written comments should be sent to the DEQ contact at the Department of Environmental Quality, Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by April 30, 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/

A CHANCE TO COMMENT ON PROPOSED APPROVAL OF CLEANUP AT TOTEM LIFT SITE

COMMENTS DUE: April 30, 2007
PROJECT LOCATION: 6899-7001 NE Columbia Boulevard, Portland, Oregon
PROPOSAL: Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on the partial no further action recommendation for a underground injection control (UIC or drywell) system located at the Totem Lift site.
HIGHLIGHTS: In 2005, the Halton Company initiated closure on a UIC system that had received waste from a steam-cleaning operation that washed forklift frames and motors. Analysis of soil samples from below the UIC wells showed that residual levels of metals and hydrocarbons that were present did not pose an unacceptable risk to human health and the environment. Groundwater samples were also collected next to the former dry wells and were not adversely impacted. Diesel fuel contamination of groundwater from was found in one monitoring well in the southwest portion of the property that does not appear to be related to the UIC system. DEQ is therefore proposing a partial no further action (NFA) determination for the UIC system at the site.
HOW TO COMMENT: The project file is available for public review. To schedule an appointment, contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Mike Greenburg, 503-229-5153. Written comments should be sent to the DEQ contact at the Department of Environmental Quality, Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by April 30,

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/

PROPOSED APPROVAL OF SOURCE CONTROL MEASURES, BP BULK TERMINAL 22T 9930 NW ST. HELENS ROAD PORTLAND, OREGON

COMMENT PERIOD: April 1 to 30, 2007
COMMENTS DUE: April 30, 2007
PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes to approve interim source control measures designed to prevent petroleum contamination at the BP Bulk Terminal 22T site in Portland Harbor from migrating to the Willamette River and remove impacted nearshore soil and sediment adjacent to their facility.
HIGHLIGHTS: The BP Terminal is located on the west bank of the Willamette River at river mile 4.9. The site Remedial Investigation identified petroleum impacts in site groundwater, soil, and sediment. The interim source control measures will: 1) replace the existing concrete seawall with a deeper steel sheetpile seawall to more completely prevent petroleum from reaching the Willamette River and provide site geotechnical stability, and 2) excavate nearshore petroleum-impacted soil and sediment riverward of the new seawall and dispose of it in an off-site landfill. The majority of excavation will occur on dry land, and temporary physical containment systems will be deployed in water to prevent potential releases to the river during excavation activities.
HOW TO COMMENT: The project file is available for public review. To schedule an appointment call (503) 229-6729. The DEQ project manager is Tom Gainer, (503) 229-5326. Written comments should be sent to Tom Gainer, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by April 30, 2007. A public meeting will be held to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.
THE NEXT STEP: DEQ will consider all public comments before making the final decision.

SELECTED REMEDIAL ACTION FORMER MODOC LUMBER — LOG SLIP DEBARKER KLAMATH FALLS, OREGON

COMMENT PERIOD: April 1–30, 2007
PROJECT LOCATION: 404 South 4th St, Klamath Falls, Oregon
PROPOSAL: Pursuant to Oregon Revised Statute ORS 465.320 and Oregon Administrative Rules OAR 340-122-100, the Department of Environmental Quality (DEQ) has selected a recommend remedial action regarding groundwater and soil contamination at the Former Modoc Lumber Site — Log Slip Debarker (LSD) area. Pentachlorophenol (PCP), primarily from wood treating activities in other parts of the site, has been identified as the principal contaminant of concern.
HIGHLIGHTS: Approximately 120 acres of the former Modoc Lumber facility site is located along the eastern shoreline of Lake Ewauna, adjacent to downtown Klamath Falls. The Modoc Lumber facility was operated as a wood products facility and included typical lumber mill components including sawmills, planers/sorters, log slip/debarker, log storage areas, saw bins, dry kilns, cooling sheds, electrical and truck shops, and a finished lumber dip trench. The LSD area was specifically utilized to receive and debark green logs and facilitate transfer of debarked logs to other on-site areas for processing. The site operated from the 1940's through 1998.

Between 1995 and 2000, all of the structures associated with Modoc Lumber's operation were demolished or removed, inclusive of concrete foundations. The site is in the process of being redeveloped into a mixed use riverfront development, including commercial, light industrial and residential uses.

Previous work at the site for underground storage tanks resulted in several no-further action determinations by DEQ in 1991 and 2000. While in DEQ's Voluntary Cleanup Program, the site received final remedial action decisions for multiple sources and operable units in 2001 and again in 2004, although the LSD area and the near shore sediment adjacent to LSD and Truck Shop /Steam Cleaner Areas required additional investigation and assessment. While sediment investigation and assessment work in Lake Ewauna is still forthcoming, the additional work performed at the LSD area identified Remedial Action Objectives (RAOs) that included:

• Prevent exposure to shallow groundwater (and soil in contact with the groundwater) containing PCP and potentially dioxins/furans that exceed generic risk based concentrations for groundwater exposure by excavation and/or construction workers; and

• Verify that residual concentrations of PCP in groundwater are stable and decreasing over time by monitoring.

Further site work evaluated options for meeting the RAOs at the site, and recommended a remedy of engineering and institutional controls with groundwater monitoring. This recommended remedy is consistent with previously selected final remedies for the site and consistent with redevelopment of the area. In addition, a soil management plan will be developed to help manage and dispose of any soil or groundwater during construction activities.

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

CONDITIONAL APPROVAL OF METHANE MITIGATION

PROJECT LOCATION: Sexton Crest (Former Cobb's Quarry Landfill), between SW Murray Boulevard, SW 148th Terrace, and SW Maverick Terrace in Beaverton, Oregon.
PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve the completion of remedial action at the Sexton Crest development. The presence of methane gas from fill materials beneath Sexton Crest has been mitigated and DEQ is proposing to issue a conditional "no further action" determination for the completed project.
HIGHLIGHTS: The former Cobb's Quarry Landfill at this location was filled with materials including sod and other organics that produced methane gas when decomposing. Under a July 2003 Voluntary Agreement for Remedial Design and Remedial Action with Sexton Crest Homes, L.L.C. and Sexton Crest Townhomes, L.L.C. DEQ provided oversight of the design and implementation of methane mitigation measures. As part of site development beginning in August 2003, over 110,000 cubic yards of soil and other fill materials such as roots, twigs, asphalt, and concrete were excavated and transported off-site for reuse or disposal at a DEQ-approved location. Engineering controls including two passive methane venting systems and a low-permeability membrane were installed in the new building foundations during development. Between September 2004 and April 2006, GeoDesign submitted inspection documentation for each residence to DEQ, and DEQ approved occupancy for each home and townhome with respect to methane mitigation. No methane was detected during final monitoring of each structure. A January 29,

2007 Project Completion Report prepared by GeoDesign summarizes the installation of the methane mitigation controls and completion of pre-occupancy methane monitoring. The selected methane mitigation components have been implemented for the site and each residential unit. An Easement and Declarations of Restrictions requires that the engineering controls not be disturbed and that any modifications or new construction must be reviewed through the City of Beaverton's permit process. Sexton Crest Homes L.L.C. and Sexton Crest Townhomes L.L.C. has completed their implementation of the mitigation measures. DEQ is proposing to approve completion of the mitigation measures and to issue a conditional "no further action" determination for the site. The condition is ongoing compliance with the Easement and Declaration of Restrictions.

Additional information regarding the project may be found at DEQ's website: http://www.deq.state.or.us/lq/cu/nwr/cobbsquarry/index.htm. The Project Completion Report and associated documents are available for public review at DEQ's Northwest Region office. To schedule an appointment contact DEQ at 503-229-6729. Questions about the project should be directed to the DEQ Project Manager, Tom Roick, telephone 503-229-5502 or email roick.tom@deq.state.or.us. Written comments should be sent to the project manager at DEQ's Northwest Region office, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by May 2, 2007.

PROPOSED APPROVAL OF SOIL CLEANUP AT THE GARY DAVIS TRUCKING SITE CLACKAMAS, OREGON

COMMENTS DUE: May 1, 2007
PROJECT LOCATION: 16795 SE Evelyn Street, Clackamas, Oregon
PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes approval of the cleanup of petroleum-contaminated soil and chromium impacted storm drain sediment.
HIGHLIGHTS: The site property is located in Clackamas approximately 100 feet east of Cow Creek, a tributary of the Clackamas River. The site is used as a truck dispatch and diesel truck maintenance facility. In June 2005 the site owner entered into an agreement with DEQ to address a 1999 release of diesel fuel from an aboveground storage tank (AST). The spill resulted in the impacts to the storm drain system along Evelyn Street, a sheen on Cow Creek, and localized soil contamination. The majority of the most highly contaminated soil was removed in March 2005.

Elevated chromium concentrations were detected in catch basin sediments and samples collected from the parking lot northeast of the shop. Slag fill was identified as the chromium source. Further storm water system evaluation conducted following implementation of storm water best management practices (BMPs) indicated chromium levels were protective of wildlife in Cow Creek. DEQ's proposed NFA requires continued implementation of BMPs to prevent transport of chromium-contaminated sediments to Cow Creek. The BMPs and their documentation standards will be incorporated into their site storm water pollution control plan.
HOW TO COMMENT: The staff memorandum and other files will be available for public review beginning Sunday, April 1, 2007. To schedule an appointment to review the site files call Dawn Weinberger at (503) 229-6729. The DEQ project manager is Mark Pugh (503) 229-5587. Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201 by Tuesday, May1, 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.
THE NEXT STEP: DEQ will consider all public comments and DEQ's Northwest Region Cleanup Manager will make and publish the final decision after consideration of these comments.

CHANCE TO COMMENT ON… PROPOSED NO FURTHER ACTION DECISION FOR DEEP GROUNDWATER AT THE WEST PARK PARCEL, FORMERLY PART OF TEKTRONIX BEAVERTON CAMPUS

COMMENTS DUE: May 2, 2007
PROJECT LOCATION: The West Park Parcel is located at the northwest corner of the intersection of SW Murray Road and SW Millikan Way, Beaverton, 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 for a "No Further Action" (NFA) determination for deep groundwater at the West Park Parcel, formerly part of the Tektronix Beaverton Campus. The parcel will not be removed from the Confirmed Release and Inventory Lists until cleanup of Beaverton Creek bank soil and sediments has been completed as part of the overall Tektronix Evaluation Area 1 Site remediation.
HIGHLIGHTS: The West Park Parcel is located in Beaverton within an area zoned for multiple-use station communities, and industrial and high-density residential land uses. Groundwater beneath the parcel is not currently used for drinking water but does discharge into Beaverton Creek and supports ecological habitat. Therefore, the main pathway of concern for deep groundwater is for ecological receptors and support of aquatic habitat. The Tualatin Hills Nature Park is located along Beaverton Creek about 0.6 miles to the west. The portion of the parcel south of Beaverton Creek was used for land application of waste sludge and soil pile storage from 1967 to 1983. The sludge contained volatile organic chemicals (VOCs), primarily trichloroethene (TCE) and metals. No other facility-related activity has been reported for the portion of the parcel north of Beaverton Creek.

During 1985 to 1986 surface and subsurface soil and groundwater were investigated and a groundwater monitoring network of 17 wells was installed. VOCs and metals were detected at elevated concentrations in soil and VOCs were detected in groundwater. Prior to 1990, all accessible sludge was removed from the site. A groundwater pump and treat system was initiated in January 1989 and converted to a Monitored Natural Attenuation (MNA) groundwater treatment system in 1996. Additional soil and groundwater investigation conducted in 2002 served as the basis for a 2003 NFA issued for soil and shallow groundwater that would allow development of the parcel. The 2003 NFA required the existing 12 monitoring wells remain in place until the Tektronix Evaluation Area 1 remedial investigation and feasibility study was complete.

Recent groundwater data indicates only acetone and cis-1,2-dichloroethene (DCE) are detected in deep groundwater at concentrations of 14.1 and 1.03 ug/L respectively. These concentrations are well below risk-based criteria for ecological receptors and would not be expected to accumulate within sediments of Beaverton Creek. These chemicals were not detected in recent Beaverton Creek surface water monitoring. DEQ concludes that VOCs detected in deep groundwater are not discharging into Beaverton Creek at concentrations of ecological concern, that the MNA system has been effective for treatment of groundwater, and no further site groundwater monitoring at the West Park Parcel is necessary.

DEQ has determined that no further actions are warranted for the West Park Parcel because risk-based criteria for ecological receptors are not exceeded. The parcel will not be removed from the Confirmed Release and Inventory Lists until Beaverton Creek bank soil and sediment remediation is compete. Existing groundwater monitoring wells may be decommissioned pending issuance of a NFA for deep groundwater.
HOW TO COMMENT: You can review the administrative record for the proposed No Further Action at DEQ's Northwest Region office located at 2020 SW 4th Avenue, Suite 400, Portland, Oregon. For an appointment to review the files call (503)229-6729; toll free

at (800)452-4011; or TTY at (503)229-5471. Please send written comments to Mavis D. Kent, Project Manager, DEQ Northwest Region East Side Office, 1550 NW Eastman Parkway, Suite 290, Gresham, Oregon, 97030 or via email at: kent.mavis.d@deq.state.or.us. DEQ must receive written comments by 5:00 p.m. on May 2, 2007. This notice will also be published in the local newspaper The Oregonian.

DEQ will hold a public meeting to receive verbal comments if 10 or more persons, or a group with membership of 10 or more requests such a meeting. Interest in holding a public meeting must be submitted in writing to DEQ. If a public meeting is held, a separate public notice announcing the date, time, and location of any public meeting would be published in this publication.

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at (503) 229-5696 or toll free in Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY number, (503)229-5471.

THE NEXT STEP: DEQ will consider all public comments received by the May 2, 2007 deadline. In the absence of comments, DEQ will issue the No Further Action.

REQUEST FOR PUBLIC COMMENT RECOMMENDATION FOR NO FURTHER ACTION ON RIVER BEND SAND AND GRAVEL PROPERTY, SALEM

COMMENTS DUE: May 1, 2007

PROJECT LOCATION: Above ground diesel storage tank — River Bend Sand and Gravel,
4105 Lancaster Drive SE, Salem, Oregon.

PROPOSAL: DEQ is recommending no further cleanup action at the River Bend Sand and Gravel Site. This notification is required by ORS 465.320.

HIGHLIGHTS: In 1988 there was a spill of approximately 4,000 gallons of diesel fuel from an above ground storage tank, some of which leaked through a crack in the secondary containment system. The containment system was repaired and contaminated soils was removed shortly thereafter, but DEQ did not receive a cleanup report at the time.

In 2006 soil samples were collected from all sides of the storage tank to confirm that sufficient contaminated soil had been removed. Several petroleum constituents were detected, but at levels far below DEQ standards for soil cleanup. In the absence of unacceptable risks from residual petroleum contamination at the site, DEQ recommends that no further action be required.

HOW TO COMMENT: The project files may be reviewed by appointment at DEQ's Eugene office, 1102 Lincoln Street. Written comments must be received by May 1, 2007. Comments should be submitted to DEQ's Eugene office, located at 1102 Lincoln St., Suite 210, Eugene, OR 97401 or by e-mail at sadofsky.seth@deq.state.or.us. Questions may also be directed to Seth Sadofsky at the Eugene address or by calling him at 1-800-844-8467, ext 7329. The TTY number for the hearing impaired is 541-687-5603. DEQ will consider all public comments before taking final actions on this matter.

RECOMMENDED FINAL REMEDY NICHOLS BOAT WORKS, HOOD RIVER, OREGON

COMMENT PERIOD: April 1-30, 2007

PROJECT LOCATION: Near Interstate 84 Exit 63, Hood River, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute ORS 465.320 and Oregon Administrative Rules OAR 340-122-100, the Department of Environmental Quality (DEQ) is recommending a final remedy regarding soil and sediment contamination at the former Nichols Boat Works Site.

HIGHLIGHTS: The Nichols Boat Works site (Nichols) is located just northeast of the Interstate 84 Exit 63 in Hood River, Hood River County, Oregon. The shipbuilding and repair facility has been owned and operated at four locations in the same general vicinity along the Columbia River waterfront since 1941. The current site, used from the early 1970s through 1998, includes a workshop with launching ways and an office building at the southern end of a horseshoe-shaped marina that is adjacent to the confluence of Hood River and the Columbia River. The site is approximately 5.5 acres and includes submerged acreage that is part of a marina that is operated by the Port of Hood River. The existing Hood River waterfront was created for industrial use by extensive dredge filling during the 1960s.

The primary contaminants of concern identified include metals and polycyclic aromatic hydrocarbons (PAHs). Upland soils and sediments that were found to be impacted by contaminants, primarily near ship building ways from sand blast grit activities, were removed in December 2006 under a Section 404 Dredge Permit and disposed at the Wasco County Landfill.

The property, rezoned last year from industrial to recreational-commercial, is scheduled to be a mixed use development. Some areas scheduled for development indicate that there may still be a construction worker exposure from metals in soil, so a soil and sediment management plan will be developed to manage and dispose of remaining soils and sediments during construction and development.

Confirmation samples indicate that there are no surficial sediments that are currently above DEQ's screening level values (SLVs) and sediment samples submitted for bioassay testing indicate little or no toxicity is present in offshore samples. A contingency plan will be developed to address possible exposure of deeper sediments left beneath a clean layer sediment by possible future dredging or shoreline development.

Based on the zoning change, proposed development plans, and residual human health and ecological risk assessments, the site does not currently identify any unacceptable risks at the site

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 THE ACF INDUSTRIES SITE

COMMENTS DUE: April 30, 2007

PROJECT LOCATION: 12160 NW St. Helens Road, Portland, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve cleanup activities at the former ACF Industries LLC (ACF) site.

HIGHLIGHTS: The approximately 6-acre property is located upland and approximately 800 feet west of the Willamette River in an industrial area of north Portland. Past tenants included a lumber mill (1930s and later) and two railroad tank car cleaners 1957 to 1980). A transformer cleaning and repair operation occupied the site for a short time in the 1980s. Petroleum hydrocarbons and their associated constituents, metals, and polychlorinated biphenyls (PCBs) have been detected in soil on and adjacent to the site. A large remediation was completed by ACF in 1990 to address releases from tank car cleaning. The site was subsequently identified as a potential source to the Willamette River (Portland Harbor), and a Unilateral Order for investigation issued by DEQ in 2000. Additional site investigation was subsequently completed under DEQ (2001-2005); metals impacts to on-and off-site soil were identified as the primary site concern. Soil removal and capping (engineered cover) were selected by DEQ as the appropriate site remedy in June 2006, and work

was completed in September/October 2006. Approximately 6,400 tons of soil were removed from the site and disposed as a special waste at Hillsboro Landfill, and most of the site capped with an engineered cover of geotextile fabric and clean rock. A closure report documenting the work has been approved by DEQ. Hot spots of soil contamination have been removed, and residual soil contamination exceeding risk-based concentrations has been covered. Groundwater beneath the site has not been significantly impacted, and DEQ previously determined that the site is not a current/ongoing source of contaminants to the Willamette River. No further site action is necessary beyond maintenance of the engineered cover. A no further action determination is therefore proposed for the ACF site.

HOW TO COMMENT: To review project records, contact Dawn Weinberger at (503) 229-6729. The DEQ project manager is Dan Hafley (503-229-5417). Written comments should be sent to the project manager at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by April 30, 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.

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

NO FURTHER ACTION DETERMINATION FOR BLOCK 35 AT PACIFIC RICHLAND SITE, PORTLAND, OREGON

PROJECT LOCATION: 3510 SW Bond Avenue

Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the final determination that no further action (NFA) is required on Block 35 of the Pacific Richland site (within the South Waterfront Development District) Portland, Oregon. The property redevelopment plan is for mixed urban residential/commercial use.

The larger Pacific Richland site, currently being developed for urban residential and commercial use, had past uses including gravel crushing and concrete production operations from the 1930s through the 1980s. Ancillary facilities included a paint operation and vehicle maintenance operation.

Other Blocks within the Pacific Richland site will be issued no further action (NFA) determinations as the excavations are completed in accordance with DEQ-approved *Soil Management Plan, South Waterfront Central District, Portland*, Oregon, dated February 3, 2004 and addendums to the soil management plan.

Excavation at Block 35 for development was conducted between November 2005 and April 2006 to prepare the site for development. Site investigations identified limited areas of petroleum hydrocarbon contaminated soils. These areas were removed during both isolated removal actions and excavation activities for property development. The excavation activities were conducted in accordance with the DEQ-approved soil management plan. Groundwater monitoring did not show significant impacts to groundwater that pose a risk to human health or the environment.

Based on this information, DEQ has concluded that Block 35 of the Pacific Richland site does not pose an unacceptable risk to public health or the environment unless additional relevant information becomes available. No further action is required at Block 35 of the Pacific Richland site by current or future owners under Oregon Environmental Cleanup Law, ORS 465.200 et seq., unless new or previously undisclosed information becomes available.

INFORMATION: The Staff Report, ICP Agreement, and the administrative record for the site are available for public review by appointment at DEQ's Northwest Region Office. For scheduling an appointment please call (503) 229-6729. For additional information, contact DEQ Project Manager, Chris Kaufman at (503) 229-5614 or by email at kaufman.chris@deq.state.or.us

PUBLIC NOTICE
PROPOSED CONDITIONAL NO FURTHER ACTION
VALE SERVICE STATION (FORMER), VALE, OREGON

COMMENTS DUE: April 30, 2007

PROJECT LOCATION: SE corner of Longfellow and "A" St., Vale, OR

PROPOSAL: The Department of Environmental Quality is proposing to issue a risk based "Conditional No Further Action" determination following the implementation of institutional controls at the former Vale Service Station site is located at the southeast corner of Longfellow and "A" Street in Vale, Oregon.

HIGHLIGHTS: The site was historically used as a machine shop and service station (dating back to 1911). The service station ceased operations prior to 1964. The property was donated to the City of Vale by Goodman Oil in January 1994. The site has been vacant for at least 10 years.

The site has been proposed for a risk-based closure. All of the potential exposure concerns are proposed to be addressed though: 1) elimination of potential pathways; and 2) by placement of institutional controls on the property. The institutional control consists of deed restrictions with the following restrictions: 1) no beneficial use of groundwater; and 2) engineering controls will be required if a building with residential use is constructed in the northern portion of the site. The site will listed on DEQ's Confirmed Release List and Inventory of Hazardous Substances.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be sent by April 30, 2007 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.

NOTICE OF PROPOSED NO FURTHER ACTION
JAMES SIMMONS PETROLEUM (FORMER)
FIRST ST. & HWY 395, LONG CREEK, OREGON

PROJECT LOCATION: First Street and Highway 395, Long Creek, Oregon

Pursuant to Oregon Revised Statute (ORS) 465.320, the Oregon Department of Environmental Quality (DEQ) is issuing this notice regarding the proposed No Further Action (NFA) for the former James Simmons Petroleum site located at First Street and Highway 395 in Long Creek, Oregon.

A petroleum release was noted in October 2000 during site assessment activities. Nine underground storage tanks (USTs), pump island, associated piping, and the station building were decommissioned and removed in May to June 2004 and in May 2006. The site is currently a vacant lot. A risk based evaluation according to DEQ's "*Risk-Based Decision Making for the Remediation of Petroleum-Contaminated Sites*" guidance was performed. Residual contamination remains on portions of the site and under First Street. Based on the evaluation, the site is proposed for a risk-based closure and issuance of a NFA determination. All of the potential exposure concerns were addressed through their elimination during development of the site-specific conceptual site model. The proposed NFA is documented in the "NFA Recommendation" memo dated February 27, 2007. DEQ will consider all public comments received before issuing the NFA determination.

INFORMATION: The decision document and documentation of actions performed at the site are available for public review by appointment at DEQ's Pendleton Office. For additional information or to schedule an appointment, contact DEQ Project Manager, Katie Robertson at (541) 278-4620 or by email at robertson.katie@deq.state.or.us. Interested persons should send comments by 5 p.m. April 30, 2007 to the DEQ project manager 700 SE Emigrant, Suite 330, Pendleton, OR 97801.

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

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Board of Examiners for Engineering and Land Surveying
Chapter 820

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

Date:	Time:	Location:
5-8-07	1–2 p.m.	670 Hawthorne Ave. SE Suite 220 Salem, OR 97301

Hearing Officer: Bob Neathamer
Stat. Auth.: ORS 672.155, 672.255
Other Auth.: ORS 670.310
Stats. Implemented: ORS 672.002 - 672.325
Proposed Amendments: 820-010-0325
Last Date for Comment: 5-8-07, close of hearing
Summary: This rule is amended to adopt the Oregon State Board of Examiners for Engineering and Land Surveying 2007–2009 biennial budget, with an expenditure limit of $2,060,432. A copy of the proposed budget and/or rule amendment is available on the Board's Web site, www.osbeels.org, or by contacting the agency.
Rules Coordinator: Mari Lopez
Address: 670 Hawthorne Avenue, SE Suite 220, Salem, OR 97301
Telephone: (503) 362-2666

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Bureau of Labor and Industries
Chapter 839

Rule Caption: Corrects incorrect federal regulation citation pertaining to payment of exempt employees on fee basis.
Stat. Auth.: ORS 653.040
Stats. Implemented: ORS 653.010 - 653.261
Proposed Amendments: 839-020-0004
Last Date for Comment: 4-30-07
Summary: The proposed rule amendment corrects an incorrect federal regulation citation which provides that compensation paid to exempt administrative and professional employees in the form of fees is not inconsistent with the payment of such employees on a salary basis. This proposed amendment would partially make permanent a temporary rule adopted on November 24, 2006 which also referenced two other federal regulations that the agency has since determined may not be appropriate to reference in the rule. These have been omitted from the proposed rule amendment.
Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

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Construction Contractors Board
Chapter 812

Rule Caption: License Fitness Standards Rule.

Date:	Time:	Location:
4-17-07	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd. Salem, OR

Hearing Officer: Tom Skaar
Stat. Auth.: ORS 670.310, 701.235
Stats. Implemented: ORS 701.135
Proposed Adoptions: 812-003-0450
Last Date for Comment: 4-17-07, 11 a.m.
Summary: In order to exercise authority under ORS 701.135(1)(h) to deny a license to a person who has been convicted of a felony involving crimes that are violent, threatening, intimidating or sexually predatory, which cold result in the public being at risk of harm, the CCB needs to adopt rules establishing license standards of fitness.
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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Department of Administrative Services, Human Resource Services Division
Chapter 105

Rule Caption: Establishing rule describing Management Trial Service Period as delegated pursuant to ORS 240.570(3).
Stat. Auth.: ORS 184.340, 240.145(3), 240.250
Stats. Implemented: ORS 240.570(3)
Proposed Adoptions: 105-040-0065
Last Date for Comment: 4-23-07
Summary: The Division currently has the subject of Trial Service for Management Service addressed in internal (HRSD) policy. The Division has reviewed ORS 240.570(3) which states in relevant part "A management service employee is subject to a trial service period established pursuant to rules of the Personnel Division under 240.250." Based on this review, the legislature is specifically directing the Division to establish an OAR on this matter.
Rules Coordinator: Cheryl Knottingham
Address: Department of Administrative Services, Human Resource Services Division, 155 Cottage St. NE, U90, Salem, OR 97301
Telephone: (503) 378-2349, ext. 325

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Department of Agriculture
Chapter 603

Rule Caption: Amends requirements of Pesticide Dealers when selling pesticide products containing carbofuran.

Date:	Time:	Location:
4-25-07	1:30 p.m.	635 Capitol St. NE Salem, OR

Hearing Officer: Clark Cooney
Stat. Auth.: ORS 634
Stats. Implemented: ORS 634
Proposed Amendments: 603-057-0140
Last Date for Comment: 5-4-07, 5 p.m.
Summary: Requires Pesticide Dealers to obtain, record, and submit to the Oregon Department of Agriculture additional specific infor-

mation when the "restricted use" pesticide product sold/distributed contains the active ingredient carbofuran.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

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Department of Agriculture,
Oregon Bartlett Pear Commission
Chapter 606

Rule Caption: Oregon Bartlett Pear Commission to be abolished and Chapter 606 rules repealed.

Date:	Time:	Location:
5-1-07	10 a.m.	4382 SE International Way Suite A Milwaukie, OR 97222-4635

Hearing Officer: Linda Bailey
Stat. Auth.: ORS Ch. 576, 576.062(10), 576.455
Stats. Implemented: ORS 576.455
Proposed Repeals: 606-001-0000, 606-010-0010, 606-010-0015, 606-010-0020, 606-010-0025, 606-010-0030, 606-030-0010, 606-030-0020, 606-030-0040, 606-040-0010
Last Date for Comment: 5-1-07, close of hearing
Summary: The Oregon Bartlett industry has asked the legislature to abolish the Oregon Bartlett Pear Commission (OBPC). Pear assessments and promotion programs are successfully managed through other pear organization for all pears, and the state commission for only the Bartlett variety is no longer needed. HB 2444 to abolish the commission has unanimously passed the House Agriculture and Natural Resources Committee, the House, the Senate business, Transportation and Workforce Committee, and is now on its way to the Senate. If abolished, the administrative rules in chapter 606 for the running of the commission will no longer be needed.

The commissioners of the OBPC voted unanimously on April 25, 2006 to dissolve the commission in the next legislative session. There is no economic impact as the assessment rates have been set at zero for 2 years, and all remaining funds have been depleted.
Rules Coordinator: Linda Bailey
Address: Bartlett Pear Commission, 4382 SE International Way, Suite A, Milwaukie, OR 97222-4635
Telephone: (503) 652-9720

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Department of Agriculture,
Oregon Processed Vegetable Commission
Chapter 647

Rule Caption: Amend rules related to assessment rates.

Date:	Time:	Location:
4-26-07	7:30 p.m.	3415 Commercial St. SE Salem, OR

Hearing Officer: Bruce Hammelman
Stat. Auth.: ORS 576.051 - 576.595
Stats. Implemented: ORS 576.051 - 576.595
Proposed Amendments: 647-010-0010
Last Date for Comment: 4-26-07, 7:30 p.m.
Summary: The proposed rule amendments set the assessment rates for the six processed vegetable crops governed by the commission.
Rules Coordinator: John McCulley
Address: Department of Agriculture, Processed Vegetable Commission, PO Box 2042, Salem, OR 97308
Telephone: (503) 370-7019

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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 Proximity to Overhead High Voltage Lines and Equipment in Construction.

Date:	Time:	Location:
4-24-07	10 a.m.	Dept. of Fish & Wildlife Bldg. 3406 Cherry Ave. NE Commission Rm., 1st Floor Salem, OR 97303

Hearing Officer: Sue Joyce
Stat. Auth.: ORS 654.025(2), 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Proposed Adoptions: 437-003-0049
Proposed Amendments: 437-003-0047
Last Date for Comment: 4-30-07
Summary: The proposed requirements of OAR 437-003-0047, Proximity to Overhead High Voltage Lines and Equipment, located in Division 3, Construction, are the same as the current ones, with two additions:

• Allows the use of insulated, non-conductive lines and equipment for entry into restricted space.

• Ten foot clearance signs must be clear and understandable to the operator.

The language and format have been revised to make the standard easier to understand and designed for the construction worker rather than the lineman. The intent of the standard is to prevent unqualified, inexperienced, and/or inadequately equipped employees from being injured or killed by contact with energized overhead high voltage lines has not changed.

The standard's current title has been changed to *Working Near Overhead High Voltage Lines and Equipment*, which identifies the same subject. The current language prohibits exposure within 10 feet (plus a few inches for voltages over 50 kV) of overhead lines. The proposed language requires the same clearances, but refers to them as restricted space. Both the current language, and the proposed language allow working within the restricted space when overhead lines are de-energized and grounded, or when insulating barriers are erected to prevent possible contact with power lines or equipment. The current language already prohibits insulating barriers from being attached to the overhead lines. The proposed language clarifies that line covers which can be attached to lines, are for visual reference only.

The requirements for notifying the owners of lines; who is allowed to work on high voltage lines; restricting the ability of equipment to reach within 10 feet of energized lines; and work near railways and commuter systems have been rewritten for clarity.

Please visit our web site www.orosha.org

Click 'Rules & Laws' in the left vertical column and view our proposed, adopted, and final rules.
Rules Coordinator: Sue C. Joye
Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE , Salem, OR 97301-3882
Telephone: (503) 947-7449

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

Rule Caption: Proposed amendment of rules affecting medical fees and payment for the treatment of injured workers.

Date:	Time:	Location:
4-23-07	9 a.m.	Rm. 260 (basement) Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns
Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.248, 656.245, 656.247, 656.252, 656.254, 656.256, 656.704
Proposed Amendments: Rules in 436-009
Last Date for Comment: 4-26-07
Summary: The agency proposes to amend OAR chapter 436-009. These proposed rules:

• Adopt by reference updated medical resources (436-009-0004):

- The columns for "CPT/HCPCS," "Mod," "Non-Facility Total," "Facility Total," and "Global" in the Centers for Medicare & Medicaid Services (CMS) 2007 Medicare Resource-Based Relative Value Scale (RBRVS) Addendum B and Addendum C, 71 Federal Register No. 231, December 1, 2006, as the basis for the fee schedule for payment of medical service providers except as otherwise provided in these rules, and not including the definitions, status indicators, alpha codes, edits, processes, policies or philosophies of CMS, such as: the National Correct Coding Initiative;

- *American Society of Anesthesiologists (ASA), Relative Value Guide 2007* as a supplementary fee schedule for payment of anesthesia service providers except as otherwise provided in the rules for anesthesia codes not found in the Federal Register; and

- *The Physicians' Current Procedural Terminology (CPT® 2007)*, Fourth Edition Revised, 2006 for billing by medical providers;

• Adopt by reference new medical resources (436-009-0004):

- The AMA's *CPT® Assistant*, Volume 0, Issue 04 1990 through Volume 16, Issue 12 2006, as a supplement for determining the level of service described by the CPT® manual guidelines;

- The alphanumeric codes from the CMS Healthcare Common Procedure Coding System (HCPCS) 2007, to be used when billing for services only to identify products, supplies, and services that are not sufficiently described by CPT® codes, and not including edits, processes, exclusions, color-coding and associated instructions, age and sex edits, notes, status indicators, or other CMS policies.

• Provide a dispute resolution process when an insurer believes there is an overpayment to a medical provider (436-009-0008(2));

• Replace existing late-billing payment criteria with a 12-month deadline for billing (with some exceptions), after which payment is no longer due (436-009-0010(5));

• Prescribe a process to be used by insurers and out-of-state hospitals to negotiate fees (436-009-0020(3));

• Specify conditions for reimbursement of workers for meals during required travel (436-009-0025(2));

• Require that insurers inform workers in writing of the two-year time limitation to request reimbursement of travel-related costs (436-009-0025(3));

• Require that insurers provide a written explanation to the medical provider with any medical bills that are rejected, not paid, or not paid as billed (436-009-0030(3));

• Require insurers to use secure file transfer protocol (SFTP) when submitting medical data to the Department of Consumer and Business Services, instead of FTP, diskette, or compact disc (436-009-0030(10));

• Offset the CMS increase in relative value units for the service category "Evaluation/Management" by reducing the Evaluation/Management conversion factor to $59.79 (436-009-0040(4));

• Clarify that fee reductions for imaging procedures for multiple body areas apply to the technical but not the professional component (436-009-0050(4));

• Provide that a medical provider may not require pre-payment for medical records unless the provider can document that the insurer has previously not paid for records as required by the rules (436-009-0070(1));

• Provide that a medical provider may not require pre-payment for a deposition unless the provider can document that the insurer has previously not paid for depositions as required by the rules (436-009-0070(6));

• Require that providers be compensated for all time spent preparing for a deposition (436-009-0070(6));

• Require that insurers pay providers when depositions are canceled or rescheduled, on a sliding scale based on how much notice is given to the provider (436-009-0070(6));

• Provide criteria for billing for interpretive services (436-009-0070(8));

• Clarify that a medical arbiter must be paid for any file review completed prior to cancellation of the examination (436-009-0070(9));

• Clarify that if a worker does not attend a director-required medical examination without providing 48 hours notice, the insurer must pay the provider for the appointment time and any time spent reviewing the record prior to the examination time (436-009-0070(9)); and

• Require that if a provider can demonstrate that 85% of the manufacturer's suggested retail price for durable medical equipment is less than 140% of the actual cost to the provider, the insurer must pay the provider 140% of the provider's actual cost for the item as documented on a receipt of sale (436-009-0080(1)).

• 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 Environmental Quality
Chapter 340

Rule Caption: Redesignation of the Salem-Keizer Carbon Monoxide Nonattainment Area.

Date:	**Time:**	**Location:**
4-16-07	7 p.m.	DEQ Salem Office 750 Front Street NE, Ground Floor Salem, OR

Hearing Officer: DEQ staff
Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.035
Proposed Amendments: 340-204-0030, 340-204-0040
Last Date for Comment: 4-20-07, 5 p.m.
Summary: The Department of Environmental Quality (DEQ) is proposing that the Environmental Quality Commission change the status of the Salem-Keizer Carbon Monoxide area from nonattainment (i.e., not in compliance) to a state maintenance area (in compliance). This change is warranted because the Salem area has not violated the federal carbon monoxide (CO) standard in many years. This action includes adoption of a Salem-Keizer Limited Maintenance Plan which demonstrates how the area will stay within the required CO limits for at least the next ten years and guarantees that the sizable emission reductions achieved by motor vehicles in the past will be maintained. If adopted, DEQ will submit the CO Maintenance Plan to the US Environmental Protection Agency (EPA) with a request that the Salem-Keizer area be redesignated to attainment of the National Ambient Air Quality Standard for CO under federal requirements. DEQ will request that EPA approve this submission as a revision to the Oregon State Implementation Plan (SIP), which is a requirement of the Clean Air Act.

In the last two decades CO levels have decreased considerably due to computerized engine controls and tighter emission requirements for new cars and trucks. The Salem-Keizer area has not violated the CO Standard since 1985, and future emissions are expected to stay low. Historically, elevated CO levels were seen in the winter months, and were caused by automobile traffic at congested intersections. Other sources of CO, like industrial emissions and wintertime wood burning contribute a small amount to overall background CO, but the primary driver of CO levels is transportation. Air monitoring trends show that CO levels have dramatically decreased over the past twenty years as cars have become much cleaner. Because the public health risk from CO has been significantly reduced in the Salem-Keizer area, DEQ can now complete the administrative process to redesig-

nated Salem from a CO nonattainment area to a state CO maintenance area and federal attainment area.

This rulemaking includes a CO maintenance plan that demonstrates current compliance with standards (CO levels are now approximately 1/2 of the federal standard) and ensures future compliance. CO reductions are primarily a result of cleaner vehicle emission requirements. No new CO reduction measures are needed to maintain compliance with standards. This rulemaking proposal would also modify Salem's new source review requirements for new and expanding major industry from the current requirement to install "Lowest Achievable Emission Rate" emission controls to the potentially less stringent "Best Available Control Technology." Such new and expanding industry would often no longer be required to offset increased CO emissions with an equivalent amount of CO reductions in the area. In addition, some transportation planning requirements would be streamlined for the Salem-Keizer area due to the low chance of violating the CO standard in the future.

Written comments may be submitted to Dave Nordberg at the Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, OR 97204; fax: 503-229-5675; or email: Salem.Keizer.CO@deq.state.or.us

To request additional information, please contact Dave Norberg at 503-229-5519; or toll free in Oregon at 800-452-4011. To see the rulemaking notice or obtain other information see the following DEQ web address: http://www.deq.state.or.us/aq/planning/nonattainment.htm

Rules Coordinator: Larry McAllister
Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204
Telephone: (503) 229-6412

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Rule Caption: Air Quality Permit Program Streamlining and Updates.

Date:	Time:	Location:
4-23-07	6–7:30 p.m.	Jackson Co. Courthouse 10 S. Oakdale Medford, OR
4-24-07	6–7:30 p.m.	DEQ Office 300 SW Reed Market Rd. Bend, OR
4-25-07	6:30–8:30 p.m.	DEQ Office, Rm. 10 811 SW 6th Ave. Portland, OR

Hearing Officer: John Becker, Linda Hayes-Gorman, William Knight
Stat. Auth.: ORS 468.020, 468A.310
Stats. Implemented: ORS 468A.025, 468A.035
Proposed Amendments: 340-200-0010, 340-200-0020, 340-200-0025, 340-200-0040, 340-208-0010, 340-208-0110, 340-208-0500, 340-208-0510, 340-209-0040, 340-209-0070, 340-209-0080, 340-214-0010, 340-214-0300, 340-214-0310, 340-214-0320, 340-214-0330, 340-214-0340, 340-214-0350, 340-214-0360, 340-216-0020, 340-216-0060, 340-216-0082, 340-218-0010, 340-218-0020, 340-218-0040, 340-218-0050, 340-218-0120, 340-218-0150, 340-218-0180, 340-218-0190, 340-218-0250, 340-228-0020, 340-228-0200, 340-228-0210, 340-228-0672, 340-228-0673, 340-228-0674, 340-228-0676, 340-228-0678, 340-230-0020, 340-230-0030, 340-230-0100, 340-230-0110, 340-230-0150, 340-230-0200, 340-230-0210, 340-230-0220, 340-230-0230, 340-232-0010, 340-232-0040, 340-234-0010, 340-234-0100, 340-234-0140, 340-234-0210, 340-234-0220, 340-234-0240, 340-234-0250, 340-234-0500, 340-234-0510, 340-234-0520, 340-234-0530, 340-236-0010, 340-236-0410
Proposed Repeals: 340-208-0550, 340-208-0560, 340-208-0630, 340-234-0110, 340-234-0120, 340-234-0130, 340-234-0230, 340-234-0260
Last Date for Comment: 4-27-07, 5 p.m.
Summary: The proposed rulemaking would improve the Air Quality permitting process and help maintain a fully delegated and federally approved permitting program. The rule changes address rules that are inadequate, redundant, unclear, or outdated. Many of the rule changes simplify, update and align permitting rules with federal requirements. Other changes include adopting a federal delisting of a volatile organic compound and a correction to Oregon's recently adopted Utility Mercury Rules. All of the proposed changes would maintain an equivalent level of environmental protection and stringency. These amendments, if adopted, will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to the State Implementation Plan, which is a requirement of the Clean Air Act.

To submit comments or request additional information, please contact Sarah Armitage at the Department of Environmental Quality (DEQ), 811 S.W. 6th Avenue, Portland, Oregon, 97219, toll free in Oregon at 800-452-4011 or 503-229-5186, or at armitage.sarah@deq.state.or.us, or by fax 503-229-5675, or visit DEQ's website: http://www.deq.state.or.us/news/publicnotices/
Rules Coordinator: Larry McAllister
Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204
Telephone: (503) 229-6412

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Adopt commercial and sport fisheries seasons in the Pacific Ocean, estuaries, Columbia River and tributaries.

Date:	Time:	Location:
4-13-07	8 a.m.	3406 Cherry Ave. NE Salem, OR

Hearing Officer: Fish & Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.119
Stats. Implemented: ORS 496.162, 506.129
Proposed Adoptions: Rules in 635-003, 013, 014, 016, 017, 018 & 023
Proposed Amendments: Rules in 635-003, 013, 014, 016, 017, 018 & 023
Proposed Repeals: Rules in 635-003, 013, 014, 016, 017, 018 & 023
Last Date for Comment: 4-13-07
Summary: Amend rules relating to commercial and sport salmon fishing in the Pacific Ocean; salmon fishing in specific near-shore ocean waters, bays and coastal streams; sport sturgeon fishing in the Willamette River, sport salmon fishing in the Columbia River and tributaries. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Lamprey harvest at Willamette Falls.

Date:	Time:	Location:
5-11-07	8 a.m.	Lane Community College, Center for Meeting & Learning 4000 E. 30th Ave. Bldg. 19, Rm. 202 Eugene, OR 97405

Hearing Officer: Fish & Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.119
Stats. Implemented: ORS 496.162, 506.129
Proposed Adoptions: Rules in 635-017
Proposed Amendments: Rules in 635-017
Proposed Repeals: Rules in 635-017-
Last Date for Comment: 5-11-07
Summary: Adopt and amend rules regarding lamprey harvest at Willamette Falls. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

Department of Human Services,
Addictions and Mental Health Division:
Mental Health Services
Chapter 309

Rule Caption: Amendment of the "PSRB" administrative rules.
Date: 4-16-07 **Time:** 1 p.m. **Location:** 500 Center St. NE, Rm. 137A Salem, OR 97301
Hearing Officer: Richard Luthe
Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 161.295 - 161.430, 428.205 - 428.270
Proposed Amendments: Rules in 309-032
Last Date for Comment: 4-18-07
Summary: The Department of Human Services, Addictions and Mental Health Division, is proposing to amend OAR 309-032-0450 though 309-032-0515 "Psychiatric Security Review Board (PSRB)" rules to allow the Division to contract directly with a community mental health and developmental disabilities program, other public agency or private corporation or an individual to provide supervision and treatment for a conditionally released person, as allowed under ORS 161.390.
Rules Coordinator: Richard Luthe
Address: Department of Human Services, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, E-86, Salem, OR 97301
Telephone: (503) 947-1186

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Rule Caption: Repeal of unnecessary rules on OAR Chapter 309.
Date: 4-16-07 **Time:** 3 p.m. **Location:** 500 Center St. NE, Rm. 137A Salem, OR 97301
Hearing Officer: Richard Luthe
Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Proposed Repeals: 309-019-0000 – 309-019-0030, 309-031-0005
Last Date for Comment: 4-18-07
Summary: The Department of Human Services, Addictions and Mental Health Division, is proposing to repeal OAR 309-019-0000 through 309-019-0030 (Essential Community Provider Certification) & 309-031-0005 (Dammasch State Hospital Transportation Services), as these rules are no longer needed or used by the Division.
Rules Coordinator: Richard Luthe
Address: Department of Human Services, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, E-86, Salem, OR 97301
Telephone: (503) 947-1186

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

Rule Caption: Establishes standards for the facilities that provide Enhanced Care Services and Enhanced Care Outreach Services.
Date: 4-23-07 **Time:** 2 p.m. **Location:** Human Services Bldg. 500 Summer Street NE Rm. 137AB Salem, OR 97301
Hearing Officer: Staff
Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070
Proposed Adoptions: Rules in 411-058
Last Date for Comment: 4-27-07, 5 p.m.
Summary: The Department of Human Services, Seniors and People with Disabilities Division is proposing to adopt Oregon Administrative Rules to establish standards for the facilities that provide Enhanced Care Services and Enhanced Care Outreach Services.
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: Adoption of FTC Used Car Rule, Federal Truth-in-Lending Act and Federal Consumer Leasing Law.
Date: 5-4-07 **Time:** 10 a.m. **Location:** Commerce Bldg. 158 12th Street NE Salem, OR
Hearing Officer: Hardy Myers
Stat. Auth.: ORS 646.608(4)
Stats. Implemented: ORS 646.608(1)(u)
Proposed Amendments: 137-020-0040
Last Date for Comment: 4-27-07
Summary: OAR 137-020-0040 authorizes enforcement of the federal Truth-in-Lending and Consumer Leasing Acts through the state's Unlawful Trade Practices Act. The amendments update cross references to these Acts. The amendment also makes the Federal Trade Commission Used Motor Vehicle Trade Regulation Rule, 16 CFR § 455 et seq. enforceable under state law. The federal rule requires that motor vehicle dealers display a "Buyers Guide" in used cars they offer for sale to the public.
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 Continuing Education Guidelines for Private Investigators.
Date: 4-24-07 **Time:** 1 p.m. **Location:** 4190 Aumsville Hwy SE Salem, OR 97317
Hearing Officer: Bonnie Salle
Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Proposed Amendments: 259-061-0260
Last Date for Comment: 4-24-07, 4 p.m.
Summary: Amends the current rules relating to continuing education policy to include technological advances and provide a broader range of training opportunities to constituents in rural and outlying areas of the state.
Rules Coordinator: Bonnie Salle
Address: 4190 Aumsville Hwy SE , Salem, OR 97317
Telephone: (503) 378-2431

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Department of Transportation
Chapter 731

Rule Caption: Electronic Bidding for ODOT Highway Public Improvement Construction Project.
Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065
Stats. Implemented: ORS 279A, 279C, 200.035, 279A.030, 279A.065, 279A.120, 279C.300, 279C.345, 279C.360, 279C.365, 279C.375, 279C.380, 279C.385, 279C.390, 279C.395, 279C.500 - 279C.870, 305.385, 701.005 & 701.055
Proposed Adoptions: 731-005-0505
Proposed Amendments: 731-005-0430, 731-005-0470, 731-005-0520, 731-005-0530, 731-005-0540, 731-005-0550, 731-005-0590
Last Date for Comment: 4-23-07
Summary: These rules relate to the solicitation, bidding and awarding of contracts for highway public improvement construction projects. The proposed adoption of a new rule and amendments to existing rules will enable ODOT to implement an electronic bidding

process. The proposed amendments establish definitions and provide for electronic advertising and bidding within the current rules. The proposed new rule establishes the process for electronic advertisement and bidding. These rules must be adopted before the system provider can be retained and the two-way electronic bidding system can be made available to potential bidders. In the past, several contractors have voiced their desire for the capability to submit bids electronically and have expressed support of ODOT's movement toward electronic bidding.

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

Rules Coordinator: Brenda Trump

Address: Department of Transportation, 355 Capitol St. NE, Rm. 22, Salem, OR 97301

Telephone: (503) 986-3171

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

Rule Caption: Self-Insurance Qualifications, Application and Possible Cancellation.

Date:	Time:	Location:
4-18-07	10:30 a.m.	ODOT Bldg. 355 Capitol St. NE, Rm. 122 Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619, 802.010, 806.130, 806.140

Stats. Implemented: ORS 806.130, 806.140

Proposed Amendments: 735-050-0020

Last Date for Comment: 4-23-07

Summary: ORS 806.130 provides that a person qualifies as a self-insurer for purposes of financial responsibility requirements in one of two ways: a) by establishing to the satisfaction of DMV that the person will be able to pay any claims resulting from a motor vehicle accident; or b) by being qualified to act as a self-insurer under Oregon law or city ordinance. DMV proposes to amend OAR 735-050-0020 to enhance and clarify the qualification requirements for issuance of a Self-Insurance Certificate. Under these requirements, an applicant who must establish an ability to pay claims must annually provide: a financial report showing the applicant has retained earnings in an amount specified by the rule; and a certification that the applicant has no unsettled judgments as described in ORS 806.040, owns 25 or more vehicles and agrees to pay what an insurer would be obligated to pay, at least to the limits specified in ORS 806.070. These proposed amendments will allow ODOT to better assess the applicant's ability to pay claims resulting from the operation of vehicles owned by the applicant.

The current rules allow for an applicant to show current standing as self-insured through the Interstate Commerce Commission or through the ODOT Motor Carrier Transportation Division. The Interstate Commerce Commission was abolished and its regulatory functions are now provided by the Federal Motor Carrier Safety Administration. These proposed amendments allow an applicant to provide a copy of a written authorization of self-insured status issued by the Federal Motor Carrier Safety Administration. These amendments also specify that DMV will issue a non-expiring self-insurance certificate to a self-insured public body or an agency of the federal government.

The proposed amendments also clarify that DMV has legal authority to cancel the self-insurance certificate, not revoke the certificate as specified by the current rule, and specify the reasons for cancellation of a self-insurance certificate issued by DMV.

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

Rules Coordinator: Brenda Trump

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 22, Salem, OR 97301

Telephone: (503) 986-3171

Rule Caption: Issuance of interim and mailing of driver license, driver permit and identification card.

Date:	Time:	Location:
4-18-07	9 a.m.	ODOT Bldg. 355 Capitol St. NE, Rm. 122 Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040, 807.050, 807.060, 807.062, 807.120, 807.150, 807.350, 807.370, 807.400, 809.310, 2005 OL, Ch. 775

Stats. Implemented: ORS 807.040, 807.060, 807.066, 807.110, 807.160, 807.310, 807.400, 2005 OL, Ch. 775

Proposed Adoptions: 735-062-0092, 735-062-0094

Proposed Amendments: 735-062-0000, 735-062-0010, 735-062-0030

Last Date for Comment: 4-23-07

Summary: Pursuant to statutory requirements adopted by the 2005 Legislature, the process for issuing a driver license, driver permit and identification card will be changing at DMV. No longer will a customer go to a DMV field office and leave with a driver license or identification card. The 2005 Legislature mandated a change in procedures by requiring that DMV collect biometric data and use that data to verify a person's identity. ORS 807.024 requires the collection of biometric data, the verification of identity using the biometric data, and the mailing of an applicant's driver license, driver permit or identification card once the person's identity has been established. ORS 807.024 does not become fully operative until July 1, 2008. However, DMV will begin mailing driver licenses, driver permits and identification cards in June 2007 to be better prepared for the remaining changes that will occur in 2008 when ORS 807.024 becomes operative. 2005 Oregon Laws, Chapter 775, Section 18 allows DMV to take any action necessary to implement ORS 807.024 before its operative date. DMV intends to first conduct a pilot of these changes in a few offices and later to phase in the changes statewide. It may take DMV a total of 7-10 weeks from the first introduction of the mailing of driver licenses, driver permits and identification cards before all DMV field offices have changed to the new issuance process.

Proposed new rule OAR 735-062-0092 establishes procedures for the mailing of a driver license, driver permit or identification card including procedures for expedited processing.

Proposed new rule OAR 735-062-0094 establishes procedures for the issuance of an interim driver card or interim identification card. The interim driver card may grant the privileges of any class of driver license, driver permit or endorsement depending on the requirements and qualifications met by the applicant. The interim driver card will clearly state on the face of the document what privileges are granted. The interim driver card and interim identification card will be issued for a period not to exceed 30 days. ORS 807.310 and 2005 Oregon Laws, Chapter 775, Section 10, allow DMV to issue the cards for 30 days and extend that period for an additional 30 days if there is sufficient cause.

Changes are made to other rules to integrate these new procedures.

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

Rules Coordinator: Brenda Trump

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 22, Salem, OR 97301

Telephone: (503) 986-3171

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Rule Caption: Provides waiting period to apply for driving privileges if applicant caught cheating on knowledge test.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 802.540, 807.070

Stats. Implemented: ORS 807.070, 807.530, 809.310

Proposed Amendments: 735-062-0040

Last Date for Comment: 4-23-07

Summary: Under OAR 735-062-0040, an applicant may not cheat on a knowledge test by using any aids such as study guides, manuals, notes or devices to obtain an answer. The rule does not specify that a person may not obtain an answer from another person or what happens if a person is caught cheating on a knowledge test. DMV proposes to amend OAR 735-062-0040 to specify that a person may not obtain an answer from another person, and if a person is caught cheating on a knowledge test, the test will be stopped and recorded as an automatic failure and the person must wait 90 days before taking another test. The rule provides that a person determined by DMV to be cheating may request an administrative review of that determination. The rule amendment also authorizes DMV to waive the waiting period if it will impose an extreme hardship on the person. DMV intends to visibly publicize the sanction through signage in field offices and notification on the tests with the intent of stopping people from cheating during the knowledge test. Other changes clarify and update the rule language.

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

Rules Coordinator: Brenda Trump
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 22, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Renewal of Driver License, Identification Card and Commercial Driver License
Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 807.040, 807.045, 807.050, 807.070
Stats. Implemented: ORS 802.012, 802.540, 807.040 - 807.060, 807.100, 807.150, 807.400
Proposed Amendments: 735-062-0090, 735-062-0200
Last Date for Comment: 4-23-07
Summary: DMV proposes these rule changes to strengthen its driver license and identification card issuance process. Currently DMV allows a person to renew a driver's license or identification card if the expiration date is within the next 13 months. State and federal driver licensing and identification card requirements will change significantly over the next few years to provide better security and identity measures in the issuance process. Allowing applicants to renew 13 months before expiration would allow many people to obtain an eight-year driver license or ID card that would circumvent the new requirements. Reducing the allowable renewal period to four months before expiration will remove much of this opportunity and strengthen DMV's security and identity measures in issuing driver licenses and identification cards. DMV also proposes to amend OAR 735-062-0090 to delete language that exempts an applicant who renews a license by mail from providing proof of residence address. DMV no longer issues license renewals by mail.

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

Rules Coordinator: Brenda Trump
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 22, Salem, OR 97301
Telephone: (503) 986-3171

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Landscape Architect Board
Chapter 804

Rule Caption: The Board intends to adopt the 2007–09 biennial budget.

Date:	Time:	Location:
5-11-07	8:30 a.m.	Conference Rm. Sunset Center South Salem, OR

Hearing Officer: Timothy Van Wormer
Stat. Auth.: ORS 671.415, 182.462, 670.310
Stats. Implemented: ORS 671.415
Proposed Amendments: 804-001-0002
Last Date for Comment: 5-4-07, 1 p.m.
Summary: This rule revision will set the final Board approved budget for the 2007–09 biennium at $278,500.
Rules Coordinator: Susanna R. Knight
Address: Sunset Center South, 1193 Royvonne Ave. SE #19, Salem, Oregon 97302
Telephone: (503) 589-0093

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Landscape Contractors Board
Chapter 808

Rule Caption: Amend 2005–2007 budget; adopt 2007–2009 budget.

Date:	Time:	Location:
5-11-07	10 a.m.	Roth's IGA 1130 Wallace Road Salem OR

Hearing Officer: Matthew Triplett
Stat. Auth.: ORS 670.310, 671.670
Stats. Implemented: ORS 182.462
Proposed Amendments: 808-001-0008
Last Date for Comment: 5-11-07, close of hearing
Summary: 808-001-0008 — adjusts 2005–2007 biennium budget and adopts 2007–2009 biennium budget.
Rules Coordinator: Kim Gladwill-Rowley
Address: 235 Union Street NE, Salem, OR 97301
Telephone: (503) 986-6570

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Oregon Housing and Community Services
Chapter 813

Rule Caption: Provides financing for the predevelopment and site acquisition costs associated with the development of low-income housing.

Date:	Time:	Location:
4-23-07	9 a.m.	725 Summer St. NE Suite B, Conference 321 Salem OR

Hearing Officer: Debie Zitzelberger
Stat. Auth.: ORS 183, 456.555(2), 456.625(12)
Stats. Implemented: ORS 456.561, 456.574, 456.620, 456.625
Proposed Adoptions: 813-038-0005, 813-038-0010, 813-038-0015, 813-038-0020, 813-038-0025, 813-038-0030, 813-038-0035, 813-038-0040
Last Date for Comment: 5-5-07, 5 p.m.
Summary: The rules are accomplish the general purposes of the department's Predevelopment Loan Program as authorized in ORS 456.515 to 456.725.

813-038-0005 Sets forth the purpose and objectives for the rules.

813-038-0010 Clarifies the common definitions and terms found within the rules.

813-038-0015 Defines the availability and source of the predevelopment loan funds.

813-038-0020 Sets our the program criteria in order for an applicant to apply for funding through the program.

813-038-0025 Sets out the minimum and maximum loan amounts, term of the loan, applicable interest rate and other conditions of the program.

813-038-0030 Defines the application criteria and the project and financing information that must be included as part of the application process.

813-038-0035 Establishes the charges that will be applicable as part of the program.

813-038-0040 Includes waiver language that is allowed within statute.

Rules Coordinator: Sandy McDonnell
Address: 725 Summer Street NE, Suite B, Salem OR 97301-1266
Telephone: (503) 986-2012

Oregon Patient Safety Commission
Chapter 325

Rule Caption: Establishes the Oregon Patient Safety Reporting Program for Ambulatory Surgery Centers.

Date:	Time:	Location:
4-25-07	1 p.m.	Portland State Office Bldg. Rm. 918 Portland, OR

Hearing Officer: Shannon O'Fallon
Stat. Auth.: Ch. 686 OL 2003 (Sections 4, 6, 9)
Other Auth.: ORS 182.456 - 182.472
Stats. Implemented: ORS 442.820 - 442.835
Proposed Adoptions: 325-025-0001 – 325-025-0060
Last Date for Comment: 4-25-07, 5 p.m.
Summary: These rules establish the Oregon Patient Safety Reporting Program for Ambulatory Surgery Centers as defined in ORS 442.015 and licensed under ORS 441.015. The reporting program will help reduce the risk of adverse events and encourage a culture of patient safety. These rules also establish an ambulatory surgery center fee structure to partially fund the work of the Patient Safety Commission.
Rules Coordinator: Jim Dameron
Address: 1020 SW Taylor St., Suite 375, Portland OR 97205
Telephone: (503) 224-9226

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Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Amend direct rollover rules to administer the PERS programs in compliance with federal tax law.

Date:	Time:	Location:
4-24-07	2 p.m.	Boardroom PERS Headquarters 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650, 243.470
Stats. Implemented: ORS 238.005 - 238.715, 243.401 - 243.507
Proposed Amendments: 459-005-0591, 459-005-0595, 459-005-0599, 459-050-0090
Last Date for Comment: 5-25-07
Summary: The recent 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.

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 agency address or sent via email to Daniel.Rivas@state.or.us
Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

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Oregon State Treasury
Chapter 170

Rule Caption: Repeal of administrative rule 170-061-0010.
Stat. Auth.: ORS 287.034, 183
Stats. Implemented:
Proposed Repeals: 170-061-0010
Last Date for Comment: 4-23-07
Summary: This rule was adopted by the Municipal Debt Advisory Commission in 1983. The rule sets standards for handling bonds that are printed on paper and are paid through the mail. Bonds are now issued in electronic, book-entry form through the Depository Trust Company, and are paid by electronic transfer of funds, eliminating the need for this administrative rule.
Rules Coordinator: Sally Furze
Address: Oregon State Treasury, 350 Winter St. NE , Suite 100, Salem, OR 97301
Telephone: (503) 378-4990

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Oregon University System
Chapter 580

Rule Caption: To adopt the 2007–08 tuition and fee rates and the room/board changes.

Date:	Time:	Location:
5-15-07	10–11 a.m.	Rm. B214 Kerr Admin. Bldg., OSU Corvallis, OR

Hearing Officer: Melanie Bennett
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Proposed Amendments: 580-040-0040
Last Date for Comment: 5-12-07
Summary: To establish tuition and fees for the 2007–08 Academic Year, including room and board rates.
Rules Coordinator: Marcia M. Stuart
Address: Oregon University System, PO Box 3175, Eugene, OR 97403-0175
Telephone: (541) 346-5749

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Oregon University System,
Southern Oregon University
Chapter 573

Rule Caption: Student Health Center.
Stat. Auth.: ORS 351.070
Stats. Implemented:
Proposed Amendments: 573-080-0005
Last Date for Comment: 5-15-07
Summary: The rule specifies the population served by application of a per term health fee. Existing rule specifies population served and health fee applied to students taking 9 or more credits. Proposed change eliminates reference to a specific number of credit hours.
Rules Coordinator: Treasa Sprague
Address: Oregon University System, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520
Telephone: (541) 552-6319

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Oregon University System,
University of Oregon
Chapter 571

Rule Caption: Amend special fees, fines, penalties, and services charges — specifically for Family Housing Rental Rates.

Date:	Time:	Location:
4-24-07	4 p.m.	UO EMU Board Rm. Eugene, OR
4-25-07	4 p.m.	UO EMU Rogue Rm. Eugene, OR

Hearing Officer: Deb Eldredge
Stat. Auth.: 351.070 & 352
Stats. Implemented: 351.070
Proposed Amendments: 571-060-0005
Last Date for Comment: 4-26-07, 12 p.m.
Summary: Increase in family housing rental rates to cover projected operating costs for 2007–2008.
Rules Coordinator: Deb Eldredge
Address: 1226 University of Oregon, Eugene, OR 97403-1226
Telephone: (541) 346-3082

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Physical Therapist Licensing Board
Chapter 848

Rule Caption: Amend current rule expense budget figure to reflect 2007–2009 Board approved expense budget.

Date:	Time:	Location:
4-27-07	8:30 a.m.	800 NE Oregon St. Rm. 445 Portland, OR

Hearing Officer: James D. Heider
Stat. Auth.: ORS 182.462
Stats. Implemented: ORS 182.462
Proposed Amendments: 848-005-0010
Last Date for Comment: 4-26-07, 4:30 p.m. (written); 4-27-07 at hearing (oral)
Summary: [The Board's budgeted operating expenditures for the 2005–2007 biennium are $796,000.]

The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2007–2009 Biennium Budget of $859,000 covering the period from July 1, 2007 through June 30, 2009. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of $859,000 for the effective operation of the Board. The Board will not exceed the approved 2007–2009 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the budget are available from the Board's office.
Rules Coordinator: James Heider
Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232
Telephone: (971) 673-0203

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Public Utility Commission
Chapter 860

Rule Caption: In the Matter of Amending Vegetation Clearance Requirements for Electric Transmission Lines over 50,000 Volts.

Date:	Time:	Location:
4-23-07	9 a.m.	Public Utility Commission Main Hearing Rm, First Flr. 550 Capitol St. NE Salem, Oregon

Hearing Officer: Christina Hayes
Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.035
Proposed Amendments: 860-024-0016
Last Date for Comment: 4-23-07, 5 p.m.
Summary: This rulemaking is needed to correct an apparent error made in Commission Order #06-547 (Rulemaking Docket AR 506 Phase I). In that order, the Commission adopted OAR 860-024-0016(5)(d) allowing the limited intrusion of small branches and new tree growth in established minimum clearances "provided that the vegetation does not come closer than six inches to the conductor." As adopted, this limited intrusion provision applies to transmission conductors, as covered by OAR 860-024-0016(5)(a) and (5)(b). PUC Staff believes that none of the rulemaking participants in AR 506 intended this result. See, items 2 through 8 in section below entitled, "Documents Relied Upon." This provision was only intended to apply to distribution facilities, as covered in subsection (5)(c).

To correct this error, PUC Staff is proposing a permanent rule change that makes the limited intrusion provision applicable to only primary distribution conductors that are energized between 600 to 50,000 volts. The operators subject to this rule include electric utilities (e.g. public utilities and consumer-owned utilities) and others that own, operate or control electric transmission lines and facilities that are subject to Oregon PUC safety authority as established in ORS 757.035, OAR 860-024-0010, and the National Electrical Safety Code (NESC).

It should also be noted that the North American Electric Reliability Corporation (NERC) and the Federal Energy Reliability Commission (FERC) are currently in the process of changing their vegetation clearance standard for transmission lines. This standard will become federal law when adopted by FERC later this year. PUC Staff will review the revised NERC transmission standard when it is finalized and adopted by FERC. PUC Staff is committed to working with interested persons in making the agency's transmission clearance requirements more in conformity with NERC's standard. This would probably result in another rulemaking effort later this year or early next year on this same matter.
Rules Coordinator: Diane Davis
Address: Public Utility Commission of Oregon, 550 Capitol St. NE, Suite 215, Salem, OR 97301-2551
Telephone: (503) 378-4372

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Rule Caption: In the Matter of an Amendment to Adopt the 2007 National Electrical Safety Code.

Date:	Time:	Location:
4-23-07	1:30 p.m.	Public Utility Commission Main Hearing Rm. 1st Flr. 550 Capitol St. NE Salem, Oregon

Hearing Officer: Christina Hayes
Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.035
Proposed Amendments: 860-024-0010
Last Date for Comment: 4-23-07, 5 p.m.
Summary: The purpose of this rulemaking is to adopt the 2007 edition of the National Electrical Safety Code (NESC) as the minimum standard in Oregon for the construction, operation and maintenance of electric supply lines (or power lines) and communication lines. The American National Standards Institute approved the 2007 edition of the NESC on June 16, 2006, as an American National Standard. This rulemaking applies to electric utilities, telecommunication utilities, telecommunications providers, cable television operators, and other persons or entities that are involved in the construction, operation or maintenance of electric supply lines and communication lines. The NESC contains basic provisions that are necessary for the safety of employees and the public.
Rules Coordinator: Diane Davis
Address: Public Utility Commission of Oregon, 550 Capitol St. NE, Suite 215, Salem, OR 97301-2551
Telephone: (503) 378-4372

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Rule Caption: In the Matter of a Rulemaking to Adopt Rules Related to Net Metering.

Date:	Time:	Location:
4-25-07	9:30 a.m.	Public Utility Commission Main Hearing Rm., 1st Flr. 550 Capitol St. NE Salem, OR

Hearing Officer: Traci Kirkpatrick
Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.300
Proposed Adoptions: 860-039-0005 – 860-039-0080
Last Date for Comment: 5-9-07
Summary: The 2005 Legislature enacted Senate Bill 84 primarily to allow the Public Utility Commission of Oregon to adopt rules to increase the eligible net metering facility size for customers of Portland General Electric (PGE) and Pacific Power. See ORS 757.300(8). Increasing the eligible facility size from the minimum 25 kilowatts required by law to a significantly larger size, proposed as two megawatts, requires the adoption of other net metering rules to ensure safety and reliability and provide for just and reasonable rates. These include rules related to interconnecting net metering equipment, operation and testing, record-keeping and reporting, utility metering equipment for measuring customer energy usage and generation, and procedures for billing customer-generators as well as crediting them for generation in excess of on-site energy requirements.
Rules Coordinator: Diane Davis

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

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Rule Caption: In the Matter of Amending OAR 860-038-0480(7) to Correct a Date to Conform to ORS 757.612.
Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 756.040, 757.600 - 757.667
Proposed Amendments: 860-038-0480
Last Date for Comment: 4-23-07, 5 p.m.
Summary: The current rule states self-directing customers may not claim a public purpose credit for energy conservation measures that were started prior to January 1, 2000. That date is incorrect and should be July 23, 1999, the date that ORS 757.612 was enacted into law.
Rules Coordinator: Diane Davis
Address: Public Utility Commission of Oregon, 550 Capitol St. NE, Suite 215, Salem, OR 97301-2551
Telephone: (503) 678-4372

Secretary of State,
Archives Division
Chapter 166

Rule Caption: Correct retention period on City Employee Time Records to match State and County schedules.

Date:	**Time:**	**Location:**
4-17-07	9 a.m.	State Archives Bldg. 800 Summer St. NE Salem, OR 97310

Hearing Officer: Connor Edmonds
Stat. Auth.: ORS 192, 357
Stats. Implemented: ORS 192.005 - 192.170, 357.805 - 357.895
Proposed Amendments: 166-200-0085
Last Date for Comment: 4-17-07
Summary: Change City Employee Time Records retention to come in line with State and County general records retention schedules.
Rules Coordinator: Julie Yamaka
Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310
Telephone: (503) 378-5199

Board of Geologist Examiners
Chapter 809

Rule Caption: Board must receive response within 21 days; registration will expire, not lapse, for nonpayment of fees.
Adm. Order No.: BGE 1-2007
Filed with Sec. of State: 3-14-2007
Certified to be Effective: 3-14-07
Notice Publication Date: 12-1-06
Rules Amended: 809-015-0010, 809-020-0025
Subject: The Board is removing the term "lapsed" for a license status, as it has no statutory base. If a registrant fails to renew, the registration will automatically be in an expired status, not a lapsed status, during a five-year window or until they pay the registration fee and a Restoration Fee.

The Board is requiring that a geologist when requested by the Board respond within 21 days. The period of time was previously 30 days.
Rules Coordinator: Susanna R. Knight—(503) 566-2837

809-015-0010
Nonrestoration

(1) After five years, a registration expires.

(2) A person with an expired registration must apply as a new applicant and pass national exams or apply by cooperative licensure if eligible. (See 809-050-0010.)

(3) When the certificate number of a registrant expires, upon reapplication and/or passing the examination, the original certificate number shall not be reinstated.

Stat. Auth.: ORS 183, 192, 672
Stats. Implemented: ORS 183.341, 183.355, 183, 192, 672
Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 3-1978(Temp), f. & ef. 12-15-78; GE 1-1981, f. & ef. 8-3-81; GE 1-1984, f. & ef. 2-1-84; GE 1-1990, f. & cert. ef. 10-2-90; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 1-2007, f. & cert. ef. 3-14-07

809-020-0025
Responsibility to the Board

(1) A geologist, when requested by the Board, shall respond to communications from the Board within 21 days after notification is mailed by registered or certified mail.

(2) A geologist, when requested by the Board, shall present information and assistance to the Board in pursuing violations of laws and rules relating to the practice of geology in the State of Oregon. A geologist shall not dismiss from his employment, or take any other sanction against another geologist because of the other geologist's compliance with this, or any other subsection, of the Code of Professional Conduct, ORS Chapter 672, or the related administrative rules.

Stat. Auth.: ORS 672
Stats. Implemented:
Hist: GE 3(Temp), f. & ef. 12-14-77; GE 1-1978, f. & ef. 3-9-78; GE 4-1984, f. & ef. 12-18-84; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 1-2007, f. & cert. ef. 3-14-07

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Board of Nursing
Chapter 851

Rule Caption: Rules Established for Nurse Practitioners Whose Graduate Education Took Place Outside the U.S.
Adm. Order No.: BN 1-2007
Filed with Sec. of State: 3-13-2007
Certified to be Effective: 3-13-07
Notice Publication Date: 1-1-07
Rules Amended: 851-050-0002
Subject: These rule amendments will allow a credentials evaluation service, such as the Commission on Graduates of Foreign Nursing Schools (CGFNS) or the International Education Research Foundation (IERF) to make a determination whether a specific nurse practitioner graduate program outside the United States is equivalent to a Commission on Collegiate Nursing Education (CCNE) or a National League for Nursing Accreditation Commission Inc. (NLNAC) accredited program in the United States.
Rules Coordinator: KC Cotton—(971) 673-0638

851-050-0002
Application for Initial Certification as a Nurse Practitioner

(1) An applicant for initial certification in Oregon as a nurse practitioner shall:

(a) Hold a current unencumbered registered nurse license in the State of Oregon; and

(b) Meet the following educational requirements:

(A) A Master's Degree in Nursing or a Doctorate in Nursing from a CCNE (Commission on Collegiate Nursing Education) or NLNAC (National League for Nursing Accreditation Commission) accredited graduate nursing program or a credentials evaluation from a Board approved credentials service for graduate nursing degrees obtained outside of the US which demonstrates educational equivalency to an accredited US graduate nursing degree; and

(B) Satisfactory completion of a Nurse Practitioner Program that meets OAR 851-050-0001 requirements and is specific to the expanded specialty role/category for which application is made;

(C) Nurse practitioner programs completed after January 1, 2005 shall be formally affiliated within a CCNE, ACNM-DOA (American College of Nurse-Midwives Division of Accreditation), or NLNAC accredited graduate level program at the Masters or post-masters graduate level; or an equivalent non-U.S. graduate program as specified in OAR 851-050-0001(11); and

(c) Meet the practice requirement in OAR 851-050-0004.

(2) An applicant for initial certification in Oregon who has been certified in another state as an advanced practice nurse, and who meets all other requirements for certification, may be certified in Oregon if their program meets the standards of OAR 851-050-0001 and was completed within the following time frames:

(a) Prior to January 1, 1981, completion of a nursing educational program leading to licensure as a registered nurse and subsequent completion of a nurse practitioner program;

(b) As of January 1, 1981, a nurse obtaining Oregon certification shall have a minimum of a baccalaureate degree with a major in nursing and, in addition, satisfactory completion of an educational program in the nurse practitioner specialty area. Specialty preparation obtained within a baccalaureate nursing program does not meet this requirement;

(c) As of January 1, 1986, the minimum educational requirement for Oregon shall be a Masters degree in Nursing with satisfactory completion of an educational program in the nurse practitioner specialty area;

(d) Graduates of schools of nursing outside of the US must submit a credentials evaluation through a Board approved credentials service demonstrating educational equivalency to a US accredited graduate level Masters or Doctoral Degree in Nursing.

(3) The graduate degree requirement may be met prior to, concurrent with, or after completion of the nurse practitioner program.

(4) The following documents shall be submitted as part of the initial application process:

(a) An official transcript of the graduate program, showing degree granted and received directly from the registrar of the university or college;

(b) An official transcript, or other evidence of satisfactory completion of the nurse practitioner program showing all courses, grades, quality points, grade point average, degree granted, date of graduation, appropriate registrar's signature or program director's signature received by the Board directly from the program or registrar;

(c) Evidence that the nurse practitioner program meets the Board's standards as described in OAR 851-050-0001 including documentation of credentials evaluation as indicated for graduates of programs outside of the US.

(5) An applicant for initial certification in Oregon as a nurse practitioner shall meet all requirements for prescribing authority described in division 56 and obtain prescribing authority under the provisions of division 56 of the Oregon Nurse Practice Act.

(6) Revocation, suspension, or any other encumbrance of a registered nurse license held in another state, territory of the United States, or any foreign jurisdiction may be grounds for denial of certification in Oregon.

(7) The applicant shall submit all fees required by the Board with the application. The fees are not refundable. An application for initial certification, which remains incomplete after one calendar year, shall be considered void.

Stat. Auth.: ORS 678.375, 678.380 & 678.390
Stats. Implemented: ORS 678.380 & 390
Hist.: NER 34, f. & ef. 10-1-76; NER 8-1985, f. & ef. 12-9-85; NB 3-1990, f. & cert. ef. 4-2-90; Renumbered from 851-020-0300; NB 12-1990, f. & cert. ef. 12-28-90; NB 3-1993(Temp), f. & cert. ef. 2-26-93; NB 8-1993, f. & cert. ef. 8-23-93; NB 7-1996, f. & cert. ef. 10-29-96; Administrative correction 3-23-98; BN 10-2003, f. & cert. ef. 10-2-03; BN 1-2005, f. & cert. ef. 2-17-05; BN 1-2007, f. & cert. ef. 3-13-07

Rule Caption: Advanced Practice Formulary Updated.
Adm. Order No.: BN 2-2007
Filed with Sec. of State: 3-13-2007
Certified to be Effective: 3-13-07
Notice Publication Date: 1-1-07
Rules Amended: 851-056-0012
Subject: The Board is authorized by ORS 678.385 and 678.390 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner or clinical nurse specialist under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. This amendment adds the November and December 2006, and January 2007 updates to Drug Facts and Comparisons to the formulary, with specific drugs proposed for inclusion or deletion.
Rules Coordinator: KC Cotton—(971) 673-0638

851-056-0012
Formulary for Clinical Nurse Specialists and Nurse Practitioners with Prescriptive Authority

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

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

(b) "Formulary" means a specific list of drugs determined by the Board. The formulary for nurses with prescriptive authority shall be all the drugs in the Drug Facts and Comparisons dated January 2007, with the exception of certain drugs and drug groups which are listed below;

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

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

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

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

(b) Clinical nurse specialists may provide care for individuals and populations within their specialty scope of practice;

(c) Prescribing is limited by the individual's scope of practice and knowledge base within that scope of practice;

(d) Clinical nurse specialists and nurse practitioners may prescribe the drugs appropriate for patients within their scope of practice as defined by OAR 851-050-0005; or 851-054-0020 and 0021;

(e) Clinical nurse specialists and nurse practitioners shall be held strictly accountable for their prescribing decisions;

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

(4) Clinical nurse specialists and nurse practitioners with prescriptive authority are authorized to prescribe:

(a) All over-the-counter drugs;

(b) Appliances and devices.

(5) Clinical nurse specialists and nurse practitioners are authorized to prescribe the following drugs as listed in Drug Facts and Comparisons dated January 2007:

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

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

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

(A) I 131;

(B) Gallium Nitrate; and

(C) Mifepristone (Mifeprex); and

(D) Abarelix (Plenaxis).

(d) Cardiovasculars — all drugs except:

(A) Cardioplegic Solution;

(B) Fenoldopam Mesylate (Corlopam);

(C) Dofetilide (Tikosyn); and

(D) Bosentan (Tracleer).

(e) Renal and Genitourinary Agents — all drugs;

(f) Respiratory Agents — all drugs;

(g) Central Nervous System Agents — all drugs with the following provisions:

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

(i) Tincture of opium;

(ii) Codeine;

(iii) Hydromorphone;

(iv) Morphine;

(v) Oxycodone, Oxymorphone;

(vi) Topical Cocaine Extracts and Compounds;

(vii) Fentanyl;

(viii) Meperidine;

(ix) Amphetamines;

(x) Methylphenidates;

(xi) Pentobarbital;

(xii) Secobarbital;

(xiii) Methadone Hydrochloride (in accordance with OAR 851-045-0015(2)(n) and 851-056-0026; and

(xiv) Levorphanol.

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

(C) Chymopapain is excluded;

(D) Ziconotide (Prialt) is excluded.

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

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

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

(k) Dermatological Agents — all drugs except Psoralens;

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

(A) Punctal plugs;

(B) Collagen Implants;

(C) Indocyanine Green;

(D) Hydroxypropal (Methyl) Cellulose;

(E) Polydimethylsiloxane;

(F) Fomivirsen Sodium (Vitravene);

(G) Verteporfin;

(H) Levobetaxolol HCL (Betaxon);

(I) Travoprost (Travatan);

(J) Bimatoprost (Lumigan);

(K) Unoprostone Isopropyl (Rescula);

(L) Pegaptanib Sodium (Macugen);

(M) Triptan Blue (VisionBlue);

(N) Retisert; and

(O) Ranibizumab (Lucentis).

(m) Antineoplastic Agents — all drugs except:

(A) NCI Investigational Agents;

(B) Samarium Sm53;

(C) Denileukin Diftitox (Ontak);

(D) BCG, Intravesical (Pacis);

(E) Arsenic Trioxide (Trisenox);

(F) Ibritumomab Tiuxetan (Zevalin);

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

(H) Sclerosol; and

(I) Clofarabine (Clolar).

(n) Diagnostic Aids:

(A) All drugs except Arbutamine (GenESA);

(B) Thyrotropin Alfa (Thyrogen);

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

(i) Iopamidol;

(ii) Iohexol; and

(iii) Ioxilan (Oxilan).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 678.385
Stats. Implemented: ORS 678.385, 678.390
Hist.: BN 10-2006, f. & cert. ef. 10-5-06; BN 2-2007, f. & cert. ef. 3-13-07

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Rule Caption: Rules Established for Clinical Nurse Specialists Whose Graduate Education Took Place Outside the U.S.
Adm. Order No.: BN 3-2007
Filed with Sec. of State: 3-13-2007
Certified to be Effective: 3-13-07
Notice Publication Date: 1-1-07
Rules Amended: 851-054-0040

Subject: These rule amendments will allow a credentials evaluation service, such as the Commission on Graduates of Foreign Nursing Schools (CGFNS) or the International Education Research Foundation (IERF) to make a determination whether a clinical nurse specialist graduate program outside the United States is equivalent to a Commission on Collegiate Nursing Education (CCNE) or a National League for Nursing Accreditation Commission Inc. (NLNAC) accredited program in the United States.
Rules Coordinator: KC Cotton—(971) 673-0638

851-054-0040
Eligibility for Initial Certification

(1) An applicant for certification as a Clinical Nurse Specialist (CNS) shall:

(a) Hold or obtain a current unencumbered registered nurse license in Oregon;

(b) Hold a graduate degree in nursing, or a post-masters certificate in nursing demonstrating evidence of CNS theory and clinical concentration. The program shall meet the following educational standards:

(A) The program shall be at least one academic year in length;

(B) There shall be faculty and/or clinical instructors who are academically and experientially qualified in nursing, and who maintain expertise within the CNS scope of practice;

(C) NLNAC or CCNE accreditation or documentation of a Board approved credentials evaluation for graduates of programs outside of the U.S. which demonstrates educational equivalency to an NLNAC or CCNE graduate degree in nursing;

(D) Applicants who graduate or obtain a post-masters certificate on or after January 1, 2007 shall have completed 500 hours of clinical practice within the program; or prior to state certification:

(i) Complete a formal academic program offering any remaining hours of clinical practice; or

(ii) Complete a Board approved clinical continuing education course offering supervised clinical practice for any remaining hours.

(c) Meet the practice requirement through verification of:

(A) Graduation from a CNS educational program within the past five years; or

(B) Practice within the CNS scope of practice for at least 960 hours within the five years preceding the application. Verification of practice hours is subject to random audit.

(2) If an applicant does not meet the practice requirement in 851-054-0040(1)(c), the applicant shall:

(a) Submit for Board approval, a detailed plan for precepted practice that includes: competencies that support the CNS scope of practice; names and qualifications of CNS preceptor(s); and a description of the nature of the proposed unpaid, voluntary, precepted clinical experience:

(A) If the applicant has practiced at least 960 hours within the six years prior to the date of application, the practice plan shall provide for 250 hours of preceptorship. Documented practice hours within the CNS scope for the past two years may be recognized and may reduce the required hours, except that, in no case shall the precepted practice be less than 120 hours;

(B) If the applicant has practiced at least 960 hours within the CNS scope for the ten years prior to the date of application, the practice plan shall provide for 400 hours;

(C) If the applicant has not practiced at least 960 hours within the CNS scope for the ten years prior to the date of application, the practice plan shall provide for 500 hours.

(b) Obtain a limited certification for precepted practice. The limited certification shall be issued only upon receipt of a completed CNS application, application for limited certification, Board approval of the plan for supervised practice, and payment of all applicable fees. The limited certification is valid only for precepted practice that has been approved in advance by the Board, and will be valid for one year from the date of issue. One extension of the limited certificate may be granted upon approval and payment of fee, provided there is a current valid application for certification on file and no disciplinary action has been taken against the applicant. This extension will be valid for one year from date of approval;

(c) Successfully complete the precepted hours of practice supervised by the CNS preceptor. Successful completion shall be verified by a final evaluation submitted by the supervising CNS to the Board to verify that the applicant is competent to practice in the CNS scope at a safe and acceptable level, and that the number of required hours of precepted practice were completed;

(d) Submit evidence of continuing education to total 20 contact hours for each year out of practice. Continuing education taken concurrent with the reentry plan may be applied towards the total continuing education requirement, provided all hours are complete by the end of the preceptorship.

(3) The applicant shall submit all fees required by the Board with the application. The fees are not refundable. An application that remains incomplete after one year shall be considered void.

(4) Clinical Nurse Specialists seeking prescriptive authority will need to meet all additional requirements in division 56. These requirements may be obtained as part of a re-entry program plan approved by the Board.

Stat. Auth: ORS 678.050, 678.370, 678.372
Stats. Implemented: ORS 678.050, 678.370, 678.372
Hist.: BN 4-2001, f. & cert. ef. 2-21-01; BN 10-2001, f. & cert. ef. 7-9-01; BN 6-2006, f. & cert. ef. 5-8-06; BN 11-2006, f. & cert. ef. 10-5-06; BN 3-2007, f. & cert. ef. 3-13-07

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Bureau of Labor and Industries
Chapter 839

Rule Caption: Amends the pregailing rates of wage for the period beginning January 1, 2007.
Adm. Order No.: BLI 6-2007
Filed with Sec. of State: 3-5-2007
Certified to be Effective: 3-5-07
Notice Publication Date:
Rules Amended: 839-025-0700
Subject: The amended rule amends the prevailing rates of wages as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning January 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 January 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 January 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 January 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 January 19, 2007);

(c) Amendments/Corrections to January 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 February 16, 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 January 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.

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

cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, .f & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; 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

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Construction Contractors Board
Chapter 812

Rule Caption: Division 6 Revisions to Testing Requirements and Training and Testing Period Rules.
Adm. Order No.: CCB 2-2007
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 2-1-07
Rules Amended: 812-006-0300, 812-006-0400
Rules Repealed: 812-006-0400(T)
Subject: 812-006-0300 is amended to replace the words "any state certified" and replace them with "the authorized." There is no longer any state certification of interpreters. By contract, the CCB has authorized the testing vendor (PSI) to arrange for the interpreter services. By having the testing vendor arrange for the interpreters rather than the student helps preserve the integrity of the test.

812-006-0400 is amended because the rule had unintended consequences by keeping those individuals who demonstrated competency (by recently passing the test) from becoming licensed. Training providers that did their best to notify students had approximately two weeks to notify the students. It would have been difficult for students to successfully schedule the test, pass the test and complete the application process (including getting the bond and insurance) within a 1-2 week time period. This affects applicants who recently passed the test and now find they cannot become licensed.
Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-006-0300
Testing Requirements

(1) The test required in ORS 701.072 shall cover the subjects listed in OAR 812-006-0250.

(2) A person seeking to take the test shall:

(a) Pay any fees required by the test administrator;

(b) Provide approved government-issued picture identification to the test administrator;

(c) Pay for the authorized interpreter needed to take the test; and

(d) Complete the test within a time limit approved by the agency.

(3) A person taking the test shall be allowed to use an Oregon Contractor's Reference Manual and one language translation book during the test.

(4) A person taking the test shall not:

(a) Retake the same version of the test on consecutive attempts.

(b) Be accompanied by anyone while taking the test, except a state-certified interpreter.

(5) After the test is completed, a person shall not review the test questions or answers.

(6) There are no reciprocal agreements with other states or organizations that test contractors.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.072
Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2001(Temp), f. & cert. ef. 5-18-01 thru 11-13-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; Renumbered from 812-006-0012, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 2-2007, f. & cert. ef. 3-1-07

812-006-0400
Training and Testing Period

(1) For training and testing completed on or after October 1, 2006, the training and testing required under ORS 701.072(1) and (3) shall be valid for 24 months from the date the training was completed. Training and testing that is past the 24-month period from the date of the completed training will not be considered for the purposes of fulfilling the requirements set forth in ORS 701.078(1)(b)(A).

(2) In lieu of complying with section (1) of this rule, an RMI may satisfy the requirements of ORS 701.078(1)(b)(A) provided that the RMI:

(a) Has completed the training and passed the test;

(b) Has been the RMI of a licensee within two years of the date of application by the new applicant; and

(c) The license of the licensee that was previously owned by or that previously employed the RMI has not lapsed or, if lapsed, has lapsed for not more than 24 months.

(3) Sections (1) and (2) of this rule do not apply to an RMI that meets the experience requirements under 812-006-0450.

Stat. Auth.: ORS 670.310, 701.072 & 701.235
Stats. Implemented: ORS 701.072
Hist.: CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 11-2006(Temp), f. & cert. ef. 11-6-06 thru 5-4-07; CCB 2-2007, f. & cert. ef. 3-1-07

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Department of Agriculture
Chapter 603

Rule Caption: Amends requirements of Pesticide Dealers when selling pesticide products containing carbofuran.
Adm. Order No.: DOA 4-2007(Temp)
Filed with Sec. of State: 2-26-2007
Certified to be Effective: 3-1-07 thru 8-27-07
Notice Publication Date:
Rules Amended: 603-057-0140
Subject: Requires Pesticide Dealers to obtain, record, and submit to the Oregon Department of Agriculture additional specific information when the "restricted use" pesticide product sold/distributed contains the active ingredient carbofuran.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-057-0140
Pesticide Dealer Records

(1) As provided in subsections (6) and (7) of ORS 634.322, a pesticide dealer shall prepare and maintain records of his sales of restricted-use and highly toxic pesticides for a period of three years. Such records shall include:

(a) The names and addresses of the purchasers of such pesticides, and the license or certificate numbers of the purchasers;

(b) The date of sale;

(c) The trade name (and the formulation if applicable) of such pesticides;

(d) The quantity of each sale of such pesticides.

(2) In addition to the requirements of a pesticide dealer otherwise specified in (1) of this section, a pesticide dealer shall prepare and maintain records of sales of products containing the active ingredient carbofuran as follows:

(a) The name and address of the person who received the product when the product was not delivered directly to the purchaser;

(b) The crop(s) to which the product will be applied;

(c) The acreage of each crop to which the product will be applied;

(d) The amount of product that will be applied to each acre of each crop;

(e) The intended date of application to each crop.

(3) The information required by (2) above shall be obtained by the pesticide dealer from the person receiving the product at the time of distribution or sale.

(4) All information prepared for every distribution or sale of a pesticide product containing the active ingredient carbofuran shall be submitted by the pesticide dealer to the Oregon Department of Agriculture within five business days of the distribution or sale.

(5) Failure to comply with the conditions set forth in OAR 603-057-0140 may be considered as violations of ORS 634.372, and may be subject to any enforcement action available to the department under ORS 634.

Stat. Auth.: ORS 561 & 634
Stats. Implemented: ORS 634.322
Hist.: AD 7-1977, f. & ef. 4-5-77; DOA 4-2007(Temp), f. 2-26-07, cert. ef. 3-1-07 thru 8-27-07

Department of Consumer and Business Services,
Insurance Division
Chapter 836

Rule Caption: Licensing, Renewal, Prelicensing Training and Continuing Education Requirements for Insurance Producers.
Adm. Order No.: ID 4-2007
Filed with Sec. of State: 3-6-2007
Certified to be Effective: 1-1-08
Notice Publication Date: 12-1-06
Rules Adopted: 836-071-0146
Rules Amended: 836-071-0180, 836-071-0215, 836-071-0220, 836-071-0242, 836-071-0250
Subject: This rulemaking affects licensing, renewal, prelicensing training and continuing education requirements for insurance producers. The changes in this rulemaking furthers licensing reciprocity for Oregon resident insurance producers and increase consistency between the licensing laws of Oregon and those of other states.
Rules Coordinator: Sue Munson—(503) 947-7272

836-071-0146
Individual Insurance Producer License Expiration Date

(1) A license issued to an individual insurance producer expires biennially in the month of the individual's birthday anniversary.

(2) For the purpose of making the transition to renewal according to birth date month as provided in this rule, a license of an individual insurance producer that would have expired on or after the effective date of this rule according to ORS 744.072 expires instead in the birth date month next following the former expiration date.

Stat. Auth.: ORS 731.244, 744.072
Stats. Implemented: ORS 744.072
Hist.: ID 4-2007, f. 3-6-07, cert. ef. 1-1-08

836-071-0180
Insurance Producer Pre-Examination Requirements

(1) An applicant for a license as an insurance producer may take an examination for the license only if the applicant first qualifies for the examination by:

(a) Satisfying pre-licensing education requirements of section (2) of this rule; or

(b) Satisfying the experience requirements of section (6) of this rule.

(2) An applicant may qualify for the examination by taking pre-licensing education meeting the requirements of section (3) of this rule according to any of the following methods:

(a) Attendance at classroom lectures supervised and conducted by an instructor;

(b) Attendance at the showing or playing of a previously videotaped or audiotaped lecture, if student check-in and check-out are supervised and a course instructor is present or available to answer student questions; or

(c) Completion of a verifiable online self-study program.

(3) Pre-licensing education shall consist of not less than:

(a) 20 hours in basic principles of property insurance, the duties and responsibilities of an insurance producer and Oregon-related laws, for authority to transact property insurance;

(b) 20 hours in basic principles of casualty insurance, the duties and responsibilities of an insurance producer and Oregon-related laws, for authority to transact casualty insurance;

(c) 20 hours in basic principles of personal lines insurance, the duties and responsibilities of an insurance producer and Oregon-related laws, for authority to transact personal lines insurance;

(d) 20 hours in basic principles of life insurance, the duties and responsibilities of an insurance producer and Oregon-related laws, for authority to transact life insurance; and

(e) 20 hours in basic principles of health insurance, the duties and responsibilities of an insurance producer and Oregon-related laws, for authority to transact health insurance.

(4) For the purposes of sections (2) and (3) of this rule:

(a) One hour of training shall consist of not less than 50 minutes of instruction;

(b) Surety is included in the casualty insurance line and marine and transportation insurance may be included in the property insurance line or the casualty insurance line;

(c) The personal lines line is a subcategory of the casualty insurance line. Consequently, a person who obtains training for a license to transact casualty insurance need not obtain separate or additional training to transact personal lines insurance.

(5) Except as authorized in section (2) of this rule for an online self-study program, an applicant may not satisfy the training requirements established in this rule by unsupervised training or by self-study.

(6) An applicant may satisfy experience requirements for the examination by either of the methods described in this section. As provided in section (7) of this rule, an applicant may substitute successful completion of coursework to obtain an industry recognized designation for all or part of the experience requirements. An applicant may also satisfy the experience requirements for the examination by obtaining an insurance degree from an accredited college or university. The methods for satisfying experience requirements are as follows:

(a) Obtaining and showing proof of three years of verifiable experience as an unlicensed person performing the duties and activities described in OAR 836-071-0280(1) or (2) in the class or classes of insurance for which application is made, but only if any part of the experience has occurred within two years of the date of application for the insurance producer license in this state; and

(b) Obtaining and showing proof of three years of licensure as a resident insurance producer, agent or insurance broker in another state, a province of Canada or Mexico:

(A) If the applicant has been so licensed within two years of the date of application for the insurance producer license in this state; and

(B) If the applicant is not otherwise exempt from taking the examination under ORS 744.067.

(7) An applicant may substitute successful completion of coursework required for obtaining an industry-recognized designation described in this section for all or a part of the number of years of experience required under section (6) of this rule in the class or classes of insurance for which application was made. The following are the designations, the amount of experience for which the coursework may be substituted and the class or classes of insurance to which the coursework may apply:

(a) Accredited Advisor in Insurance (AAI) designation of the American Institute for CPCU (Chartered Property and Casualty Underwriter) and Insurance Institute of America: Three years' experience property and casualty;

(b) Accredited Customer Service Representative (ACSR) designation of the Independent Insurance Agents & Brokers of America: Two years' experience property and casualty;

(c) Associate in Risk Management (ARM) designation of the American Institute for CPCU (Chartered Property and Casualty Underwriter) and Insurance Institute of America: Three years' experience property and casualty;

(d) Certified Insurance Counselor (CIC) designation of the Society of Certified Insurance Counselors: Three years' experience property and casualty;

(e) Certified Professional Service Representative (CPSR) designation of the Professional Insurance Agents Association: Two years' experience property and casualty;

(f) Health Insurance Associate (HIA) designation of America's Health Insurance Plans: Three years' experience health;

(g) Registered Employee Benefits Consultant (REBC) designation of the American College: Three years' experience health;

(h) Registered Health Underwriter (RHU) designation of the National Association of Health Underwriters/American College: Three years' experience health;

(i) Any registered program that fulfills the educational requirement leading to the CFP/Certified Financial Planner certification awarded by the Certified Financial Planner Board of Standards, Inc.: Three years' experience life lines;

(j) Certified Employee Benefit Specialist (CEBS) designation of the International Society of Certified Employee Benefit Specialists: Three years' experience life and health lines;

(k) Life Underwriters Training Council (LUTCF) designation of the Life Underwriters Training Council/American College: Three years' experience life and health lines;

(l) Chartered Financial Consultant (ChFC) designation of the American College: Three years' experience life line;

(m) Fellow Life Manager Institute (FLMI) designation of LOMA (Life Office Management Association): Three years' experience life line;

(n) Certified Professional Insurance Women (CPIW) designation of the National Association of Insurance Women: Two years' experience property and casualty lines; and

(o) An industry designation determined by the Director, by virtue of the coursework, to provide experience at least comparable to experience obtained by coursework for an industry designation specifically referred to in this section.

(8) Pretraining experience claimed under section (6) of this rule is verifiable only if:

(a) The applicant's employer submits to the Division a completed Division Qualification Form that includes a description of all the pretraining experience claimed by the applicant; and

(b) The Division is able to contact the employer to verify the information contained in the Qualification Form.

(9) Proof of completion of a training course for an industry designation under section (7) of this rule must be evidenced by a certificate of completion or notice of a passing examination score by the organization sponsoring the training.

(10) The amendments to this rule that were filed in ID 15-2002 with the Secretary of State on June 26, 2002 to become effective on July 1, 2002 are re-adopted with the operative date of July 1, 2002.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 744.058, 744.064 & 744.067
Hist.: ID 3-1990, f. & cert. ef. 1-19-90; ID 6-1994, f. & cert. ef. 5-20-94; ID 9-2002, f. & cert. ef. 3-18-02; ID 15-2002, f. 6-26-02, cert. ef. 7-1-02; ID 4-2003(Temp), f. 6-30-03, cert. ef. 7-1-03 thru 12-19-03; ID 8-2003, f. 12-12-03, cert. ef. 12-19-03; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 2-2006, f. & cert. ef. 1-31-06; ID 4-2007, f. 3-6-07, cert. ef. 1-1-08

836-071-0215
Continuing Education Requirements for Insurance Producers; Hours; Credit for Experience and Coursework

Each resident insurance producer is responsible for obtaining the credit hours required by this rule by enrolling in courses approved by the Director that serve the insurance producer's professional needs. The following minimum continuing education requirements apply to resident insurance producers as a condition of renewing a license as insurance producer:

(1) For each two year renewal period occurring after issuance of an insurance producer license that an insurance producer holds an insurance producer license, the insurance producer must complete 12 hours of continuing education annually or 24 hours in each two-year renewal period; and

(2) For each two year renewal period occurring after issuance of an insurance producer license, the renewing insurance producer must include in the applicable required hours of completed continuing education:

(a) At least three credit hours of continuing education on the subject of Oregon statutes and administrative rules, including recent changes; and

(b) At least three credit hours of continuing education of the subject of professional ethics for insurance producers.

Stat. Auth.: ORS 731.244 & 744.072
Stats. Implemented: ORS 744.072
Hist.: ID 3-1990, f. & cert. ef. 1-19-90; ID 6-1994, f. & cert. ef. 5-20-94; ID 3-1997, f. 4-7-97, cert. ef. 6-1-97; ID 6-1999, f. 12-13-99, cert. ef. 1-1-00; ID 9-2002, f. & cert. ef. 3-18-02; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 4-2007, f. 3-6-07, cert. ef. 1-1-08

836-071-0220
Continuing Education; Documentation

(1) For the purpose of furnishing evidence of completion of a course for which an insurance producer claims credit, the insurance producer shall submit the documentation applicable to the course as follows:

(a) For a registered course taken for academic credit, an insurance producer shall submit a transcript, certificate of completion or grade or course completion report, whichever is issued by the institution offering the course, or a copy thereof. For purposes of this subsection, a course is taken for academic credit if it is offered by a community college or four-year college or university, and the insurance producer is given academic credit for the course by such an institution;

(b) For coursework taken for the purpose of obtaining a nationally-recognized insurance industry designation, the insurance producer shall submit a transcript, certificate of completion or grade or course completion report, whichever is issued by the entity granting the designation;

(c) For a registered course that is not offered for academic credit, an insurance producer shall submit the certificate of completion issued by the provider, or a copy thereof. The certificate must include a statement of the hours of credit, the name of the insurance producer, the date of the course, the course registration number, the authorized signature of the provider and the title of the course. The authorized signature may be made by rubber stamp or other facsimile if the stamped or facsimile signature is in a contrasting color to the print of the certificate. An insurance producer who submits a copy of a certificate must retain the original certificate for six months after the date of submittal, for the purpose of enabling verification by the Director;

(d) For a course that is not offered for academic credit and is not registered when taken by an insurance producer, an insurance producer must comply with the requirements of OAR 836-071-0250.

(2) An insurance producer who submits a copy of documentation required under this rule must submit the original document upon request by the Director for the purpose of verification.

(3) The Director may accept evidence of completion of a course from continuing education providers through electronic means as specified by the Director.

Stat. Auth.: ORS 731.244 & 744.072
Stats. Implemented: ORS 744.072
Hist.: ID 3-1990, f. & cert. ef. 1-19-90; ID 3-1997, f. 4-7-97, cert. ef. 6-1-97; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 4-2007, f. 3-6-07, cert. ef. 1-1-08

836-071-0242
Provider Trade Practices

(1) A registered provider shall not engage in false, misleading or deceptive advertising.

(2) A registered provider must disclose in writing the charges for a course to each insurance producer applying to take the course, prior to enrollment of the insurance producer.

(3) If a registered provider cancels a course for any reason, the provider must refund all charges in full unless the refund policy is clearly described in the enrollment application for the course.

(4) A registered provider shall ensure that each registered course and each course for which registration is sought provides students with current and accurate information.

(5) A registered provider shall include a statement in all material published by the provider to advertise or promote insurance license continuing education that the provider and courses are registered with the Insurance Division and that registration does not imply endorsement by the Insurance Division.

(6) A registered provider may not advertise continuing education hours until the course has been approved by the Division. If approval has been applied for, however, a registered provider may so advertise.

Stat. Auth.: ORS 731.244 & 744.072
Stats. Implemented: ORS 744.072
Hist.: ID 3-1997, f. 4-7-97, cert. ef. 6-1-97; ID 19-1998, f. & cert. ef. 12-2-98; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 4-2007, f. 3-6-07, cert. ef. 1-1-08

836-071-0250
Credit for Unregistered Courses

(1) An insurance producer may apply for credit as provided in this rule for a course that is not offered for academic credit and is not registered. In order to apply for credit, the insurance producer must submit to the Director an application on a form provided by the Director and substantiation of the course as provided in this rule. The application and substantiation must be submitted not later than the 180th day after the date of completion of the course.

(2) If an unregistered course is on a subject permitted under OAR 836-071-0230, the insurance producer must substantiate to the Director's satisfaction that the course meets the requirements of OAR 836-071-0225 and 836-071-0230 and that the insurance producer attended and completed the course. To make the substantiation, the insurance producer must submit documentation of the course and proof of attendance provided by the provider concerning the course. The documentation may include, by way of example only, an outline of the course or course materials, workbooks or other materials issued by the provider that show the course work. The Director may request any other information as well, such as times allotted to the parts of the course.

(3) If an unregistered course is not on a subject permitted under OAR 836-071-0230, the insurance producer must substantiate to the Director's satisfaction that the course meets the requirements of OAR 836-071-0225, that the course contributes to the insurance producer's professional competence and will benefit the insurance-buying public and that the insurance producer attended and completed the course. To make the substantiation, the insurance producer must submit documentation provided by the provider concerning the course. The documentation may include, by way of example only, an outline of the course or course materials, workbooks or other materials issued by the provider that show the course work, or proof of passing the final examination for the course or a letter, certificate or other documentation of completion from the provider. The Director may request any other information as well, such as times allotted to the parts of the course.

(4) The application and substantiation required under this rule are subject to review by the Director for the purpose of determining whether to certify the course for credit and evaluating and assigning credit hours. The Director may certify the course, or may reject it if the Director determines that the course does not meet applicable requirements.

Stat. Auth.: ORS 731.244 & 744.072
Stats. Implemented: ORS 744.072
Hist.: ID 3-1990, f. & cert. ef. 1-19-90; ID 3-1997, f. 4-7-97, cert. ef. 6-1-97; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 4-2007, f. 3-6-07, cert. ef. 1-1-08

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Department of Environmental Quality
Chapter 340

Rule Caption: Revision of Oregon Temperature and Mixing Zone Rules to Align with EPA Action.
Adm. Order No.: DEQ 1-2007
Filed with Sec. of State: 3-14-2007
Certified to be Effective: 3-14-07
Notice Publication Date: 11-1-05
Rules Amended: 340-041-0028, 340-041-0053, 340-041-0185, 340-041-0195
Subject: The temperature rule revisions change the criteria for natural lakes, oceans, and bays, and Borax Lake chub from a limited increase above the "ambient" temperature to a limited increase above the "natural condition." The criterion for cool water species is changed to a narrative criterion that prohibits an increase in temperature that would reasonably be expected to harm the cool water species beneficial use. In addition, site specific criteria for cool water species in the Klamath River and for Borax Lake chub were adopted.

The repeal of the alternate mixing zone requirements removes the language from the Oregon Administrative Rules. These requirements are currently not being implemented because they were disapproved by EPA Region 10 in October, 2004 under their Clean Water Act authority to disapprove State water quality standards.

The following tables and figures referred to in the above listed rule amendments are also being amended: OAR 340 Division 41 Tables: 21, 33A, 33B, 121A, 180A, 201A, 260A, and 340A; and Figures: 151A, 201A, 271B, 300A, 320B and 340B.
Rules Coordinator: Larry McAllister—(503) 229-6412

340-041-0028
Temperature

(1) Background. Water temperatures affect the biological cycles of aquatic species and are a critical factor in maintaining and restoring healthy salmonid populations throughout the State. Water temperatures are influenced by solar radiation, stream shade, ambient air temperatures, channel morphology, groundwater inflows, and stream velocity, volume, and flow. Surface water temperatures may also be warmed by anthropogenic activities such as discharging heated water, changing stream width or depth, reducing stream shading, and water withdrawals.

(2) Policy. It is the policy of the Commission to protect aquatic ecosystems from adverse warming and cooling caused by anthropogenic activities. The Commission intends to minimize the risk to cold-water aquatic ecosystems from anthropogenic warming, to encourage the restoration and protection of critical aquatic habitat, and to control extremes in temperature fluctuations due to anthropogenic activities. The Commission recognizes that some of the State's waters will, in their natural condition, not provide optimal thermal conditions at all places and at all times that salmonid use occurs. Therefore, it is especially important to minimize additional warming due to anthropogenic sources. In addition, the Commission acknowledges that control technologies, best management practices and other measures to reduce anthropogenic warming are evolving and that the implementation to meet these criteria will be an iterative process. Finally, the Commission notes that it will reconsider beneficial use designations in the event that man-made obstructions or barriers to anadromous fish passage are removed and may justify a change to the beneficial use for that water body.

(3) Purpose. The purpose of the temperature criteria in this rule is to protect designated temperature-sensitive, beneficial uses, including specific salmonid life cycle stages in waters of the State.

(4) Biologically Based Numeric Criteria. Unless superseded by the natural conditions criteria described in section (8) of this rule, or by subsequently adopted site-specific criteria approved by EPA, the temperature criteria for State waters supporting salmonid fishes are as follows:

(a) The seven-day-average maximum temperature of a stream identified as having salmon and steelhead spawning use on subbasin maps and tables set out in OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 130B, 151B, 160B, 170B, 220B, 230B, 271B, 286B, 300B, 310B, 320B, and 340B, may not exceed 13.0 degrees Celsius (55.4 degrees Fahrenheit) at the times indicated on these maps and tables;

(b) The seven-day-average maximum temperature of a stream identified as having core cold water habitat use on subbasin maps set out in OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 180A, 201A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A, may not exceed 16.0 degrees Celsius (60.8 degrees Fahrenheit);

(c) The seven-day-average maximum temperature of a stream identified as having salmon and trout rearing and migration use on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A, may not exceed 18.0 degrees Celsius (64.4 degrees Fahrenheit);

(d) The seven-day-average maximum temperature of a stream identified as having a migration corridor use on subbasin maps and tables OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 151A, 170A, 300A, and 340A, may not exceed 20.0 degrees Celsius (68.0 degrees Fahrenheit). In addition, these water bodies must have coldwater refugia that are sufficiently distributed so as to allow salmon and steelhead migration without significant adverse effects from higher water temperatures elsewhere in the water body. Finally, the seasonal thermal pattern in Columbia and Snake Rivers must reflect the natural seasonal thermal pattern;

(e) The seven-day-average maximum temperature of a stream identified as having Lahontan cutthroat trout or redband trout use on subbasin maps and tables set out in OAR 340-041-0101 to 340-041-0340: Tables 121B, 140B, 190B, and 250B, and Figures 180A, 201A, 260A and 310A may not exceed 20.0 degrees Celsius (68.0 degrees Fahrenheit);

(f) The seven-day-average maximum temperature of a stream identified as having bull trout spawning and juvenile rearing use on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130B, 151B, 160B, 170B, 180A, 201A, 260A, 310B, and 340B, may not exceed 12.0 degrees Celsius (53.6 degrees Fahrenheit). From August 15 through May 15, in bull trout spawning waters below Clear Creek and Mehlhorn reservoirs on Upper Clear Creek (Pine Subbasin), below Laurance Lake on the Middle Fork Hood River, and below Carmen reservoir on the Upper McKenzie River, there may be no more than a 0.3 degrees Celsius (0.5 Fahrenheit) increase between the water temperature immediately upstream of the reservoir and the water temperature immediately downstream of the spillway when the ambient seven-day-average maximum stream temperature is 9.0 degrees Celsius (48 degrees Fahrenheit) or greater, and no more than a 1.0 degree Celsius (1.8 degrees Fahrenheit) increase when the seven-day-average stream temperature is less than 9 degrees Celsius.

(5) Unidentified Tributaries. For waters that are not identified on the "Fish Use Designations" maps referenced in section (4) of this rule, the applicable criteria for these waters are the same criteria as is applicable to the nearest downstream water body depicted on the applicable map. This section (5) does not apply to the "Salmon and Steelhead Spawning Use Designations" maps.

(6) Natural Lakes. Natural lakes may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the natural condition unless a greater increase would not reasonably be expected to adversely affect fish or other aquatic life. Absent a discharge or human modification that would reasonably be expected to increase temperature, DEQ will presume that the ambient temperature of a natural lake is the same as its natural thermal condition.

(7) Oceans and Bays. Except for the Columbia River above river mile 7, ocean and bay waters may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the natural condition unless a greater increase would not reasonably be expected to adversely affect fish or other aquatic life. Absent a discharge or human modification that would reasonably be expected to increase temperature, DEQ will presume that the ambient temperature of the ocean or a bay is the same as its natural thermal condition.

(8) Natural Conditions Criteria. Where the department determines that the natural thermal potential of all or a portion of a water body exceeds the biologically-based criteria in section (4) of this rule, the natural thermal potential temperatures supersede the biologically-based criteria, and are deemed to be the applicable temperature criteria for that water body.

(9) Cool Water Species:

(a) No increase in temperature is allowed that would reasonably be expected to impair cool water species. Waters of the State that support cool water species are identified on subbasin tables and figures set out in OAR 340-041-0101 to 340-041-0340: Tables 140B, 190B and 250B, and Figures 180A, 201A and 340A;

(b) See OAR 340-041-0185 for a basin specific criterion for the Klamath River.

(10) Borax Lake Chub. State waters in the Malheur Lake Basin supporting the Borax Lake chub may not be cooled more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) below the natural condition.

(11) Protecting Cold Water:

(a) Except as described in subsection (c) of this rule, waters of the State that have summer seven-day-average maximum ambient temperatures that are colder than the biologically based criteria in section (4) of this rule, may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the colder water ambient temperature. This provision applies to all sources taken together at the point of maximum impact where salmon, steelhead or bull trout are present;

(b) A point source that discharges into or above salmon & steelhead spawning waters that are colder than the spawning criterion, may not cause the water temperature in the spawning reach where the physical habitat for spawning exists during the time spawning through emergence use occurs, to increase more than the following amounts after complete mixing of the effluent with the river:

(A) If the rolling 60 day average maximum ambient water temperature, between the dates of spawning use as designated under subsection (4)(a) of this rule, is 10 to 12.8 degrees Celsius, the allowable increase is 0.5 Celsius above the 60 day average; or

(B) If the rolling 60 day average maximum ambient water temperature, between the dates of spawning use as designated under subsection (4)(a) of this rule, is less than 10 degrees Celsius, the allowable increase is 1.0 Celsius above the 60 day average, unless the source provides analysis showing that a greater increase will not significantly impact the survival of salmon or steelhead eggs or the timing of salmon or steelhead fry emergence from the gravels in downstream spawning reach.

(c) The cold water protection narrative criteria in subsection (a) do not apply if:

(A) There are no threatened or endangered salmonids currently inhabiting the water body;

(B) The water body has not been designated as critical habitat; and

(C) The colder water is not necessary to ensure that downstream temperatures achieve and maintain compliance with the applicable temperature criteria.

(12) Implementation of the Temperature Criteria:

(a) Minimum Duties. There is no duty for anthropogenic sources to reduce heating of the waters of the State below their natural condition. Similarly, each anthropogenic point and nonpoint source is responsible only for controlling the thermal effects of its own discharge or activity in accordance with its overall heat contribution. In no case may a source cause more warming than that allowed by the human use allowance provided in subsection (b) of this rule;

(b) Human Use Allowance. Insignificant additions of heat are authorized in waters that exceed the applicable temperature criteria as follows:

(A) Prior to the completion of a temperature TMDL or other cumulative effects analysis, no single NPDES point source that discharges into a temperature water quality limited water may cause the temperature of the water body to increase more than 0.3 degrees Celsius (0.5 Fahrenheit) above the applicable criteria after mixing with either twenty five (25) percent of the stream flow, or the temperature mixing zone, whichever is more restrictive; or

(B) Following a temperature TMDL or other cumulative effects analysis, waste load and load allocations will restrict all NPDES point sources and nonpoint sources to a cumulative increase of no greater than 0.3 degrees Celsius (0.5 Fahrenheit) above the applicable criteria after complete mixing in the water body, and at the point of maximum impact;

(C) Point sources must be in compliance with the additional mixing zone requirements set out in OAR 340-041-0053(2)(d);

(D) A point source in compliance with the temperature conditions of its NPDES permit is deemed in compliance with the applicable criteria.

(c) Air Temperature Exclusion. A water body that only exceeds the criteria set out in this rule when the exceedance is attributed to daily maximum air temperatures that exceed the 90th percentile value of annual maximum seven-day average maximum air temperatures calculated using at least 10 years of air temperature data, will not be listed on the section 303(d) list of impaired waters and sources will not be considered in violation of this rule;

(d) Low Flow Conditions. An exceedance of the biologically-based numeric criteria in section (4) of this rule, or an exceedance of the natural condition criteria in section (8) of this rule will not be considered a permit violation during stream flows that are less than the 7Q10 low flow condition for that water body;

(e) Forestry on State and Private Lands. For forest operations on State or private lands, water quality standards are intended to be attained and are implemented through best management practices and other control mechanisms established under the Forest Practices Act (ORS 527.610 to 527.992) and rules thereunder, administered by the Oregon Department of Forestry. Therefore, forest operations that are in compliance with the Forest Practices Act requirements are (except for the limits set out in ORS 527.770) deemed in compliance with this rule. DEQ will work with the Oregon Department of Forestry to revise the Forest Practices program to attain water quality standards;

(f) Agriculture on State and Private Lands. For farming or ranching operations on State or private lands, water quality standards are intended to be attained and are implemented through the Agricultural Water Quality Management Act (ORS 568.900 to 568.933) and rules thereunder, administered by the Oregon Department of Agriculture. Therefore, farming and ranching operations that are in compliance with the Agricultural Water Quality Management Act requirements will not be subject to DEQ enforcement under this rule. DEQ will work with the Oregon Department of Agriculture to revise the Agricultural Water Quality Management program to attain water quality standards;

(g) Agriculture and Forestry on Federal Lands. Agriculture and forestry activities conducted on federal land must meet the requirements of this rule and are subject to the department's jurisdiction. Pursuant to Memoranda of Agreement with the U.S. Forest Service and the Bureau of Land Management, water quality standards are expected to be met through the development and implementation of water quality restoration plans, best management practices and aquatic conservation strategies. Where a Federal Agency is a Designated Management Agency by the Department, implementation of these plans, practices and strategies is deemed compliance with this rule;

(h) Other Nonpoint Sources. The department may, on a case-by-case basis, require nonpoint sources (other than forestry and agriculture), including private hydropower facilities regulated by a 401 water quality certification, that may contribute to warming of State waters beyond 0.3 degrees Celsius (0.5 degrees Fahrenheit), and are therefore designated as water-quality limited, to develop and implement a temperature management plan to achieve compliance with applicable temperature criteria or an applicable load allocation in a TMDL pursuant to OAR 340-042-0080:

(A) Each plan must ensure that the nonpoint source controls its heat load contribution to water temperatures such that the water body experiences no more than a 0.3 degrees Celsius (0.5 degree Fahrenheit) increase above the applicable criteria from all sources taken together at the maximum point of impact;

(B) Each plan must include a description of best management practices, measures, effluent trading, and control technologies (including eliminating the heat impact on the stream) that the nonpoint source intends to use to reduce its temperature effect, a monitoring plan, and a compliance schedule for undertaking each measure;

(C) The Department may periodically require a nonpoint source to revise its temperature management plan to ensure that all practical steps have been taken to mitigate or eliminate the temperature effect of the source on the water body;

(D) Once approved, a nonpoint source complying with its temperature management plan is deemed in compliance with this rule.

(i) Compliance Methods. Anthropogenic sources may engage in thermal water quality trading in whole or in part to offset its temperature discharge, so long as the trade results in at least a net thermal loading decrease in anthropogenic warming of the water body, and does not adversely affect a threatened or endangered species. Sources may also achieve compliance, in whole or in part, by flow augmentation, hyporheic exchange flows, outfall relocation, or other measures that reduce the temperature increase caused by the discharge;

(j) Release of Stored Water. Stored cold water may be released from reservoirs to cool downstream waters in order to achieve compliance with the applicable numeric criteria. However, there can be no significant adverse impact to downstream designated beneficial uses as a result of the

releases of this cold water, and the release may not contribute to violations of other water quality criteria. Where the Department determines that the release of cold water is resulting in a significant adverse impact, the Department may require the elimination or mitigation of the adverse impact.

(13) Site-Specific Criteria. The Department may establish, by separate rulemaking, alternative site-specific criteria for all or a portion of a water body that fully protects the designated use:

(a) These site-specific criteria may be set on a seasonal basis as appropriate;

(b) The Department may use, but is not limited by the following considerations when calculating site-specific criteria:

(A) Stream flow;

(B) Riparian vegetation potential;

(C) Channel morphology modifications;

(D) Cold water tributaries and groundwater;

(E) Natural physical features and geology influencing stream temperatures; and

(F) Other relevant technical data.

(c) DEQ may consider the thermal benefit of increased flow when calculating the site-specific criteria.

(d) Once established and approved by EPA, the site-specific criteria will be the applicable criteria for the water bodies affected.

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

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 1-2007, f. & cert. ef. 3-14-07

340-041-0053

Mixing Zones

(1) The Department may allow a designated portion of a receiving water to serve as a zone of dilution for wastewaters and receiving waters to mix thoroughly and this zone will be defined as a mixing zone.

(2) The Department may suspend all or part of the water quality standards, or set less restrictive standards in the defined mixing zone, provided that the following conditions are met:

(a) A point source for which the mixing zone is established may not cause or significantly contribute to any of the following:

(A) Materials in concentrations that will cause acute toxicity to aquatic life as measured by a Department approved bioassay method. Acute toxicity is lethal to aquatic life as measured by a significant difference in lethal concentration between the control and 100 percent effluent in an acute bioassay test. Lethality in 100 percent effluent may be allowed due to ammonia and chlorine only when it is demonstrated on a case-by-case basis that immediate dilution of the effluent within the mixing zone reduces toxicity below lethal concentrations. The Department may on a case-by-case basis establish a zone of immediate dilution if appropriate for other parameters;

(B) Materials that will settle to form objectionable deposits;

(C) Floating debris, oil, scum, or other materials that cause nuisance conditions; and

(D) Substances in concentrations that produce deleterious amounts of fungal or bacterial growths.

(b) A point source for which the mixing zone is established may not cause or significantly contribute to any of the following conditions outside the boundary of the mixing zone:

(A) Materials in concentrations that will cause chronic (sublethal) toxicity. Chronic toxicity is measured as the concentration that causes long-term sublethal effects, such as significantly impaired growth or reproduction in aquatic organisms, during a testing period based on test species life cycle. Procedures and end points will be specified by the Department in wastewater discharge permits;

(B) Exceedances of any other water quality standards under normal annual low flow conditions.

(c) The limits of the mixing zone must be described in the wastewater discharge permit. In determining the location, surface area, and volume of a mixing zone area, the Department may use appropriate mixing zone guidelines to assess the biological, physical, and chemical character of receiving waters, effluent, and the most appropriate placement of the outfall, to protect instream water quality, public health, and other beneficial uses. Based on receiving water and effluent characteristics, the Department will define a mixing zone in the immediate area of a wastewater discharge to:

(A) Be as small as feasible;

(B) Avoid overlap with any other mixing zones to the extent possible and be less than the total stream width as necessary to allow passage of fish and other aquatic organisms;

(C) Minimize adverse effects on the indigenous biological community, especially when species are present that warrant special protection for their economic importance, tribal significance, ecological uniqueness, or other similar reasons determined by the Department and does not block the free passage of aquatic life;

(D) Not threaten public health;

(E) Minimize adverse effects on other designated beneficial uses outside the mixing zone.

(d) Temperature Thermal Plume Limitations. Temperature mixing zones and effluent limits authorized under 340-041-0028(12)(b) will be established to prevent or minimize the following adverse effects to salmonids inside the mixing zone:

(A) Impairment of an active salmonid spawning area where spawning redds are located or likely to be located. This adverse effect is prevented or minimized by limiting potential fish exposure to temperatures of 13 degrees Celsius (55.4 Fahrenheit) or more for salmon and steelhead, and 9 degrees Celsius (48 degrees Fahrenheit) or more for bull trout;

(B) Acute impairment or instantaneous lethality is prevented or minimized by limiting potential fish exposure to temperatures of 32.0 degrees Celsius (89.6 degrees Fahrenheit) or more to less than 2 seconds);

(C) Thermal shock caused by a sudden increase in water temperature is prevented or minimized by limiting potential fish exposure to temperatures of 25.0 degrees Celsius (77.0 degrees Fahrenheit) or more to less than 5 percent of the cross section of 100 percent of the 7Q10 low flow of the water body; the Department may develop additional exposure timing restrictions to prevent thermal shock; and

(D) Unless the ambient temperature is 21.0 degrees of greater, migration blockage is prevented or minimized by limiting potential fish exposure to temperatures of 21.0 degrees Celsius (69.8 degrees Fahrenheit) or more to less than 25 percent of the cross section of 100 percent of the 7Q10 low flow of the water body.

(e) The Department may request the applicant of a permitted discharge for which a mixing zone is required, to submit all information necessary to define a mixing zone, such as:

(A) Type of operation to be conducted;

(B) Characteristics of effluent flow rates and composition;

(C) Characteristics of low flows of receiving waters;

(D) Description of potential environmental effects;

(E) Proposed design for outfall structures.

(f) The Department may, as necessary, require mixing zone monitoring studies and/or bioassays to be conducted to evaluate water quality or biological status within and outside the mixing zone boundary;

(g) The Department may change mixing zone limits or require the relocation of an outfall, if it determines that the water quality within the mixing zone adversely affects any existing beneficial uses in the receiving waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 1-2007, f. & cert. ef. 3-14-07

340-041-0185

Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following ranges:

(a) Fresh waters except Cascade lakes: pH values may not fall outside the range of 6.5-9.0. When greater than 25 percent of ambient measurements taken between June and September are greater than pH 8.7, and as resources are available according to priorities set by the Department, the Department will determine whether the values higher than 8.7 are anthropogenic or natural in origin;

(b) Cascade lakes above 5,000 feet altitude: pH values may not fall outside the range of 6.0 to 8.5.

(2) Temperature. From June 1 to September 30, no NPDES point source that discharges to the portion of the Klamath River designated for cool water species may cause the temperature of the water body to increase more than 0.3°C above the natural background after mixing with 25% of the stream flow. Natural background for the Klamath River means the temperature of the Klamath River at the outflow from Upper Klamath Lake plus any natural warming or cooling that occurs downstream. This criterion supersedes OAR 340-041-0028(9)(a) during the specified time period for NPDES permitted point sources.

(3) Total Dissolved Solids. Guide concentrations listed below may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0180: main stem Klamath River from Klamath Lake to the Oregon-California Border (river miles 255 to 208.5): The specific conductance may not exceed 400 micro-ohms at 77°F when measured at the Oregon-California Border (river mile 208.5).

(4) Minimum Design Criteria for Treatment and Control of Sewage Wastes:

(a) During periods of low streams flows (approximately May 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 of suspended solids or equivalent control;

(b) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities to maximum practicable efficient and effectiveness so as to minimize waste discharge to public waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 1-2007, f. & cert. ef. 3-14-07

340-041-0195
Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the range of 7.0 to 9.0. When greater than 25 percent of ambient measurements taken between June and September are greater than pH 8.7, and as resources are available according to priorities set by the Department, the Department will determine whether the values higher than 8.7 are anthropogenic or natural in origin.

(2) Temperature. State waters in the Malheur Lake Basin supporting the Borax Lake chub may not be cooled more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) below the natural condition.

(3) Total Dissolved Solids. Guide concentrations listed below may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0190: None.

(4) Minimum Design Criteria for Treatment and Control of Sewage wastes: a minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 1-2007, f. & cert. ef. 3-14-07

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Rule Caption: Error corrections and clarifications to 2003 and 2004 Water Quality Standards Rules.
Adm. Order No.: DEQ 2-2007
Filed with Sec. of State: 3-15-2007
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Rules Amended: 340-041-0002, 340-041-0004, 340-041-0007, 340-041-0016, 340-041-0021, 340-041-0028, 340-041-0032, 340-041-0046, 340-041-0053, 340-041-0104, 340-041-0121, 340-041-0175, 340-041-0180, 340-041-0201, 340-041-0235, 340-041-0260, 340-041-0271, 340-041-0300, 340-041-0315, 340-041-0320, 340-041-0340, 340-041-0345, 340-041-0350
Subject: A variety of revisions were made to Division 41 to correct errors and clarify meaning. For example, cross references are corrected, definitions are replaced, language is relocated and mapping errors are corrected. Revisions to the pH and Total Dissolved Solids rules refer to the basin specific criteria so that readers are aware that these criteria vary by basin. Table 33A is corrected to show toxic pollutant criteria effective as of February 15, 2005 for purposes of State law.

The following tables and figures referred to in the above listed rule amendments are also being amended: OAR 340 Division 41 Tables: 21, 33A, 33B, 121A, 180A, 201A, 260A, and 340A; and Figures: 151A, 201A, 271B, 300A, 320B and 340B.
Rules Coordinator: Larry McAllister—(503) 229-6412

340-041-0002
Definitions

Definitions in this rule apply to all basins unless context requires otherwise.

(1) "401 Water Quality Certification" means a determination made by DEQ that a dredge and fill activity, private hydropower facility, or other federally licensed or permitted activity that may result in a discharge to waters of the state has adequate terms and conditions to prevent an exceedance of water quality criteria. The federal permit in question may not be issued without this state determination in accordance with the Federal Clean Water Act, section 401 (33 USC 1341).

(2) "Ambient Stream Temperature" means the stream temperature measured at a specific time and place. The selected location for measuring stream temperature must be representative of the stream in the vicinity of the point being measured.

(3) "Anthropogenic," when used to describe "sources" or "warming," means that which results from human activity;

(4) "Applicable Criteria" means the biologically based temperature criteria in OAR 340-041-0028(4), the superseding cold water protection criteria in OAR 340-041-0028(11), or the superseding natural condition criteria as described in OAR 340-041-0028(8). The applicable criteria may also be site-specific criteria approved by U.S. EPA. A subbasin may have a combination of applicable temperature criteria derived from some or all of these numeric and narrative criteria.

(5) "Appropriate Reference Site or Region" means a site on the same water body or within the same basin or ecoregion that has similar habitat conditions and represents the water quality and biological community attainable within the areas of concern.

(6) "Aquatic Species" means plants or animals that live at least part of their life cycle in waters of the state.

(7) "Basin" means a third-field hydrologic unit as identified by the U.S. Geological Survey.

(8) "BOD" means 5-day, 20°C Biochemical Oxygen Demand.

(9) "Cold-Water Aquatic Life" means aquatic organisms that are physiologically restricted to cold water, including but not limited to native salmon, steelhead, mountain whitefish, char (including bull trout), and trout.

(10) "Cold Water Refugia" means those portions of a water body where or times during the diel temperature cycle when the water temperature is at least 2 degrees Celsius colder than the daily maximum temperature of the adjacent well-mixed flow of the water body.

(11) "Commission" means the Oregon Environmental Quality Commission.

(12) "Cool-Water Aquatic Life" means aquatic organisms that are physiologically restricted to cool waters, including but not limited to native sturgeon, Pacific lamprey, suckers, chub, sculpins, and certain species of cyprinids (minnows).

(13) "Core Cold-Water Habitat Use" means waters that are expected to maintain temperatures within the range generally considered optimal for salmon and steelhead rearing, or that are suitable for bull trout migration, foraging, and sub-adult rearing that occurs during the summer. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 180A, 201A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(14) "Critical Habitat" means those areas that support rare, threatened, or endangered species or serve as sensitive spawning and rearing areas for aquatic life as designated by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration-Fisheries pursuant to the Endangered Species Act (16 USC 1531).

(15) "Daily Mean" for dissolved oxygen means the numeric average of an adequate number of data to describe the variation in dissolved oxygen concentration throughout a day, including daily maximums and minimums. For the purpose of calculating the mean, concentrations in excess of 100 percent of saturation are valued at the saturation concentration.

(16) "Department" or "DEQ" means the Oregon State Department of Environmental Quality.

(17) "Designated Beneficial Use" means the purpose or benefit to be derived from a water body as designated by the Water Resources Department or the Water Resources Commission.

(18) "DO" means dissolved oxygen.

(19) "Ecological Integrity" means the summation of chemical, physical, and biological integrity capable of supporting and maintaining a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of the natural habitat of the region.

(20) "Epilimnion" means the seasonally stratified layer of a lake or reservoir above the metalimnion; the surface layer.

(21) "Erosion Control Plan" means a plan containing a list of best management practices to be applied during construction to control and limit soil erosion.

(22) "Estuarine Waters" means all mixed fresh and oceanic waters in estuaries or bays from the point of oceanic water intrusion inland to a line connecting the outermost points of the headlands or protective jetties.

(23) "High Quality Waters" means those waters that meet or exceed levels that are necessary to support the propagation of fish, shellfish, and wildlife; recreation in and on the water; and other designated beneficial uses.

(24) "Hypolimnion" means the seasonally stratified layer of a lake or reservoir below the metalimnion; the bottom layer.

(25) "Industrial Waste" means any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

(26) "In Lieu Fee" means a fee collected by a jurisdiction in lieu of requiring construction of onsite stormwater quality control facilities.

(27) "Intergravel Dissolved Oxygen" (IGDO) means the concentration of oxygen measured in the water within the stream bed gravels. Measurements should be taken within a limited time period before emergence of fry.

(28) "Jurisdiction" means any city or county agency in the Tualatin River and Oswego Lake subbasin that regulates land development activities within its boundaries by approving plats or site plans or issuing permits for land development.

(29) "Land Development" means any human-induced change to improved or unimproved real estate, including but not limited to construction, installation or expansion of a building or other structure; land division; drilling; and site alteration such as land surface mining, dredging, grading, construction of earthen berms, paving, improvements for use as parking or storage, excavation, or clearing.

(30) "Load Allocation (LA)" means the portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading that may range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting loading. Whenever possible, natural and nonpoint source loads should be distinguished.

(31) "Loading Capacity (LC)" means the greatest amount of loading that a water body can receive without violating water quality standards.

(32) "Low Flow Period" means the flows in a stream resulting primarily from groundwater discharge or base flows augmented from lakes and storage projects during the driest period of the year. The dry weather period varies across the state according to climate and topography. Wherever the low flow period is indicated in Water Quality Management Plans, this period has been approximated by the inclusive months. Where applicable in a waste discharge permit, the low flow period may be further defined.

(33) "Managed Lakes" refers to lakes in which hydrology is managed by controlling the rate or timing of inflow or outflow,

(34) "Marine Waters" means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of the State of Oregon.

(35) "mg/l" or "mg/L" means milligrams per liter.

(36) "Metalimnion" means the seasonal, thermally stratified layer of a lake or reservoir that is characterized by a rapid change in temperature with depth and that effectively isolates the waters of the epilimnion from those of the hypolimnion during the period of stratification; the middle layer.

(37) "Migration Corridors" mean those waters that are predominantly used for salmon and steelhead migration during the summer and have little or no anadromous salmonid rearing in the months of July and August. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 151A, 170A, 300A and 340A.

(38) "Minimum" for dissolved oxygen means the minimum recorded concentration including seasonal and diurnal minimums.

(39) "Monthly (30-day) Mean Minimum" for dissolved oxygen means the minimum of the 30 consecutive-day floating averages of the calculated daily mean dissolved oxygen concentration.

(40) "Natural Conditions" means conditions or circumstances affecting the physical, chemical, or biological integrity of a water of the state that are not influenced by past or present anthropogenic activities. Disturbances from wildfire, floods, earthquakes, volcanic or geothermal activity, wind, insect infestation, and diseased vegetation are considered natural conditions.

(41) "Natural Thermal Potential" means the determination of the thermal profile of a water body using best available methods of analysis and the best available information on the site-potential riparian vegetation, stream geomorphology, stream flows, and other measures to reflect natural conditions.

(42) "Nonpoint Sources" means any source of water pollution other than a point source. Generally, a nonpoint source is a diffuse or unconfined source of pollution where wastes can either enter into or be conveyed by the movement of water to waters of the state.

(43) "Ocean Waters" means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of Oregon.

(44) "Outstanding Resource Waters" means those waters designated by the commission where existing high quality waters constitute an outstanding state or national resource based on their extraordinary water quality or ecological values or where special water quality protection is needed to maintain critical habitat areas.

(45) "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

(46) "Point Source" means a discernable, confined, and discrete conveyance, including but not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or leachate collection system from which pollutants are or may be discharged. Point source does not include agricultural storm water discharges and return flows from irrigated agriculture.

(47) "Public Water" means the same as "waters of the state".

(48) "Public Works Project" means any land development conducted or financed by a local, state, or federal governmental body.

(49) "Reserve Capacity" means that portion of a receiving stream's loading capacity that has not been allocated to point sources or to nonpoint sources and natural background as waste load allocations or load allocations, respectively. The reserve capacity includes that loading capacity that has been set aside for a safety margin and is otherwise unallocated.

(50) "Resident Biological Community" means aquatic life expected to exist in a particular habitat when water quality standards for a specific ecoregion, basin, or water body are met. This must be established by accepted biomonitoring techniques.

(51) "Salmon" means chinook, chum, coho, sockeye, and pink salmon.

(52) "Salmon and Steelhead Spawning Use" means waters that are or could be used for salmon and steelhead spawning, egg incubation, and fry emergence. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 130B, 151B, 160B, 170B, 220B, 230B, 271B, 286B, 300B, 310B, 320B, and 340B.

(53) "Salmon and Trout Rearing and Migration Use" means thermally suitable rearing habitat for salmon, steelhead, rainbow trout, and cutthroat trout as designated on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(54) "Salmonid or Salmonids" means native salmon, trout, mountain whitefish, and char (including bull trout). For purposes of Oregon water quality standards, salmonid does not include brook or brown trout since they are introduced species.

(55) "Secondary Treatment" means the following depending on the context:

(a) For "sewage wastes," secondary treatment means the minimum level of treatment mandated by EPA regulations pursuant to Public Law 92-500.

(b) For "industrial and other waste sources," secondary treatment means control equivalent to best practicable treatment (BPT).

(56) "Seven-Day Average Maximum Temperature" means a calculation of the average of the daily maximum temperatures from seven consecutive days made on a rolling basis.

(57) "Sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments, or other places together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial wastes or wastes, as defined in this rule, may also be considered "sewage" within the meaning of this division.

(58) "Short-Term Disturbance" means a temporary disturbance of six months or less when water quality standards may be violated briefly but not of sufficient duration to cause acute or chronic effects on beneficial uses.

(59) "Spatial Median" means the value that falls in the middle of a data set of multiple intergravel dissolved oxygen (IGDO) measurements taken within a spawning area. Half the samples should be greater than and half the samples should be less than the spatial median.

(60) "SS" means suspended solids.

(61) "Stormwater Quality Control Facility" means any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include but is not be limited to existing features such as wetlands, water quality swales, and ponds that are maintained as stormwater quality control facilities.

(62) "Subbasin" means a fourth-field hydrologic unit as identified by the U.S. Geological Survey.

(63) "Summer" means June 1 through September 30 of each calendar year.

(64) "Threatened or Endangered Species" means aquatic species listed as either threatened or endangered under the federal Endangered Species Act (16 USC 1531 et seq. and Title 50 of the Code of Federal Regulations).

(65) "Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. If Best Management Practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

(66) "Toxic Substance" means those pollutants or combinations of pollutants, including disease-causing agents, that after introduction to waters of the state and upon exposure, ingestion, inhalation, or assimilation either directly from the environment or indirectly by ingestion through food chains will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations in any organism or its offspring.

(67) "Wasteload Allocation (WLA)" means the portion of receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

(68) "Warm-Water Aquatic Life" means the aquatic communities that are adapted to warm-water conditions and do not contain either cold- or cool-water species.

(69) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances that may cause or tend to cause pollution of any water of the state.

(70) "Water Quality Limited" means one of the following:

(a) A receiving stream that does not meet narrative or numeric water quality criteria during the entire year or defined season even after the implementation of standard technology;

(b) A receiving stream that achieves and is expected to continue to achieve narrative or numeric water quality criteria but uses higher than standard technology to protect beneficial uses;

(c) A receiving stream for which there is insufficient information to determine whether water quality criteria are being met with higher-than-standard treatment technology or a receiving stream that would not be expected to meet water quality criteria during the entire year or defined season without higher than standard technology.

(71) "Water Quality Swale" means a natural depression or wide, shallow ditch that is used to temporarily store, route, or filter runoff for the purpose of improving water quality.

(72) "Waters of the State" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

(73) "Weekly (seven-day) Mean Minimum" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the calculated daily mean dissolved oxygen concentration.

(74) "Weekly (seven-day) Minimum Mean" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the daily minimum concentration. For purposes of application of the criteria, this value will be used as the reference for diurnal minimums.

(75) "Without Detrimental Changes in the Resident Biological Community" means no loss of ecological integrity when compared to natural conditions at an appropriate reference site or region.

Stat. Auth.: ORS 468.020, 468B.010, 468B.015, 468B.035, 468B.048
Stats. Implemented: ORS 468B.035, 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 3-2004, f. & cert. ef. 5-28-04; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0004
Antidegradation

(1) Purpose. The purpose of the Antidegradation Policy is to guide decisions that affect water quality such that unnecessary further degradation from new or increased point and nonpoint sources of pollution is prevented, and to protect, maintain, and enhance existing surface water quality to ensure the full protection of all existing beneficial uses. The standards and policies set forth in OAR 340-041-0007 through 340-041-0350 are intended to supplement the Antidegradation Policy.

(2) Growth Policy. In order to maintain the quality of waters in the State of Oregon, it is the general policy of the Commission to require that growth and development be accommodated by increased efficiency and effectiveness of waste treatment and control such that measurable future discharged waste loads from existing sources do not exceed presently allowed discharged loads except as provided in section (3) through (9) of this rule.

(3) Nondegradation Discharges. The following new or increased discharges are subject to this Division. However, because they are not considered degradation of water quality, they are not required to undergo an antidegradation review under this rule:

(a) Discharges Into Existing Mixing Zones. Pollutants discharged into the portion of a water body that has been included in a previous mixing zone for a permitted source, including the zones of initial dilution, are not considered a reduction in water quality, so long as the mixing zone is established in accordance with OAR 340-041-0053, there are no other overlapping mixing zones from other point sources, and the discharger complies with all effluent limits set out in its NPDES permit.

(b) Water Conservation Activities. An increase in a pollutant concentration is not considered a reduction in water quality so long as the increase occurs as the result of a water conservation activity, the total mass load of the pollutant is not increased, and the concentration increase has no adverse effect on either beneficial uses or threatened or endangered species in the water body.

(c) Temperature. Insignificant temperature increases authorized under OAR 340-041-0028(11) and (12) are not considered a reduction in water quality.

(d) Dissolved Oxygen. Up to a 0.1 mg/l decrease in dissolved oxygen from the upstream end of a stream reach to the downstream end of the reach is not considered a reduction in water quality so long as it has no adverse effects on threatened and endangered species.

(4) Recurring Activities. Since the baseline for applying the antidegradation policy to an individual source is the water quality resulting from the source's currently authorized discharge, and since regularly-scheduled, recurring activities remain subject to water quality standards and the terms and conditions in any applicable federal and state permits, certifications and licenses, the following activities will not be considered new or increasing discharges and will therefore not trigger an antidegradation review under this rule so long as they do not increase in frequency, intensity, duration or geographical extent:

(a) Rotating grazing pastures,

(b) Agricultural crop rotations, and

(c) Maintenance dredging.

(5) Exemptions to the Antidegradation Requirement. Some activities may, on a short term basis, cause temporary water quality degradation. However, these same activities may also have substantial and desirable environmental benefits. The following activities and situations fall into this category. Such activities and situations remain subject to water quality standards, and must demonstrate that they have minimized adverse affects to

threatened and endangered species in order to be exempt from the antidegradation review under this rule:

(a) Riparian Restoration Activities. Activities that are intended to restore the geomorphology or riparian vegetation of a water body, or control invasive species need not undergo an antidegradation review so long as the Department determines that there is a net ecological benefit to the restoration activity. Reasonable measures that are consistent with the restoration objectives for the water body must be used to minimize the degradation;

(b) Emergency Situations. The Director or a designee may, for a period of time no greater than 6 months, allow lower water quality without an antidegradation review under this rule in order to respond to public health and welfare emergencies (for example, a significant threat of loss of life, personal injury or severe property damage); and

(c) Exceptions. Exceptions authorized by the Commission or Department under (9) of this rule.

(6) High Quality Waters Policy: Where the existing water quality meets or exceeds those levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, and other designated beneficial uses, that level of water quality must be maintained and protected. However, the Environmental Quality Commission, after full satisfaction of the intergovernmental coordination and public participation provisions of the continuing planning process, and with full consideration of sections (2) and (9) of this rule, and 340-041-0007(4), may allow a lowering of water quality in these high quality waters if it finds:

(a) No other reasonable alternatives exist except to lower water quality; and

(b) The action is necessary and benefits of the lowered water quality outweigh the environmental costs of the reduced water quality. This evaluation will be conducted in accordance with DEQ's "Antidegradation Policy Implementation Internal Management Directive for NPDES Permits and section 401 water quality certifications," pages 27, and 33-39 (March 2001) incorporated herein by reference;

(c) All water quality standards will be met and beneficial uses protected; and

(d) Federal threatened and endangered aquatic species will not be adversely affected.

(7) Water Quality Limited Waters Policy: Water quality limited waters may not be further degraded except in accordance with section (9)(a)(B), (C) and (D) of this rule.

(8) Outstanding Resource Waters Policy. Where existing high quality waters constitute an outstanding State or national resource such as those waters designated as extraordinary resource waters, or as critical habitat areas, the existing water quality and water quality values must be maintained and protected, and classified as "Outstanding Resource Waters of Oregon."

(a) The Commission may specially designate high quality water bodies to be classified as Outstanding Resource Waters in order to protect the water quality parameters that affect ecological integrity of critical habitat or special water quality values that are vital to the unique character of those water bodies. The Department will develop a screening process and establish a list of nominated water bodies for Outstanding Resource Waters designation in the Biennial Water Quality Status Assessment Report (305(b) Report). The priority water bodies for nomination include:

(A) Those in State and National Parks;

(B) National Wild and Scenic Rivers;

(C) State Scenic Waterways;

(D) Those in State and National Wildlife Refuges; and

(E) Those in federally designated wilderness areas.

(b) The Department will bring to the Commission a list of water bodies that are proposed for designation as Outstanding Resource Waters at the time of each triennial Water Quality Standards Review; and

(c) When designating Outstanding Resource Waters, the Commission may establish the water quality values to be protected and provide a process for determining what activities are allowed that would not affect the outstanding resource values. After the designation, the Commission may not allow activities that may lower water quality below the level established except on a short term basis to respond to public health and welfare emergencies, or to obtain long-term water quality improvements.

(9) Exceptions. The Commission or Department may grant exceptions to this rule so long as the following procedures are met:

(a) In allowing new or increased discharged loads, the Commission or Department must make the following findings:

(A) The new or increased discharged load will not cause water quality standards to be violated;

(B) The action is necessary and benefits of the lowered water quality outweigh the environmental costs of the reduced water quality. This evaluation will be conducted in accordance with DEQ's "Antidegradation Policy Implementation Internal Management Directive for NPDES Permits and section 401 water quality certifications," pages 27, and 33-39 (March 2001) incorporated herein by reference; and

(C) The new or increased discharged load will not unacceptably threaten or impair any recognized beneficial uses or adversely affect threatened or endangered species. In making this determination, the Commission or Department may rely upon the presumption that if the numeric criteria established to protect specific uses are met the beneficial uses they were designed to protect are protected. In making this determination the Commission or Department may also evaluate other State and federal agency data that would provide information on potential impacts to beneficial uses for which the numeric criteria have not been set;

(D) The new or increased discharged load may not be granted if the receiving stream is classified as being water quality limited under sub-section (a) of the definition of "Water Quality Limited" in OAR 340-041-0002, unless:

(i) The pollutant parameters associated with the proposed discharge are unrelated either directly or indirectly to the parameter(s) causing the receiving stream to violate water quality standards and being designated water quality limited; or

(ii) Total maximum daily loads (TMDLs), waste load allocations (WLAs) load allocations (LAs), and the reserve capacity have been established for the water quality limited receiving stream; and compliance plans under which enforcement action can be taken have been established; and there will be sufficient reserve capacity to assimilate the increased load under the established TMDL at the time of discharge; or

(iii) Effective July 1, 1996, in water bodies designated water-quality limited for dissolved oxygen, when establishing WLAs under a TMDL for water bodies meeting the conditions defined in this rule, the Department may at its discretion provide an allowance for WLAs calculated to result in no measurable reduction of dissolved oxygen (DO). For this purpose, "no measurable reduction" is defined as no more than 0.10 mg/L for a single source and no more than 0.20 mg/L for all anthropogenic activities that influence the water quality limited segment. The allowance applies for surface water DO criteria and for Intergravel dissolved oxygen (IGDO) if a determination is made that the conditions are natural. The allowance for WLAs applies only to surface water 30-day and seven-day means; or

(iv) Under extraordinary circumstances to solve an existing, immediate and critical environmental problem, the Commission or Department may, after the completion of a TMDL but before the water body has achieved compliance with standards, consider a waste load increase for an existing source on a receiving stream designated water quality limited under sub-section (a) of the definition of "Water Quality Limited" in OAR 340-041-0002. This action must be based on the following conditions:

(I) That TMDLs, WLAs and LAs have been set; and

(II) That a compliance plan under which enforcement actions can be taken has been established and is being implemented on schedule; and

(III) That an evaluation of the requested increased load shows that this increment of load will not have an unacceptable temporary or permanent adverse effect on beneficial uses or adversely affect threatened or endangered species; and

(IV) That any waste load increase granted under subparagraph (iv) of this paragraph is temporary and does not extend beyond the TMDL compliance deadline established for the water body. If this action will result in a permanent load increase, the action has to comply with sub-paragraphs (i) or (ii) of this paragraph.

(b) The activity, expansion, or growth necessitating a new or increased discharge load is consistent with the acknowledged local land use plans as evidenced by a statement of land use compatibility from the appropriate local planning agency.

(c) Oregon's water quality management policies and programs recognize that Oregon's water bodies have a finite capacity to assimilate waste. Unused assimilative capacity is an exceedingly valuable resource that enhances in-stream values and environmental quality in general. Allocation of any unused assimilative capacity should be based on explicit criteria. In addition to the conditions in subsection (a) of this section, the Commission or Department may consider the following:

(A) Environmental Effects Criteria:

(i) Adverse Out-of-Stream Effects. There may be instances where the non-discharge or limited discharge alternatives may cause greater adverse environmental effects than the increased discharge alternative. An example

may be the potential degradation of groundwater from land application of wastes;

(ii) Instream Effects. Total stream loading may be reduced through elimination or reduction of other source discharges or through a reduction in seasonal discharge. A source that replaces other sources, accepts additional waste from less efficient treatment units or systems, or reduces discharge loadings during periods of low stream flow may be permitted an increased discharge load year-round or during seasons of high flow, so long as the loading has no adverse affect on threatened and endangered species;

(iii) Beneficial Effects. Land application, upland wetlands application, or other non-discharge alternatives for appropriately treated wastewater may replenish groundwater levels and increase streamflow and assimilative capacity during otherwise low streamflow periods.

(B) Economic Effects Criteria. When assimilative capacity exists in a stream, and when it is judged that increased loadings will not have significantly greater adverse environmental effects than other alternatives to increased discharge, the economic effect of increased loading will be considered. Economic effects will be of two general types:

(i) Value of Assimilative Capacity. The assimilative capacity of Oregon's streams is finite, but the potential uses of this capacity are virtually unlimited. Thus it is important that priority be given to those beneficial uses that promise the greatest return (beneficial use) relative to the unused assimilative capacity that might be utilized. In-stream uses that will benefit from reserve assimilative capacity, as well as potential future beneficial use, will be weighed against the economic benefit associated with increased loading;

(ii) Cost of Treatment Technology. The cost of improved treatment technology, non-discharge and limited discharge alternatives may be evaluated.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0007
Statewide Narrative Criteria

(1) Notwithstanding the water quality standards contained in this Division, the highest and best practicable treatment and/or control of wastes, activities, and flows must in every case be provided so as to maintain dissolved oxygen and overall water quality at the highest possible levels and water temperatures, coliform bacteria concentrations, dissolved chemical substances, toxic materials, radioactivity, turbidities, color, odor, and other deleterious factors at the lowest possible levels.

(2) Where a less stringent natural condition of a water of the State exceeds the numeric criteria set out in this Division, the natural condition supersedes the numeric criteria and becomes the standard for that water body. However, there are special restrictions, described in OAR 340-041-0004(9)(a)(D)(iii), that may apply to discharges that affect dissolved oxygen.

(3) For any new waste sources, alternatives that utilize reuse or disposal with no discharge to public waters must be given highest priority for use wherever practicable. New source discharges may be approved subject to the criteria in OAR 340-041-0004(9).

(4) No discharges of wastes to lakes or reservoirs may be allowed except as provided in section OAR 340-041-0004(9).

(5) Logging and forest management activities must be conducted in accordance with the Oregon Forest Practices Act to minimize adverse effects on water quality.

(6) Log handling in public waters must conform to current Commission policies and guidelines.

(7) Sand and gravel removal operations must be conducted pursuant to a permit from the Division of State Lands and separated from the active flowing stream by a watertight berm wherever physically practicable. Recirculation and reuse of process water must be required wherever practicable. Discharges or seepage or leakage losses to public waters may not cause a violation of water quality standards or adversely affect legitimate beneficial uses.

(8) Road building and maintenance activities must be conducted in a manner so as to keep waste materials out of public waters and minimize erosion of cut banks, fills, and road surfaces.

(9) In order to improve controls over nonpoint sources of pollution, federal, State, and local resource management agencies will be encouraged and assisted to coordinate planning and implementation of programs to regulate or control runoff, erosion, turbidity, stream temperature, stream flow, and the withdrawal and use of irrigation water on a basin-wide approach so as to protect the quality and beneficial uses of water and related resources. Such programs may include, but not be limited to, the following:

(a) Development of projects for storage and release of suitable quality waters to augment low stream flow;

(b) Urban runoff control to reduce erosion;

(c) Possible modification of irrigation practices to reduce or minimize adverse impacts from irrigation return flows;

(d) Stream bank erosion reduction projects; and

(e) Federal water quality restoration plans.

(10) The development of fungi or other growths having a deleterious effect on stream bottoms, fish or other aquatic life, or that are injurious to health, recreation, or industry may not be allowed;

(11) The creation of tastes or odors or toxic or other conditions that are deleterious to fish or other aquatic life or affect the potability of drinking water or the palatability of fish or shellfish may not be allowed;

(12) The formation of appreciable bottom or sludge deposits or the formation of any organic or inorganic deposits deleterious to fish or other aquatic life or injurious to public health, recreation, or industry may not be allowed;

(13) Objectionable discoloration, scum, oily sheens, or floating solids, or coating of aquatic life with oil films may not be allowed;

(14) Aesthetic conditions offensive to the human senses of sight, taste, smell, or touch may not be allowed;

(15) Radioisotope concentrations may not exceed maximum permissible concentrations (MPC's) in drinking water, edible fishes or shellfishes, wildlife, irrigated crops, livestock and dairy products, or pose an external radiation hazard;

(16) Minimum Design Criteria for Treatment and Control of Wastes. Except as provided in OAR 340-041-0101 through 340-041-0350, and subject to the implementation requirements set forth in OAR 340-041-0061, prior to discharge of any wastes from any new or modified facility to any waters of the State, such wastes must be treated and controlled in facilities designed in accordance with the following minimum criteria.

(a) In designing treatment facilities, average conditions and a normal range of variability are generally used in establishing design criteria. A facility once completed and placed in operation should operate at or near the design limit most of the time but may operate below the design criteria limit at times due to variables which are unpredictable or uncontrollable. This is particularly true for biological treatment facilities. The actual operating limits are intended to be established by permit pursuant to ORS 468.740 and recognize that the actual performance level may at times be less than the design criteria.

(A) Sewage wastes:

(i) Effluent BOD concentrations in mg/l, divided by the dilution factor (ratio of receiving stream flow to effluent flow) may not exceed one unless otherwise approved by the Commission;

(ii) Sewage wastes must be disinfected, after treatment, equivalent to thorough mixing with sufficient chlorine to provide a residual of at least 1 part per million after 60 minutes of contact time unless otherwise specifically authorized by permit;

(iii) Positive protection must be provided to prevent bypassing raw or inadequately treated sewage to public waters unless otherwise approved by the Department where elimination of inflow and infiltration would be necessary but not presently practicable; and

(iv) More stringent waste treatment and control requirements may be imposed where special conditions make such action appropriate.

(B) Industrial wastes:

(i) After maximum practicable in-plant control, a minimum of secondary treatment or equivalent control (reduction of suspended solids and organic material where present in significant quantities, effective disinfection where bacterial organisms of public health significance are present, and control of toxic or other deleterious substances);

(ii) Specific industrial waste treatment requirements may be determined on an individual basis in accordance with the provisions of this plan, applicable federal requirements, and the following:

(I) The uses that are or may likely be made of the receiving stream;

(II) The size and nature of flow of the receiving stream;

(III) The quantity and quality of wastes to be treated; and

(IV) The presence or absence of other sources of pollution on the same watershed.

(iii) Where industrial, commercial, or agricultural effluents contain significant quantities of potentially toxic elements, treatment requirements may be determined utilizing appropriate bioassays;

(iv) Industrial cooling waters containing significant heat loads must be subjected to off-stream cooling or heat recovery prior to discharge to public waters;

(v) Positive protection must be provided to prevent bypassing of raw or inadequately treated industrial wastes to any public waters;

(vi) Facilities must be provided to prevent and contain spills of potentially toxic or hazardous materials.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035, 468B.048
Stats. Implemented: ORS 468B.030, 468B.035, 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0016
Dissolved Oxygen

Dissolved oxygen (DO): No wastes may be discharged and no activities may be conducted that either alone or in combination with other wastes or activities will cause violation of the following standards: The changes adopted by the Commission on January 11, 1996, become effective July 1, 1996. Until that time, the requirements of this rule that were in effect on January 10, 1996, apply:

(1) For water bodies identified as active spawning areas in the places and times indicated on the following Tables and Figures set out in OAR 340-041-0101 to 340-041-0340: Tables 101B, 121B, and 190B, and Figures 130B, 151B, 160B, 170B, 180A, 201A, 220B, 230B, 260A, 271B, 286B, 300B, 310B, 320B, and 340B, (as well as any active spawning area used by resident trout species), the following criteria apply during the applicable spawning through fry emergence periods set forth in the tables and figures and, where resident trout spawning occurs, during the time trout spawning through fry emergence occurs:

(a) The dissolved oxygen may not be less than 11.0 mg/l. However, if the minimum intergravel dissolved oxygen, measured as a spatial median, is 8.0 mg/l or greater, then the DO criterion is 9.0 mg/l;

(b) Where conditions of barometric pressure, altitude, and temperature preclude attainment of the 11.0 mg/l or 9.0 mg/l criteria, dissolved oxygen levels must not be less than 95 percent of saturation;

(c) The spatial median intergravel dissolved oxygen concentration must not fall below 8.0 mg/l.

(2) For water bodies identified by the Department as providing cold-water aquatic life, the dissolved oxygen may not be less than 8.0 mg/l as an absolute minimum. Where conditions of barometric pressure, altitude, and temperature preclude attainment of the 8.0 mg/l, dissolved oxygen may not be less than 90 percent of saturation. At the discretion of the Department, when the Department determines that adequate information exists, the dissolved oxygen may not fall below 8.0 mg/l as a 30-day mean minimum, 6.5 mg/l as a seven-day minimum mean, and may not fall below 6.0 mg/l as an absolute minimum (Table 21);

(3) For water bodies identified by the Department as providing cool-water aquatic life, the dissolved oxygen may not be less than 6.5 mg/l as an absolute minimum. At the discretion of the Department, when the Department determines that adequate information exists, the dissolved oxygen may not fall below 6.5 mg/l as a 30-day mean minimum, 5.0 mg/l as a seven-day minimum mean, and may not fall below 4.0 mg/l as an absolute minimum (Table 21);

(4) For water bodies identified by the Department as providing warm-water aquatic life, the dissolved oxygen may not be less than 5.5 mg/l as an absolute minimum. At the discretion of the Department, when the Department determines that adequate information exists, the dissolved oxygen may not fall below 5.5 mg/l as a 30-day mean minimum, and may not fall below 4.0 mg/l as an absolute minimum (Table 21);

(5) For estuarine water, the dissolved oxygen concentrations may not be less than 6.5 mg/l (for coastal water bodies);

(6) For ocean waters, no measurable reduction in dissolved oxygen concentration may be allowed.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0021
pH

(1) Unless otherwise specified in OAR 340-041-0101 through 340-041-0350, pH values (Hydrogen ion concentrations) may not fall outside the following ranges:

(a) Marine waters: 7.0-8.5;

(b) Estuarine and fresh waters: See basin specific criteria (OAR 340-041-0101 through OAR 340-041-0350).

(2) Waters impounded by dams existing on January 1, 1996, which have pHs that exceed the criteria are not in violation of the standard, if the Department determines that the exceedance would not occur without the impoundment and that all practicable measures have been taken to bring the pH in the impounded waters into compliance with the criteria.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0028
Temperature

(1) Background. Water temperatures affect the biological cycles of aquatic species and are a critical factor in maintaining and restoring healthy salmonid populations throughout the State. Water temperatures are influenced by solar radiation, stream shade, ambient air temperatures, channel morphology, groundwater inflows, and stream velocity, volume, and flow. Surface water temperatures may also be warmed by anthropogenic activities such as discharging heated water, changing stream width or depth, reducing stream shading, and water withdrawals.

(2) Policy. It is the policy of the Commission to protect aquatic ecosystems from adverse warming and cooling caused by anthropogenic activities. The Commission intends to minimize the risk to cold-water aquatic ecosystems from anthropogenic warming, to encourage the restoration and protection of critical aquatic habitat, and to control extremes in temperature fluctuations due to anthropogenic activities. The Commission recognizes that some of the State's waters will, in their natural condition, not provide optimal thermal conditions at all places and at all times that salmonid use occurs. Therefore, it is especially important to minimize additional warming due to anthropogenic sources. In addition, the Commission acknowledges that control technologies, best management practices and other measures to reduce anthropogenic warming are evolving and that the implementation to meet these criteria will be an iterative process. Finally, the Commission notes that it will reconsider beneficial use designations in the event that man-made obstructions or barriers to anadromous fish passage are removed and may justify a change to the beneficial use for that water body.

(3) Purpose. The purpose of the temperature criteria in this rule is to protect designated temperature-sensitive, beneficial uses, including specific salmonid life cycle stages in waters of the State.

(4) Biologically Based Numeric Criteria. Unless superseded by the natural conditions criteria described in section (8) of this rule, or by subsequently adopted site-specific criteria approved by EPA, the temperature criteria for State waters supporting salmonid fishes are as follows:

(a) The seven-day-average maximum temperature of a stream identified as having salmon and steelhead spawning use on subbasin maps and tables set out in OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 130B, 151B, 160B, 170B, 220B, 230B, 271B, 286B, 300B, 310B, 320B, and 340B, may not exceed 13.0 degrees Celsius (55.4 degrees Fahrenheit) at the times indicated on these maps and tables;

(b) The seven-day-average maximum temperature of a stream identified as having core cold water habitat use on subbasin maps set out in OAR 340-041-101 to 340-041-340: Figures 130A, 151A, 160A, 170A, 180A, 201A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A, may not exceed 16.0 degrees Celsius (60.8 degrees Fahrenheit);

(c) The seven-day-average maximum temperature of a stream identified as having salmon and trout rearing and migration use on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A, may not exceed 18.0 degrees Celsius (64.4 degrees Fahrenheit);

(d) The seven-day-average maximum temperature of a stream identified as having a migration corridor use on subbasin maps and tables OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 151A, 170A, 300A, and 340A, may not exceed 20.0 degrees Celsius (68.0 degrees Fahrenheit). In addition, these water bodies must have coldwater refugia that are sufficiently distributed so as to allow salmon and steelhead migration without significant adverse effects from higher water temperatures elsewhere in the water body. Finally, the seasonal thermal pattern in Columbia and Snake Rivers must reflect the natural seasonal thermal pattern;

(e) The seven-day-average maximum temperature of a stream identified as having Lahontan cutthroat trout or redband trout use on subbasin maps and tables set out in OAR 340-041-0101 to 340-041-0340: Tables 121B, 140B, 190B, and 250B, and Figures 180A, 201A, 260A and 310A may not exceed 20.0 degrees Celsius (68.0 degrees Fahrenheit);

(f) The seven-day-average maximum temperature of a stream identified as having bull trout spawning and juvenile rearing use on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130B, 151B, 160B, 170B, 180A, 201A, 260A, 310B, and 340B, may not exceed 12.0 degrees Celsius (53.6 degrees Fahrenheit). From August 15 through May 15, in bull trout spawning waters below Clear Creek and Mehlhorn reservoirs on Upper Clear Creek (Pine Subbasin), below Laurance Lake on the Middle Fork Hood River, and below Carmen reservoir on the Upper

McKenzie River, there may be no more than a 0.3 degrees Celsius (0.5 Fahrenheit) increase between the water temperature immediately upstream of the reservoir and the water temperature immediately downstream of the spillway when the ambient seven-day-average maximum stream temperature is 9.0 degrees Celsius (48 degrees Fahrenheit) or greater, and no more than a 1.0 degree Celsius (1.8 degrees Fahrenheit) increase when the seven-day-average stream temperature is less than 9 degrees Celsius.

(5) Unidentified Tributaries. For waters that are not identified on the "Fish Use Designations" maps referenced in section (4) of this rule, the applicable criteria for these waters are the same criteria as is applicable to the nearest downstream water body depicted on the applicable map. This section (5) does not apply to the "Salmon and Steelhead Spawning Use Designations" maps.

(6) Natural Lakes. Natural lakes may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the natural condition unless a greater increase would not reasonably be expected to adversely affect fish or other aquatic life. Absent a discharge or human modification that would reasonably be expected to increase temperature, DEQ will presume that the ambient temperature of a natural lake is the same as its natural thermal condition.

(7) Oceans and Bays. Except for the Columbia River above river mile 7, ocean and bay waters may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the natural condition unless a greater increase would not reasonably be expected to adversely affect fish or other aquatic life. Absent a discharge or human modification that would reasonably be expected to increase temperature, DEQ will presume that the ambient temperature of the ocean or bay is the same as its natural thermal condition.

(8) Natural Conditions Criteria. Where the department determines that the natural thermal potential of all or a portion of a water body exceeds the biologically-based criteria in section (4) of this rule, the natural thermal potential temperatures supersede the biologically-based criteria, and are deemed to be the applicable temperature criteria for that water body.

(9) Cool Water Species.

(a) No increase in temperature is allowed that would reasonably be expected to impair cool water species. Waters of the State that support cool water species are identified on subbasin tables and figures set out in OAR 340-041-0101 to 340-041-0340; Tables 140B, 190B and 250B, and Figures 180A, 201A and 340A.

(b) See OAR 340-041-0185 for a basin specific criterion for the Klamath River.

(10) Borax Lake Chub. State waters in the Malheur Lake Basin supporting the Borax Lake chub may not be cooled more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) below the natural condition.

(11) Protecting Cold Water.

(a) Except as described in subsection (c) of this rule, waters of the State that have summer seven-day-average maximum ambient temperatures that are colder than the biologically based criteria in section (4) of this rule, may not be warmed by more than 0.3 degrees Celsius (0.5 degrees Fahrenheit) above the colder water ambient temperature. This provision applies to all sources taken together at the point of maximum impact where salmon, steelhead or bull trout are present.

(b) A point source that discharges into or above salmon & steelhead spawning waters that are colder than the spawning criterion, may not cause the water temperature in the spawning reach where the physical habitat for spawning exists during the time spawning through emergence use occurs, to increase more than the following amounts after complete mixing of the effluent with the river:

(A) If the rolling 60 day average maximum ambient water temperature, between the dates of spawning use as designated under subsection (4)(a) of this rule, is 10 to 12.8 degrees Celsius, the allowable increase is 0.5 Celsius above the 60 day average; or

(B) If the rolling 60 day average maximum ambient water temperature, between the dates of spawning use as designated under subsection (4)(a) of this rule, is less than 10 degrees Celsius, the allowable increase is 1.0 Celsius above the 60 day average, unless the source provides analysis showing that a greater increase will not significantly impact the survival of salmon or steelhead eggs or the timing of salmon or steelhead fry emergence from the gravels in downstream spawning reach.

(c) The cold water protection narrative criteria in subsection (a) do not apply if:

(A) There are no threatened or endangered salmonids currently inhabiting the water body;

(B) The water body has not been designated as critical habitat; and

(C) The colder water is not necessary to ensure that downstream temperatures achieve and maintain compliance with the applicable temperature criteria.

(12) Implementation of the Temperature Criteria.

(a) Minimum Duties. There is no duty for anthropogenic sources to reduce heating of the waters of the State below their natural condition. Similarly, each anthropogenic point and nonpoint source is responsible only for controlling the thermal effects of its own discharge or activity in accordance with its overall heat contribution. In no case may a source cause more warming than that allowed by the human use allowance provided in subsection (b) of this rule.

(b) Human Use Allowance. Insignificant additions of heat are authorized in waters that exceed the applicable temperature criteria as follows:

(A) Prior to the completion of a temperature TMDL or other cumulative effects analysis, no single NPDES point source that discharges into a temperature water quality limited water may cause the temperature of the water body to increase more than 0.3 degrees Celsius (0.5 Fahrenheit) above the applicable criteria after mixing with either twenty five (25) percent of the stream flow, or the temperature mixing zone, whichever is more restrictive; or

(B) Following a temperature TMDL or other cumulative effects analysis, waste load and load allocations will restrict all NPDES point sources and nonpoint sources to a cumulative increase of no greater than 0.3 degrees Celsius (0.5 Fahrenheit) above the applicable criteria after complete mixing in the water body, and at the point of maximum impact.

(C) Point sources must be in compliance with the additional mixing zone requirements set out in OAR 340-041-0053(2) (d).

(D) A point source in compliance with the temperature conditions of its NPDES permit is deemed in compliance with the applicable criteria.

(c) Air Temperature Exclusion. A water body that only exceeds the criteria set out in this rule when the exceedance is attributed to daily maximum air temperatures that exceed the 90th percentile value of annual maximum seven-day average maximum air temperatures calculated using at least 10 years of air temperature data, will not be listed on the section 303(d) list of impaired waters and sources will not be considered in violation of this rule.

(d) Low Flow Conditions. An exceedance of the biologically-based numeric criteria in section (4) of this rule, or an exceedance of the natural condition criteria in section (8) of this rule will not be considered a permit violation during stream flows that are less than the 7Q10 low flow condition for that water body.

(e) Forestry on State and Private Lands. For forest operations on State or private lands, water quality standards are intended to be attained and are implemented through best management practices and other control mechanisms established under the Forest Practices Act (ORS 527.610 to 527.992) and rules thereunder, administered by the Oregon Department of Forestry. Therefore, forest operations that are in compliance with the Forest Practices Act requirements are (except for the limits set out in ORS 527.770) deemed in compliance with this rule. DEQ will work with the Oregon Department of Forestry to revise the Forest Practices program to attain water quality standards.

(f) Agriculture on State and Private Lands. For farming or ranching operations on State or private lands, water quality standards are intended to be attained and are implemented through the Agricultural Water Quality Management Act (ORS 568.900 to 568.933) and rules thereunder, administered by the Oregon Department of Agriculture. Therefore, farming and ranching operations that are in compliance with the Agricultural Water Quality Management Act requirements will not be subject to DEQ enforcement under this rule. DEQ will work with the Oregon Department of Agriculture to revise the Agricultural Water Quality Management program to attain water quality standards.

(g) Agriculture and Forestry on Federal Lands. Agriculture and forestry activities conducted on federal land must meet the requirements of this rule and are subject to the department's jurisdiction. Pursuant to Memoranda of Agreement with the U.S. Forest Service and the Bureau of Land Management, water quality standards are expected to be met through the development and implementation of water quality restoration plans, best management practices and aquatic conservation strategies. Where a Federal Agency is a Designated Management Agency by the Department, implementation of these plans, practices and strategies is deemed compliance with this rule.

(h) Other Nonpoint Sources. The department may, on a case-by-case basis, require nonpoint sources (other than forestry and agriculture), including private hydropower facilities regulated by a 401 water quality certification, that may contribute to warming of State waters beyond 0.3 degrees

Celsius (0.5 degrees Fahrenheit), and are therefore designated as water-quality limited, to develop and implement a temperature management plan to achieve compliance with applicable temperature criteria or an applicable load allocation in a TMDL pursuant to OAR 340-042-0080.

(A) Each plan must ensure that the nonpoint source controls its heat load contribution to water temperatures such that the water body experiences no more than a 0.3 degrees Celsius (0.5 degree Fahrenheit) increase above the applicable criteria from all sources taken together at the maximum point of impact.

(B) Each plan must include a description of best management practices, measures, effluent trading, and control technologies (including eliminating the heat impact on the stream) that the nonpoint source intends to use to reduce its temperature effect, a monitoring plan, and a compliance schedule for undertaking each measure.

(C) The Department may periodically require a nonpoint source to revise its temperature management plan to ensure that all practical steps have been taken to mitigate or eliminate the temperature effect of the source on the water body.

(D) Once approved, a nonpoint source complying with its temperature management plan is deemed in compliance with this rule.

(i) Compliance Methods. Anthropogenic sources may engage in thermal water quality trading in whole or in part to offset its temperature discharge, so long as the trade results in at least a net thermal loading decrease in anthropogenic warming of the water body, and does not adversely affect a threatened or endangered species. Sources may also achieve compliance, in whole or in part, by flow augmentation, hyporheic exchange flows, outfall relocation, or other measures that reduce the temperature increase caused by the discharge.

(j) Release of Stored Water. Stored cold water may be released from reservoirs to cool downstream waters in order to achieve compliance with the applicable numeric criteria. However, there can be no significant adverse impact to downstream designated beneficial uses as a result of the releases of this cold water, and the release may not contribute to violations of other water quality criteria. Where the Department determines that the release of cold water is resulting in a significant adverse impact, the Department may require the elimination or mitigation of the adverse impact.

(13) Site-Specific Criteria. The Department may establish, by separate rulemaking, alternative site-specific criteria for all or a portion of a water body that fully protects the designated use.

(a) These site-specific criteria may be set on a seasonal basis as appropriate.

(b) The Department may use, but is not limited by the following considerations when calculating site-specific criteria:

(A) Stream flow;

(B) Riparian vegetation potential;

(C) Channel morphology modifications;

(D) Cold water tributaries and groundwater;

(E) Natural physical features and geology influencing stream temperatures; and

(F) Other relevant technical data.

(c) DEQ may consider the thermal benefit of increased flow when calculating the site-specific criteria.

(d) Once established and approved by EPA, the site-specific criteria will be the applicable criteria for the water bodies affected.

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

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 1-2007, f. & cert. ef. 3-14-07; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0032
Total Dissolved Solids (TDS)

Total Dissolved Solids: Total Dissolved Solids: The concentrations listed in the basin specific criteria found in OAR 340-041-0101 through OAR 340-041-0350, may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0046
Water Quality Limited Waters

(1) A receiving stream may be designated as water quality limited through the biennial water quality status assessment report prepared to meet the requirements of section 305(b) of the Federal Clean Water Act. Appendix A of the Status Assessment report will identify: what water bodies are water quality limited, the time of year the water quality standards violations occur, the segment of stream or area of water body limited, the parameter(s) of concern, and whether it is water quality limited under the definition of "Water Quality Limited" in OAR 340-041-0002. Appendix B and C of the Status Assessment report will identify the specific evaluation process for designating water bodies limited;

(2) The water quality limited list contained in Appendix A of the Status Assessment report will be placed on public notice and reviewed through the public hearing process. At the conclusion of the hearing process and the evaluation of the testimony, Appendix A will become the official water quality limited list. The Department may add a water body to the water quality limited list between status assessment reports after placing that action out on public notice and conducting a public hearing;

(3) For interstate water bodies, the State is responsible for completing the requirements of OAR 340-041-0004(9) of this rule for that portion of the interstate water body within the boundary of the State;

(4) For water bodies designated as water quality limited under subsection (c) of the definition of "Water Quality Limited" in OAR 340-041-0002, the Department will establish a priority list and schedule for future water quality monitoring activities to determine: if the water body should be designated as water quality limited under sub-sections (a) or (b) of the definition of "Water Quality Limited" in OAR 340-041-0002, if estimated TMDLs need to be prepared, and if an implementation plan needs to be developed and implemented;

(5) For water bodies designated as water quality limited under subsection (b) of the definition of "Water Quality Limited" in OAR 340-041-0002, requests for load increases may be considered using the process set out in OAR 340-041-0004(9)(b) of this rule.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0053
Mixing Zones

(1) The Department may allow a designated portion of a receiving water to serve as a zone of dilution for wastewaters and receiving waters to mix thoroughly and this zone will be defined as a mixing zone;

(2) The Department may suspend all or part of the water quality standards, or set less restrictive standards in the defined mixing zone, provided that the following conditions are met:

(a) A point source for which the mixing zone is established may not cause or significantly contribute to any of the following:

(A) Materials in concentrations that will cause acute toxicity to aquatic life as measured by a Department approved bioassay method. Acute toxicity is lethal to aquatic life as measured by a significant difference in lethal concentration between the control and 100 percent effluent in an acute bioassay test. Lethality in 100 percent effluent may be allowed due to ammonia and chlorine only when it is demonstrated on a case-by-case basis that immediate dilution of the effluent within the mixing zone reduces toxicity below lethal concentrations. The Department may on a case-by-case basis establish a zone of immediate dilution if appropriate for other parameters;

(B) Materials that will settle to form objectionable deposits;

(C) Floating debris, oil, scum, or other materials that cause nuisance conditions; and

(D) Substances in concentrations that produce deleterious amounts of fungal or bacterial growths.

(b) A point source for which the mixing zone is established may not cause or significantly contribute to any of the following conditions outside the boundary of the mixing zone:

(A) Materials in concentrations that will cause chronic (sublethal) toxicity. Chronic toxicity is measured as the concentration that causes long-term sublethal effects, such as significantly impaired growth or reproduction in aquatic organisms, during a testing period based on test species life cycle. Procedures and end points will be specified by the Department in wastewater discharge permits;

(B) Exceedances of any other water quality standards under normal annual low flow conditions.

(c) The limits of the mixing zone must be described in the wastewater discharge permit. In determining the location, surface area, and volume of a mixing zone area, the Department may use appropriate mixing zone guidelines to assess the biological, physical, and chemical character of receiving waters, effluent, and the most appropriate placement of the outfall, to protect instream water quality, public health, and other beneficial uses. Based on receiving water and effluent characteristics, the Department

will define a mixing zone in the immediate area of a wastewater discharge to:

(A) Be as small as feasible;

(B) Avoid overlap with any other mixing zones to the extent possible and be less than the total stream width as necessary to allow passage of fish and other aquatic organisms;

(C) Minimize adverse effects on the indigenous biological community, especially when species are present that warrant special protection for their economic importance, tribal significance, ecological uniqueness, or other similar reasons determined by the Department and does not block the free passage of aquatic life;

(D) Not threaten public health;

(E) Minimize adverse effects on other designated beneficial uses outside the mixing zone.

(d) Temperature Thermal Plume Limitations. Temperature mixing zones and effluent limits authorized under 340-041-0028(12) (b) will be established to prevent or minimize the following adverse effects to salmonids inside the mixing zone:

(A) Impairment of an active salmonid spawning area where spawning redds are located or likely to be located. This adverse effect is prevented or minimized by limiting potential fish exposure to temperatures of 13 degrees Celsius (55.4 Fahrenheit) or more for salmon and steelhead, and 9 degrees Celsius (48 degrees Fahrenheit) or more for bull trout;

(B) Acute impairment or instantaneous lethality is prevented or minimized by limiting potential fish exposure to temperatures of 32.0 degrees Celsius (89.6 degrees Fahrenheit) or more to less than 2 seconds);

(C) Thermal shock caused by a sudden increase in water temperature is prevented or minimized by limiting potential fish exposure to temperatures of 25.0 degrees Celsius (77.0 degrees Fahrenheit) or more to less than 5 percent of the cross section of 100 percent of the 7Q10 low flow of the water body; the Department may develop additional exposure timing restrictions to prevent thermal shock; and

(D) Unless the ambient temperature is 21.0 degrees of greater, migration blockage is prevented or minimized by limiting potential fish exposure to temperatures of 21.0 degrees Celsius (69.8 degrees Fahrenheit) or more to less than 25 percent of the cross section of 100 percent of the 7Q10 low flow of the water body.

(e) The Department may request the applicant of a permitted discharge for which a mixing zone is required, to submit all information necessary to define a mixing zone, such as:

(A) Type of operation to be conducted;

(B) Characteristics of effluent flow rates and composition;

(C) Characteristics of low flows of receiving waters;

(D) Description of potential environmental effects;

(E) Proposed design for outfall structures.

(f) The Department may, as necessary, require mixing zone monitoring studies and/or bioassays to be conducted to evaluate water quality or biological status within and outside the mixing zone boundary;

(g) The Department may change mixing zone limits or require the relocation of an outfall, if it determines that the water quality within the mixing zone adversely affects any existing beneficial uses in the receiving waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 1-2007, f. & cert. ef. 3-14-07; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0104
Water Quality Standards and Policies Specific to the Main Stem Columbia River

(1) pH (hydrogen ion concentration). pH values may not fall outside the following range: main stem Columbia River (mouth to river mile 309): 7.0 – 8.5.

(2) Total Dissolved Solids. Guide concentrations listed below must not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-04l-0101:

(a) Main stem Columbia River (river miles 120 to 147 and 218-309) — 200.0 mg/l;

(b) All other river miles of main stem Columbia River — 500.0 mg/l.

(3) Total Dissolved Gas. The Commission may modify the total dissolved gas criteria in the Columbia River for the purpose of allowing increased spill for salmonid migration. The Commission must find that:

(a) Failure to act would result in greater harm to salmonid stock survival through in-river migration than would occur by increased spill;

(b) The modified total dissolved gas criteria associated with the increased spill provides a reasonable balance of the risk of impairment due to elevated total dissolved gas to both resident biological communities and other migrating fish and to migrating adult and juvenile salmonids when compared to other options for in-river migration of salmon;

(c) Adequate data will exist to determine compliance with the standards; and

(d) Biological monitoring is occurring to document that the migratory salmonid and resident biological communities are being protected.

(e) The Commission will give public notice and notify all known interested parties and will make provision for opportunity to be heard and comment on the evidence presented by others, except that the Director may modify the total dissolved gas criteria for emergencies for a period not exceeding 48 hours;

(f) The Commission may, at its discretion, consider alternative modes of migration.

(4) Minimum Design Criteria for Treatment and Control of Sewage Wastes:

(a) During periods of low stream flows (see paragraphs 4(a) (A) and 4(a) (B) of this rule): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control. Periods of low stream flow vary throughout the main stem Columbia River. Low stream flow periods, by river mile, are:

(A) River miles 120 to 147: Approximately July 1 to January 31;

(B) River miles 147 to 218: Approximately May 1 to October 31.

(b) During periods of high stream flows (see paragraphs 4(b)(A) and 4(b)(B) below): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

(A) River miles 120 to 147: Approximately February 1 to June 30;

(B) River miles 147 to 218: Approximately November 1 to April 30.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0121
Beneficial Uses to Be Protected in the Main Stem Snake River

(1) Water quality in the main stem Snake River (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 121A (August 2005).

(2) Designated fish uses to be protected in the main stem Snake River are shown in Table 121B (November 2003).

[ED. NOTE: Figures and Tables are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0175
Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following range: all Basin streams (other than the main stem Colombia River): 6.5–9.0. When greater than 25 percent of ambient measurements taken between June and September are greater than pH 8.7, and as resources are available according to priorities set by the Department, the Department will determine whether the values higher than 8.7 are anthropogenic or natural in origin.

(2) Total Dissolved Solids. Guide concentrations listed below may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0170: John Day River and Tributaries — 500.0 mg/l.

(3) Minimum Design Criteria for Treatment and control of Sewage Wastes in this Basin:

(a) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control;

(b) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0180
Beneficial Uses to Be Protected in the Klamath Basin

(1) Water quality in the Klamath Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 180A (August 2005).

(2) Designated fish uses to be protected in the Klamath Basin are shown in Figure 180A (November 2003).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0201
Beneficial Uses to Be Protected in the Malheur River Basin

(1) Water quality in the Malheur River Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 201A (August 2005).

(2) Designated fish uses to be protected in the Malheur River Basin are shown in Figure 201A (August 2005).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0235
Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following ranges:

(a) Marine waters: 7.0–8.5;

(b) Estuarine and fresh waters: 6.5–8.5.

(2) Total Dissolved Solids. Guide concentrations may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-04l-0230: All Fresh Water Streams and Tributaries (other than the main stem Columbia River) — 100.0 mg/l.

(3) Minimum Design Criteria for Treatment and control of Sewage Wastes in this Basin:

(a) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control;

(b) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0260
Beneficial Uses to Be Protected in the Powder/Burnt Basins

(1) Water quality in the Powder/Burnt Basins (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 260A (August 2005).

(2) Designated fish uses to be protected in the Powder/Burnt Basins are shown in Figure 260A (November 2003).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0271
Beneficial Uses to Be Protected in the Rogue Basin

(1) Water quality in the Rogue Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 271A (November 2003).

(2) Designated fish uses to be protected in the Rogue Basin are shown in Figures 271A (November 2003) and 271B (August 2005).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0300
Beneficial Uses to Be Protected in the South Coast Basin

(1) Water quality in the South Coast Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 300A (November 2003).

(2) Designated fish uses to be protected in the South Coast Basin are shown in Figures 300A (August 2005) and 300B (November 2003).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0315
Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following range: all Basin streams (other than main stem Columbia River): 6.5–9.0. When greater than 25 percent of ambient measurements taken between June and September are greater than pH 8.7, and as resources are available according to priorities set by the Department, the Department will determine whether the values higher than 8.7 are anthropogenic or natural in origin.

(2) Minimum Design Criteria for Treatment and control of Sewage Wastes in this Basin:

(a) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control;

(b) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0320
Beneficial Uses to Be Protected in the Umpqua Basin

(1) Water quality in the Umpqua Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 320A (November 2003).

(2) Designated fish uses to be protected in the Umpqua Basin are shown in Figures 320A (November 2003) and 320B (August 2005).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0340
Beneficial Uses to Be Protected in the Willamette Basin

(1) Water quality in the Willamette Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 340A (August 2005).

(2) Designated fish uses to be protected in the Willamette Basin are shown in Figures 340A (November 2003) and 340B (August 2005).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0345
Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following ranges:

(a) All basin waters (except main stem Columbia River and Cascade lakes): 6.5 to 8.5;

(b) Cascade lakes above 3,000 feet altitude: 6.0 to 8.5.

(2) Total Dissolved Solids. Guide concentrations listed may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0340: Willamette River and Tributaries --100.0 mg/l.

(3) Minimum Design Criteria for Treatment and Control of Sewage Wastes:

(a) Willamette River and tributaries except Tualatin River Subbasin:

(A) During periods of low stream flows (approximately May 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 10 mg/l of BOD and 10 mg/l of SS or equivalent control;

(B) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practical efficiency and effectiveness so as to minimize waste discharges to public waters.

(b) Main stem Tualatin River from mouth to Gaston (river mile 0 to 65):

(A) During periods of low stream flows (approximately May 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 10 mg/l of BOD and 10 mg/l of SS or equivalent control;

(B) During the period of high stream flows (approximately November 1 to April 30): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control.

(c) Main stem Tualatin River above Gaston (river mile 65) and all tributaries to the Tualatin River: Treatment resulting in monthly average effluent concentrations not to exceed 5 mg/l of BOD and 5 mg/l of SS or equivalent control;

(d) Tualatin River Subbasin: The dissolved oxygen level in the discharged effluents may not be less than 6 mg/l;

(4) Nonpoint source pollution control in the Tualatin River subbasin and lands draining to Oswego Lake:

(a) Subsection (5)(b) of this rule applies to any new land development within the Tualatin River and Oswego Lake subbasins, except those developments with application dates prior to January 1, 1990. The application date is the date on which a complete application for development approval is received by the local jurisdiction in accordance with the regulations of the local jurisdiction;

(b) For land development, no preliminary plat, site plan, permit or public works project may be approved by any jurisdiction in these subbasins unless the conditions of the plat permit or plan approval include an erosion control plan containing methods and/or interim facilities to be constructed or used concurrently with land development and to be operated during construction to control the discharge of sediment in the stormwater runoff. The erosion control plan must include the following elements:

(A) Protection techniques to control soil erosion and sediment transport to less than one ton per acre per year, as calculated using the Natural Resources Conservation Service's Universal Soil Loss Equation or other equivalent methods (see Figures 1 to 6 in Appendix 1 for examples). The erosion control plan must include temporary sedimentation basins or other sediment control devices when, because of steep slopes or other site specific considerations, other on-site sediment control methods will not likely keep the sediment transport to less than one ton per acre per year. The local jurisdictions may establish additional requirements for meeting an equivalent degree of control. Any sediment basin constructed must be sized using 1.5 feet minimum sediment storage depth plus 2.0 feet storage depth above for a settlement zone. The storage capacity of the basin must be sized to store all of the sediment that is likely to be transported and collected during construction while the erosion potential exists. When the erosion potential has been removed, the sediment basin, or other sediment control facilities, can be removed and the site restored as per the final site plan. All sediment basins must be constructed with an emergency overflow to prevent erosion or failure of the containment dike; or

(B) A soil erosion control matrix derived from and consistent with the universal soil equation approved by the jurisdiction or the Department.

(c) The Director may modify Appendix 1 as necessary without approval from the Environmental Quality Commission. The Director may modify Appendix 1 to simplify it and to make it easier for people to apply;

(d) Subsection (5)(e) of this rule applies to any new land development within the Tualatin River and Oswego Lake subbasins, except:

(A) Those developments with application dates prior to June 1, 1990. The application date is the date on which a complete application for development approval is received by the local jurisdiction in accordance with the regulations of the local jurisdiction;

(B) One and two family dwellings on existing lots of record;

(C) Sewer lines, water lines, utilities or other land development that will not directly increase nonpoint source pollution once construction has been completed and the site is either restored to or not altered from its approximate original condition;

(D) If the Environmental Quality Commission determines that a jurisdiction does not need to require stormwater quality control facilities for new development;

(E) When a jurisdiction adopts ordinances that provide for a stormwater quality program equivalent to subsection (e) of this section. Ordinances adopted to implement equivalent programs must:

(i) Encourage on-site retention of stormwater, require phosphorus removal equivalent to the removal efficiency required by subsection (e) of this section, provide for adequate operation and maintenance of stormwater quality control facilities, and require financial assurance, or equivalent security that assures construction of the stormwater quality control facilities required by the ordinance;

(ii) If the ordinances provide for exemptions other than those allowed for by paragraphs (B) and (C) of this subsection, the ordinances must provide for collection of in-lieu fees or other equivalent mechanisms that assure financing for, and construction of, associated, off-site stormwater quality control facilities. No exemption may be allowed if the jurisdiction is not meeting an approved schedule for identifying location of the off-site stormwater quality control facility to serve the development requesting an exemption.

(e) For new development, no plat, site plan, building permit or public works project may be approved by any jurisdiction in these subbasins unless the conditions of the plat, permit or plan approval require permanent stormwater quality control facilities to control phosphorus loadings associated with stormwater runoff from the development site. Jurisdictions must encourage and provide preference to techniques and methods that prevent and minimize pollutants from entering the storm and surface water systems. Permanent stormwater quality control facilities for phosphorus must meet the following requirements:

(A) The stormwater quality control facilities must be designed to achieve a phosphorus removal efficiency as calculated from the following equation:

Rp = 100 - 24.5/Rv
Where:
Rp = Required phosphorus removal efficiency
Rv = Average site runoff coefficient
The average site runoff coefficient can be calculated from the following equation:
Rv = (0.7 x A1) + (0.3 x A2) + (0.7 x A3) +
(0.05 x A4) + (A5 x 0.0)
Where:
A1 = fraction of total area that is paved streets with curbs and that drain to storm sewers or open ditches.
A2 = fraction of total area that is paved streets that drain to water quality swales located on site.
A3 = fraction of total area that is building roof and paved parking that drains to storm sewers.
A4 = fraction of total area that is grass, trees and marsh areas.
A5 = fraction of total area for which runoff will be collected and retained on site with no direct discharge to surface waters.

(B) A jurisdiction may modify the equation for Rv to allow the application of additional runoff coefficients associated with land surfaces not identified in this subsection. The Department must be notified in writing whenever an additional runoff coefficient is used. The use of additional runoff coefficients must be based on scientific data. The jurisdiction must discontinue use of an additional runoff coefficient if the Department objects to its use in writing within ten days of receiving notification;

(C) The stormwater quality control facilities must be designed to meet the removal efficiency specified in paragraph (A) of this subsection for a mean summertime storm event totaling 0.36 inches of precipitation with an average return period of 96 hours;

(D) The removal efficiency specified in paragraph (A) of this subsection specify only design requirements and are not intended to be used as a basis for performance evaluation or compliance determination of the stormwater quality control facility installed or constructed pursuant to this subsection;

(E) Stormwater quality control facilities required by this subsection may be approved by a jurisdiction only if the following are met:

(i) For developments larger than one acre, the plat or site plan must include plans and a certification prepared by an Oregon registered, professional engineer that the proposed stormwater control facilities have been designed in accordance with criteria expected to achieve removal efficiencies for total phosphorus required by paragraph (A) of this subsection;

(ii) The plat or site plan must be consistent with the area and associated runoff coefficients used to determine the removal efficiency required in paragraph (A) of this subsection;

(iii) A financial assurance, or equivalent security acceptable to the jurisdiction, must be provided by the developer with the jurisdiction that assures that the stormwater control facilities are constructed according to the plans established in the plat or site plan approval. Where practicable, the jurisdiction must combine the financial assurance required by this rule with other financial assurance requirements imposed by the jurisdiction;

(iv) Each jurisdiction that constructs or authorizes construction of permanent stormwater quality control facilities must file with the Department, an operation and maintenance plan for the stormwater quality control facilities within its jurisdiction. The operation and maintenance plan must allow for public or private ownership, operation, and maintenance of individual permanent stormwater quality control facilities. The jurisdiction or private operator must operate and maintain the permanent stormwater control facilities in accordance with the operation and maintenance plan.

(f) Except as required by paragraph (D) of this subsection, the jurisdiction may grant an exception to subsection (e) of this section if the juris-

diction chooses to adopt and, on a case-by-case basis, impose a one time in-lieu fee. The fee will be an option where, because of the size of the development, topography, or other factors, the jurisdiction determines that the construction of on-site permanent stormwater treatment systems is impracticable or undesirable:

(A) The in-lieu fee will be based upon a reasonable estimate of the current, prorated cost for the jurisdiction to provide stormwater quality control facilities for the land development being assessed the fee. Estimated costs include costs associated with off-site land and rights-of-way acquisition, design, construction and construction inspection;

(B) The jurisdiction must deposit any in-lieu fees collected pursuant to this paragraph in an account dedicated only to reimbursing the jurisdiction for expenses related to off-site land and rights-of-way acquisition, design, construction and construction inspection of stormwater quality control facilities;

(C) The ordinance establishing the in-lieu fee must include provisions that reduce the fee in proportion to the ratio of the site's average runoff coefficient (Rv), as established according to the equation in paragraph (6)(e)(A) of this rule;

(D) No new development may be granted an exemption if the jurisdiction is not meeting an approved time schedule for identifying the location for the off-site stormwater quality control facilities that would serve that development.

(g) The Department may approve other mechanisms that allow jurisdictions to grant exemptions to new development. The Department may only approve those mechanisms that assure financing for off-site stormwater quality control facilities and that encourage or require on-site retention where feasible;

(h) Subsection (b) of this section apply until a jurisdiction adopts ordinances that provide for a program equivalent to subsection (b) of this section, or the Environmental Quality Commission determines such a program is not necessary when it approves the jurisdiction's program plan required by OAR 340-041-0470(2)(g).

(5) In order to improve water quality within the Yamhill River subbasin to meet the existing water quality standard for pH, the following special rules for total maximum daily loads, waste load allocations, load allocations and program plans are established:

(a) After completion of wastewater control facilities and program plans approved by the Commission under this rule and no later than June 30, 1994, no activities may be allowed and no wastewater may be discharged to the Yamhill River or its tributaries without the authorization of the Commission that cause the monthly median concentration of total phosphorus to exceed 70 ug/1 as measured during the low flow period between approximately May 1 and October 31*** of each year;

(b) Within 90 days of adoption of these rules, the Cities of McMinnville and Lafayette must submit a program plan and time schedule to the Department describing how and when they will modify their sewerage facility to comply with this rule;

(c) Final program plans will be reviewed and approved by the Commission. The Commission may define alternative compliance dates as program plans are approved. All proposed final program plans must be subject to public hearing prior to consideration for approval by the Commission;

(d) The Department will within 60 days of adoption of these rules distribute initial waste load allocations and load allocations to the point and nonpoint sources in the basin. These allocations are considered interim and may be redistributed based upon the conclusions of the approved program plans.

***Precise dates for complying with this rule may be conditioned on physical conditions (i.e., flow, temperature) of the receiving water and may be specified in individual permits or memorandums of understanding issued by the Department. The Department may consider system design flows, river travel times, and other relevant information when establishing the specific conditions to be inserted in the permits or memorandums of understanding.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

340-041-0350
The Three Basin Rule: Clackamas, McKenzie (above RM 15) and the North Santiam

(1) In order to preserve or improve the existing high quality water for municipal water supplies, recreation, and preservation of aquatic life, new or increased waste discharges must be prohibited, except as provided by this rule, to the waters of:

(a) The Clackamas River Subbasin;

(b) The McKenzie River Subbasin above the Hayden Bridge (river mile 15);

(c) The North Santiam River Subbasin.

(2) Except as otherwise provided for in this rule, this rule becomes effective and applies to all permits pending or applied for after the date of filing with the Secretary of State.

(3) Special Definitions. The following special definitions apply to this rule:

(a) "Waste Discharges" are defined to mean any discharge that requires and NPDES permit, WPCF permit, or 401 Certification. Individual on-site sewage disposal systems subject to issuance of a construction-installation permit; domestic sewage facilities that discharge less than 5,000 gallons per day under WPCF permit; biosolids land applied within agronomic loading rates pursuant to OAR chapter 340, division 50; and reclaimed domestic waste water land applied at agronomic rates pursuant to OAR chapter 340, division 55 are excluded from this definition.

(b) "Existing Discharges" are defined as those discharges from point sources which existed prior to January 28, 1994;

(c) "Existing Facilities" are defined as those for which construction started prior to January 28, 1994. Where existing facilities are exempted from requirements placed on new facilities, the exemption applies only to the specific permit(s) addressed in the subsection which allows the exemption;

(d) "New" NPDES and WPCF permits are defined to include permits for potential or existing discharges which did not previously have a permit, and existing discharges which have a permit, but request an increased load limitation;

(e) "Agronomic Loading Rate" means the application of biosolids or reclaimed effluent to the land at a rate which is designed to:

(A) Provide the quantity of plant nutrients, usually nitrogen, needed by a food crop, feed crop, fiber crop, cover crop or other vegetation grown on the land; and

(B) Minimize the quantity of nitrogen or other nutrients from land applied materials that pass below the root zone of the crop or vegetation grown on the land to groundwater.

(f) "Biosolids" means solids derived from primary, secondary, or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or chemical stabilize solids to the extent that they do not attract vectors. This term refers to domestic wastewater treatment facility solids that have undergone adequate treatment to permit their land application;

(g) "Reclaimed Wastewater" means treated effluent from a domestic wastewater treatment system which, as a result of treatment, is suitable for a direct beneficial purpose or a controlled use that could not otherwise occur.

(4) To respond to emergencies or to otherwise avoid imminent serious danger to public health or welfare, the Director or designee may allow lower water quality on a short-term basis.

(5) The Director or a designee may renew or transfer NPDES and WPCF permits for existing facilities. Existing facilities with NPDES permits may not be granted increases in their permitted mass load limitations. The following restrictions and exceptions apply:

(a) The Department may conduct an inspection prior to permit renewal. Existing sources with general permits that are found not to qualify for a general permit, and who wish to continue discharging, must apply for an individual permit;

(b) Fish hatcheries (General Permit 300) and log ponds (General Permit 400) are required to apply for an individual permit at the time of permit renewal;

(c) Additional industrial, confined animal feeding operations, or domestic waste loads that are irrigated on land at agronomic rates or that otherwise meet the conditions of section (7) of this rule is not be considered to be an increase in the permitted wasteload.

(6) The Director or a designee may issue the following General Permits or Certifications subject to the conditions of the Permit or Certification:

(a) Stormwater construction activities (General Permits 1200C and 1200CA);

(b) Underground storage tank cleanups using best available treatment technology (General Permit 1500);

(c) Non-contact cooling water (General Permit 100);

(d) Filter backwash (General Permit 200);

(e) Boiler blowdown water (General Permit 500);

(f) Suction dredging (General Permit 700) only in portions of the basins that are not designated as Scenic Waterways under ORS 390.805 to 390.925;

(g) Federal Clean Water Act Section 401 water quality certifications.

(7) Long-term general and individual stormwater permits may be allowed as required by State and/or Federal law. The following requirements apply:

(a) New stormwater discharge permit holders must maintain a monitoring and water quality evaluation program that is effective in evaluation of the in-stream water quality impacts of the discharge; and

(b) When sufficient data is available to do so, the Department will assess the water quality impacts of stormwater discharges. Within a subbasin, if the proportion of total degradation that is contributed by the stormwater is determined to be significant compared to that of other permitted sources, or if the Department determines that reducing degradation due to stormwater is cost- effective when compared to other available pollution control options, the Department may institute regulatory mechanisms or modify permit conditions to require control technologies and/or practices that result in protection that is greater than that required Statewide.

(8) Industrial waste discharge sources, confined animal feeding operations, and domestic sewage treatment facilities must meet the following conditions:

(a) No NPDES permits for new industrial or new confined animal feeding operation waste discharges, or new domestic sewage treatment facilities may be issued, except as allowed under sections (3), (4), (5), and (6) of this rule;

(b) The Department may issue WPCF permits for new industrial or confined animal feeding operation waste discharges provided:

(A) There is no waste discharge to surface water; and

(B) All groundwater quality protection requirements of OAR 340-040-0030 are met. Neither the Department nor the Commission may grant a concentration limit variance as provided in OAR 340-040-0030, unless the Commission finds that all appropriate groundwater quality protection requirements and compliance monitoring are met and there will be no measurable change in the water quality of the surface water that would be potentially affected by the proposed facility. For any variance request, a public hearing must be held prior to Commission action on the request.

(c) The Department may issue WPCF permits for new domestic sewage treatment facilities provided there is no waste discharge to surface water and provided:

(A) All groundwater quality protection requirements of OAR 340-040-0030 are met. Neither the Department nor the Commission may grant a concentration limit variance as provided in OAR 340-040-0030, unless the Commission finds that all appropriate groundwater quality protection requirements and compliance monitoring are met and there will be no measurable change in the water quality of the surface water that would be potentially affected by the proposed facility. For any variance request, a public hearing must be held and the permit application will be evaluated according to paragraphs (B) and (C) of this subsection;

(B) The Commission finds that the proposed new domestic sewage treatment facility provides a preferable means of sewage collection, treatment and disposal as compared to individual on-site sewage disposal systems. To be preferable, the Commission must find that one of the following criteria applies:

(i) The new sewage treatment facility will eliminate a significant number of failing individual on-site sewage disposal systems that cannot be otherwise reliably and cost-effectively repaired; or

(ii) The new sewage treatment facility will treat domestic sewage that would otherwise be treated by individual on-site sewage disposal systems, from which the cumulative impact to groundwater is projected to be greater than that from the new facility; or

(iii) If an individual on-site sewage disposal system, or several such systems, would not normally be utilized, a new sewage treatment facility may be allowed if the Commission finds that the social and economic benefits of the discharge outweigh the possible environmental impacts.

(C) Applicants for domestic wastewater WPCF permits must meet the following requirements:

(i) Application must be for an individual permit; and

(ii) The proposed discharge must not include wastes that incapacitate the treatment system; and

(iii) The facility must be operated or supervised by a certified wastewater treatment plant operator as required in OAR 340-049-0015, except as exempted by ORS 448.430; and

(iv) An annual written certification of proper treatment and disposal system operation must be obtained from a qualified Registered Sanitarian, Professional Engineer, or certified wastewater treatment system operator.

(9) The Environmental Quality Commission may investigate, together with any other affected State agencies, the means of maintaining at least existing minimum flow during the summer low flow period.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Adopt Sport Fishing Season Regulations for McKay Reservoir.
Adm. Order No.: DFW 12-2007(Temp)
Filed with Sec. of State: 2-28-2007
Certified to be Effective: 3-1-07 thru 8-27-07
Notice Publication Date:
Rules Amended: 635-019-0090
Subject: Adopt temporary rules to implement a sport fishing season at McKay Reservoir beginning on March 1, 2007. These regulations were inadvertently omitted from permanent rules adopted by the Oregon Fish and Wildlife Commission at their August 4, 2006 meeting. The recreational fishing season for McKay Reservoir is scheduled to begin on March 1, 2007.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-019-0090
Inclusions and Modifications

(1) The **2007 Oregon Sport Fishing Regulations** provide requirements for the Northeast 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 McKay Reservoir (Umatilla County) is open to angling March 1 through September 30, 2007. The daily catch limit for bass is 3 per day and minimum length is 15 inches.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; 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 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp) f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; 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 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07

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Rule Caption: Amended rules for mainstem and Select Area Columbia river commercial fisheries below Bonneville Dam.
Adm. Order No.: DFW 13-2007(Temp)
Filed with Sec. of State: 3-6-2007
Certified to be Effective: 3-6-07 thru 9-1-07
Notice Publication Date:
Rules Amended: 635-042-0010, 635-042-0022, 635-042-0130, 635-042-0145, 635-042-0160, 635-042-0180

Rules Suspended: 635-042-0145(T), 635-042-0160(T)
Subject: Amend rules in Division 042 to: extend the winter Chinook salmon gill net commercial fisheries in the Columbia River mainstem; modify fishing periods in the smelt commercial fishery; and modify the gear restrictions for the winter Chinook salmon gill net commercial fisheries in the Columbia River mainstem and Select Areas. Revisions are consistent with action take March 5, 2007 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0010
Fishing Gear

(1) As used in these Columbia River fishing rules, gill net includes drift gill net, floater gill net, diver gill net, and is a monofilament or multifilament mesh net with a cork and lead line which is in a position to drift with the tide or current at all times while it is being fished. There must be sufficient buoyancy in the corks and/or floats on the cork line so the net is free to drift with the current. The lead or weight on the lead line of a gill net shall not exceed two pounds in total weight on any one fathom, measurement to be taken along the cork line of the net. However, should extra or added weights appear necessary to operate a net, permission to use in excess of two pounds weight per fathom of net may be granted by the Director upon written application which includes adequate justification for the additional leads or weights.

(2) It is *unlawful*:

(a) For a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished;

(b) To take any species of salmon from the Columbia River for commercial purposes by any means other than by gill net;

(c) To fish more than one gill net from a licensed commercial fishing boat at any one time;

(d) To fish with or have on the boat while fishing a gill net which exceeds 1,500 feet in length;

(e) To fish with or have on the boat while fishing any gill net of a mesh size not authorized for use at that time, except:

(A) During December 1–March 31 when the following applies:

(i) While fishing during open salmon and/or sturgeon seasons, smelt gill nets with a mesh size not more than two inches may be onboard the boat;

(ii) While fishing during open smelt seasons, gill nets with a mesh size greater than two inches may be onboard the boat.

(B) Nets with a minimum mesh size of 9.0 inches may be onboard the boat;

(C) When specifically authorized, nets not lawful for use at that time and area may be onboard the boat if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(f) Fish with or have on the boat while fishing any gill net of a mesh size greater than 9-3/4 inches, except that snagging nets as described in ORS 509.240 are permitted;

(g) Fish with or have on the boat while fishing a gill net which does not meet the construction requirements for a gill net as set forth in section (1) of this rule, except while fishing during the Tongue Point Select Area Salmon Season (OAR 635-042-0170) gill nets with leadline in excess of two pounds per fathom may be stored on the boat.

(3) The mesh size of any gill net is determined only after the meshes are wet from soaking in water not less than one hour. Three consecutive meshes are then placed under ten pounds of vertical tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh.

(4) As used in these rules, "slackers" means a single piece of material or cord, not webbing or mesh, connected vertically or woven in the mesh of the net between the cork and lead lines. It is used to tie netting in a shortened state to give the net surface flexibility.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 23-1978, f. & ef. 5-478; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0110; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 13-1981, f. & ef. 4-3-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07

635-042-0022
Spring Chinook Gill Net and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, sturgeon and shad may be taken by gill net or tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1–3 and part of Zone 4);

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries and twenty-four hours in length during large mesh fisheries. Fishing periods may occur on Tuesdays and Thursdays, depending upon results from test fisheries or full fleet fisheries conducted prior to each specified weekday;

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the fish guideline.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gill net fishery:

(a) It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9-3/4 inches. Use of monofilament nets is allowed. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets authorized for this fishery, and nets with a mesh size of ≤ 2 inches or ≥ 9 inches are not required to be properly stored. Other permanent gear regulations remain in effect;

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(3);

(c) Retention of green sturgeon is prohibited. From the area as described in section (1) of this rule, adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken for commercial purposes by gill net during the following open period: 12:00 noon to 12:00 midnight, Tuesday March 6, 2007.

(4) During the spring Chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4-1/4 inches stretched taut;

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net:

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms);

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is unlawful for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box:

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked;

(b) All salmon and steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river;

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches;

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber;

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber;

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet;

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have in possession a valid certificate issued by a representative of the Oregon Department of Fish and Wildlife (ODFW) or the Washington Department of Fish and Wildlife (WDFW) that indicates the fisher had attended a one-day workshop hosted by ODFW or WDFW to educate fishers on regulations and best methods for conduct of the fishery. No individual may obtain more than one tangle net certificate. The certificate must be displayed to ODFW and WDFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

(15) Nothing in this section sets any precedent for any fishery after the 2006 spring Chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2006 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a tangle net fishery in spring 2007 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2006. In particular, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(16) As authorized by OAR 635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07

635-042-0130
Smelt Season

(1) Smelt may be taken for commercial purposes from the Columbia River, in Zones 1–5, from:

(a) 12:01 a.m. December 1 thru 11:59 p.m. December 31, 24 hours per day;

(b) 7 a.m. to 4 p.m. (9 hours) on Mondays and Thursdays from January 1, 2007 through March 31, 2007 except Monday March 12, 2007; and

(c) 7 a.m. to 4 p.m. (9 hours) on Sunday March 11, 2007.

(2) It is *unlawful* to use other than the following gear for the taking of smelt in the Columbia River:

(a) Gill nets of a mesh size not more than two inches. Nets may consist of, but are not limited to, monofilament webbing;

(b) Dip nets having a bag frame no greater than 36 inches in diameter;

(c) Trawl nets with:

(A) Head rope not to exceed 25 feet in length;

(B) Foot rope or groundline not to exceed 25 feet in length;

(C) Door size not to exceed three feet by four feet;

(D) Mesh size not to exceed two inches;

(E) Bag length from the center of the head rope to the terminal end of the bunt not to exceed 35 feet;

(F) Breast rope not to exceed five feet;

(G) Bridle rope from rear of doors to foot rope and head rope not to exceed eight feet.

(3) No more than one trawl net at a time may be fished from any fishing vessel to take smelt.

(4) In the Columbia River upstream from Zone 1, it is unlawful to take smelt from a trawl vessel which exceeds 32 feet in overall length.

(5) For the purposes of this rule, Zone 1 is the area downstream of a straight line from a beacon light at Grays Point on the Washington bank to the flashing 4-second red buoy "44" off the easterly tip of Tongue Point on the Oregon Bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; Administrative correction 3-17-00; DFW 80-2000(Temp), f, 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; Administrative correction 6-21-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; Administrative correction 8-19-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 8-2005(Temp), f. & cert. ef. 2-24-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; Administrative correction 8-22-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07

635-042-0145
Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay:

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) 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.

(b) The fishing areas for the winter, spring and summer 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.

(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. From March 6 through 31, 2007 nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets authorized for this fishery, and nets with a mesh size of ≤ 2 inches or ≥ 9 inches are not required to be properly stored. Other permanent gear regulations remain in effect. It is unlawful to use a gill net having a mesh size that is more than 8-inches during the spring and summer seasons from April 19, 2007 to July 26, 2007;

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers at 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), the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; 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

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A) of this rule, and the spring fishery in Blind Slough and Knappa Slough in paragraph (B) of this rule. The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only: Wednesday February 21 to Thursday February 22, 2007; Sunday February 25 to Monday February 26, 2007; Wednesday February 28 to Thursday March 1, 2007; Sunday March 4 to Monday March 5, 2007; Wednesday March 7 to Thursday March 8, 2007; Sunday March 11 to Monday March 12, 2007; Sunday March 18 to Monday March 19, 2007; Sunday March 25 to Monday March 26, 2007;

(B) Blind and Knappa Sloughs: Thursday April 19 to Friday April 20, 2007; Monday April 23 to Tuesday April 24, 2007; Thursday April 26 to Friday April 27, 2007; Monday April 30 to Tuesday May 1, 2007; Thursday May 3 to Friday May 4, 2007; Monday May 7 to Tuesday May 8, 2007; Thursday May 10 to Friday May 11, 2007; Monday May 14 to Tuesday May 15, 2007; Thursday May 17 to Friday May 18, 2007; Monday May 21 to Tuesday May 22, 2007; Thursday May 24 to Friday May 25, 2007; Monday May 28 to Tuesday May 29, 2007; Thursday May 31 to Friday

June 1, 2007; Monday June 4 to Tuesday June 5, 2007; Thursday June 7 to Friday June 8, 2007; Monday June 11 to Tuesday June 12, 2007; Thursday June 14 to Friday June 15, 2007.

(b) The fishing areas for the winter and springs seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge;

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore;

(C) During the periods identified in (1)(a)(B), the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter fishery, outlined above in (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is less than 7-inches. From March 6 through 31, 2007 nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets authorized for this fishery, and nets with a mesh size of ≤ 2 inches or ≥ 9 inches are not required to be properly stored. Other permanent gear regulations remain in effect;

(B) During the spring fishery, outlined above in (1)(a)(B), 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 more than 8-inches.

(2) A maximum of three 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 Youngs Bay fishery and other open Select Area fisheries.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. 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

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The fishing seasons are open:

(a) Winter season: nightly from 6:00 p.m. to 8:00 a.m. the following morning (14 hours), Sunday February 18–Monday February 19, 2007; Sunday February 25–Monday February 26, 2007; Sunday March 4–Monday March 5, 2007; and Sunday March 11–Monday March 12, 2007;

(b) Spring season: nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), Thursday April 19–Friday April 20, 2007; Monday April 23–Tuesday April 24, 2007; Thursday April 26–Friday April 27, 2007; Monday April 30–Tuesday May 1, 2007; Thursday May 3–Friday May 4, 2007; Monday May 7–Tuesday May 8, 2007; Thursday May 10–Friday May 11, 2007; Monday May 14–Tuesday May 15, 2007; Thursday May 17–Friday May 18, 2007; Monday May 21–Tuesday May 22, 2007; Thursday May 24–Friday May 25, 2007; Monday May 28–Tuesday May 29, 2007; Thursday May 31–Friday June 1, 2007; Monday June 4–Tuesday June 5, 2007; Thursday June 7–Friday June 8, 2007; Monday June 11–Tuesday June 12, 2007; Thursday June 14–Wednesday June 15, 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 winter season, outlined above in (2)(a), it is *unlawful* to use a gill net having a mesh size that is less than 7-inches. From March 6 through 31, 2007 nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets authorized for this fishery, and nets with a mesh size of ≤ 2 inches or ≥ 9 inches are not required to be properly stored. Other permanent gear regulations remain in effect;

(b) During the spring season, outlined above in (2)(b) it is *unlawful* to use a gill net having a mesh size that is more than 8-inches.

(4) A maximum of three 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) of this rule, the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

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. 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 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. 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

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Rule Caption: Prohibit retention of white sturgeon in the Treaty Indian commercial fisheries in The Dalles pool.
Adm. Order No.: DFW 14-2007(Temp)
Filed with Sec. of State: 3-9-2007
Certified to be Effective: 3-9-07 thru 9-4-07
Notice Publication Date:
Rules Amended: 635-041-0065

Subject: Amend rule to prohibit retention of white sturgeon in The Dalles Pool Treaty Indian commercial fisheries effective 6:00 p.m. Friday March 9, 2007. Revision is consistent with action taken March 7, 2007 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0065
Winter Salmon Season

(1) Salmon, steelhead, shad, sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2007.

(2) Effective 6:00 p.m. Friday March 9, 2007 The Dalles Pool is closed to the retention of white sturgeon. Platform and hook-and-line fisheries remain open for subsistence purposes only.

(3) There are no mesh size restrictions.

(4) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(5) White sturgeon between 48–60 inches in length in The Dalles and John Day pools and White sturgeon between 45–60 inches in the Bonneville Pool may be sold or kept for subsistence use during open commercial fishing seasons.

(6) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

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; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; 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 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. l-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 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; 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 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07

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Rule Caption: Closure of the Treaty Indian commercial fisheries in The Dalles Pool.
Adm. Order No.: DFW 15-2007(Temp)
Filed with Sec. of State: 3-14-2007
Certified to be Effective: 3-14-07 thru 9-9-07
Notice Publication Date:
Rules Amended: 635-041-0065
Subject: Amend rule to prohibit Treaty Indian commercial fishing in The Dalles Pool effective 6:00 p.m. Wednesday March 14, 2007. Platform and hook-and-line fisheries in The Dalles Pool remain open for subsistence purposes only. Sale of platform and hook-and-line caught fish is prohibited. Revision is consistent with tribal fishing regulations and Washington State Action taken March 13, 2007.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0065
Winter Salmon Season

(1) Salmon, steelhead, shad, sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2007.

(2) Effective 6:00 p.m. Wednesday March 14, 2007 The Dalles Pool is closed to all commercial fishing. Platform and hook-and-line fisheries remain open for subsistence purposes only.

(3) There are no mesh size restrictions.

(4) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(5) White sturgeon between 48-60 inches in length in The Dalles and John Day pools and White sturgeon between 45-60 inches in the Bonneville Pool may be sold or kept for subsistence use during open commercial fishing seasons.

(6) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

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; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; 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 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. l-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 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; 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 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07

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Rule Caption: Amended rule for Youngs Bay Select Area commercial fishery boundaries.
Adm. Order No.: DFW 16-2007(Temp)
Filed with Sec. of State: 3-14-2007
Certified to be Effective: 3-14-07 thru 9-9-07
Notice Publication Date:
Rules Amended: 635-042-0145
Subject: Amend rule to expand the boundary of the four hour Youngs Bay Select Area commercial fishery to be held from 3:00 p.m. to 7:00 p.m. Wednesday March 14, 2007. Revisions are consistent with Oregon State Action taken March 12, 2007 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0145
Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) 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; and 3:00 p.m. to 7:00 p.m. Wednesday March 14, 2007.

(ii) 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.

(b) The fishing areas for the winter, spring and summer 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.

(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. From March 6 through 31, 2007 nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets authorized for this fishery, and nets with a mesh size of ≤ 2 inches or ≥ 9 inches are not required to be properly stored. Other permanent gear regulations remain in effect. It is unlawful to use a gill net having a mesh size that is more than 8-inches during the spring and summer seasons from April 19, 2007 to July 26, 2007.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers at 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), the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; 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 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07

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Department of Human Services, Addictions and Mental Health Division: Addiction Services
Chapter 415

Rule Caption: Amendments of the "Standards For Approval Of Substance Abuse Prevention Programs" administrative rules.
Adm. Order No.: ADS 1-2007
Filed with Sec. of State: 3-8-2007
Certified to be Effective: 3-8-07
Notice Publication Date: 11-1-06
Rules Amended: 415-056-0000, 415-056-0005, 415-056-0010, 415-056-0015, 415-056-0020, 415-056-0025
Subject: The "Standards for the Approval of Substance Abuse Prevention Programs" rules are being amended to update the rules, recognize "Evidence Based Practices" as they relate to the rules, and to prescribe standards and procedures for operating substance abuse prevention agencies approved by the Division, including establishing standards for community substance abuse prevention and providing that a full continuum of substance abuse prevention services be available to Oregonians either directly or through written agreements or contracts.
Rules Coordinator: Richard Luthe—(503) 947-1186

415-056-0000
Purpose and Statutory Authority

(1) Purpose. These rules prescribe standards and procedures for operating substance abuse prevention agencies approved by the Division. These rules establish standards for community substance abuse prevention and provide that a full continuum of substance abuse prevention services be available to Oregonians either directly or through written agreements or contracts.

(2) Statutory Authority. These rules are authorized by ORS 409.410 and carry out the provisions of ORS 430.240 through 430.415.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.240 - 430.415
Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0000; ADS 1-2007, f. & cert. ef. 3-8-07

415-056-0005
Definitions

Definitions. As used in these rules:

(1) "Assistant Director" means the Assistant Director, Addictions and Mental Health Division of the Department of Human Services.

(2) "Agency" means any organization, association, or federally recognized tribal entity that undertakes to establish and operate an Alcohol and/or Substance Abuse Prevention Program. Agency does not include individuals or community coalitions that implement substance abuse prevention services or strategies.

(3) "Approval/Certificate" means the Letter of Approval issued by the Division to indicate that the substance abuse prevention agency has been found to be in compliance with all relevant administrative rules.

(4) "Cultural Competence" Cultural competence refers to the process by which individuals and systems respond respectfully and effectively to people of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, sexual orientation and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families and communities and protects and preserves the dignity of each.

(5) "Evidenced-Based Practices" (EBP) are practices for which there is consistent scientific evidence that they produce positive outcomes. An EBP meets the following criteria:

(a) Has been studied, using appropriate scientific methodology;

(b) Has been replicated in more than one geographic or practice setting, with consistent results;

(c) Has been recognized in scientific journals by one or more published articles;

(d) Documents standards that outline the parameters of the practice or strategy; and

(e) Produces specific outcomes.

(6) "Gender-Specific Services" comprehensively address the needs of a gender group and foster positive gender identity development. They intentionally allow gender to affect and guide the services that are responsive to the unique developmental issues and needs of the females and males receiving them.

(7) "Minority" means a participant whose cultural, ethnic, or racial characteristics constitute a distinct demographic population living within a larger society, including, but not limited to members of differing cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders, or sexual orientations.

(8) "Minority Program" means a program that is designed to meet the unique prevention needs of a minority group and that provides services to persons belonging to a minority population as defined in these rules.

(9) "Division" means the Addictions and Mental Health Division of the Department of Human Services.

(10) Institute of Medicine Model: This framework defines the types of activities and target groups addressed by various prevention efforts:

(a) **Universal Prevention**: Universal strategies address the entire population with messages and programs aimed at preventing or delaying the abuse of alcohol, tobacco and other drugs;

(b) **Selective Prevention**: Selective prevention strategies target subsets of the total population that are deemed to be at-risk for substance abuse by virtue of the membership in a particular population segment;

(c) **Indicated Prevention**: Indicated prevention strategies are designed to prevent the onset of substance abuse in individuals who do not meet criteria for addiction but who are showing early danger signs.

(11) "Local Alcoholism Planning Committee" means a committee appointed or designated by a board of county commissioners. The committee identifies needs and establish priorities for substance abuse prevention, treatment, and recovery services in the county. Members of the committee must be representative of the geographic area and include a number of minority members to reasonably reflect the proportion of need for minority services in the community.

(12) "Participant" means a person receiving services under these rules.

(13) "Population-based Prevention Program" means a program consisting of planned activities designed to impact individuals and/or groups of any age with a potential for developing alcohol and/or other drug-related problems but who have not yet developed significant problems. Such strategies inhibit or delay the onset of problems related to an individual's use of alcohol and other drugs.

(14) "Prevention Service" means an integrated combination of strategies designed to prevent substance abuse and associated effects regardless of the age of participants.

(15) "Strategy" means activities targeted to a specific population or the larger community that are designed to be implemented before the onset of problems as a means to prevent substance abuse or detrimental effects from occurring: The six primary prevention strategies are defined below:

(a) Information Dissemination — This strategy provides knowledge and increases awareness of the nature and extent of alcohol and other drug use, abuse, and addiction, as well as their effects on individuals, families, and communities. It also provides knowledge and increases awareness of available prevention and treatment programs and services. It is characterized by one-way communication from the source to the audience, with limited contact between the two;

(b) Education — This strategy builds skills through structured learning processes. Critical life and social skills include decision making, peer resistance, coping with stress, problem solving, interpersonal communication, and systematic and judgmental abilities. There is more interaction between facilitators and participants than in the information strategy;

(c) Alternatives — This strategy provides participation in activities that exclude alcohol and other drugs. The purpose is to meet the needs filled by alcohol and other drugs with healthy activities, and to discourage the use of alcohol and drugs through these activities;

(d) Problem Identification and Referral — This strategy aims at identification of those who have indulged in illegal/age-inappropriate use of tobacco or alcohol and those individuals who have indulged in the first use of illicit drugs in order to assess if their behavior can be reversed through education;

(e) Community — Based Processes — This strategy provides ongoing networking activities and technical assistance to community groups or agencies. It encompasses neighborhood-based or industry led, grassroots, empowerment models using action planning and collaborative systems planning;

(f) Environmental — This strategy establishes or changes written and unwritten community standards, codes, and attitudes, thereby influencing alcohol and other drug use by the general population.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.240 - 430.415
Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0005; ADS 1-2007, f. & cert. ef. 3-8-07

415-056-0010
Administrative Requirements for Prevention Providers

(1) Administrative Rules: A prevention agency that contracts directly or indirectly with the Division must comply with the contracting rules of the Division, including, but not limited to:

(a) OAR 309-013-0120 to 309-013-0220 (Audit Guidelines);

(b) OAR 309-013-0075 to 13-0105 (Fraud and Embezzlement);

(c) OAR 309-014-0000 to 14-0040 (Administrative Standards).

(2) Policies and Procedures: A prevention agency must establish comprehensive written policies and procedures stating that services will be available and accessible and that no person will be denied service or discriminated against on the basis of sex, race, color, creed, sexual orientation, disability, or age in compliance with local, state and federal laws. Written policies and procedures must describe agency operations and compliance with these rules, including but not limited to:

(a) Prevention framework to guide efforts;

(b) Current mission/vision/values statement;

(c) Organizational management chart;

(d) Anti-discrimination policy;

(e) Cultural competency plan;

(f) Policy for addressing gender specific services;

(g) Use of substances by program participants;

(h) Protection and safety of service recipients.

(3) Monitoring of Sub-Contractors: If the Agency sub-contracts prevention services, it will ensure compliance with all administrative requirements referenced in these rules.

(4) Agency Approval/Certificate. An agency may operate a substance abuse prevention program and may request a Letter of Approval from the Division after review and comment by the community mental health authority and the local alcoholism planning committee. or appropriate drug abuse planning committee. Funding from the Division may only occur with an agency approved by the Division. A federally recognized Tribal entity may operate a substance abuse prevention program and may request a Letter of Approval from the Division after review and comment by their tribal authority.

(5) Standards for Evidenced-Based Practices. As is appropriate, prevention providers must implement programs and provide services that incorporate Evidence Based Practices, as defined in OAR 415-056-0005.

(6) Printed Materials. The agency must establish and maintain materials pertaining to the program. Materials developed for participants must be in the participants' native language. The agency personnel must demonstrate the relevancy of materials transmitted to participants. The agency must consider materials utilized for cultural relevancy and demographic or professional background of participants. Materials must reflect current substance abuse prevention research and practice.

(7) Agency Reporting. The agency must report to the Division on approved standardized forms. All reporting must be done in accordance with Federal Confidentiality Regulations (**42 CFR Part 2**).

(8) Physical Environment. Agency must operate the program in facilities that ensure the privacy and safety of participants where appropriate and necessary.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.240 - 430.415
Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0010; ADS 1-2007, f. & cert. ef. 3-8-07

415-056-0015
Letter of Approval Applications

In order to receive a Letter of Approval from the Division under the process set forth in OAR 415-012-0000 to 415-012-0090, a substance abuse prevention agency must meet the standards set forth in the rule, those provisions set forth in OAR 309-014-0000 through 309-014-0040 that are relevant and any other administrative rules applicable to the agency. A Letter of Approval issued to a substance abuse prevention agency under these administrative rules may be effective for up to three years from the date of issue and may be renewed or revoked by the Division in the manner set forth in OAR 415-012-0000 to 415-012-0090. An agency seeking approval under these rules must establish to the satisfaction of the Division that the following have been accomplished:

(1) Community Needs Assessment:

(a) Need for substance abuse prevention services — A Division approved process used to determine need;

(b) Process used to determine appropriate prevention strategy to meet assessed needs and assessment of other current resources to meet assessed needs; and

(c) Access to resources to implement strategy and ongoing technical assistance during program implementation.

(2) Identification of target population:

(a) Susceptibility to substance abuse;

(b) Size;

(c) Accessibility;

(d) Process for isolating target group; and

(e) Selection criteria or other identifying characteristics.

(3) Written information relating to the delivery of services:

(a) Philosophy of program;

(b) Prevention strategy to be implemented and objectives to be met;

(c) Research supporting use of strategy with the identified population;

(d) Program activities and informational content (to include number of contact hours, characteristics of people receiving services, setting, and other relevant factors; and

(e) Tools used by the agency to measure fidelity to the strategy applied to the selected population.

(4) Evaluation of the impact of strategy:

(a) Knowledge to be gained and/or behavior to be changed;

(b) Relationship of behavior change to substance abuse prevention;

(c) The evaluation shall include:

(A) A mechanism to record the amount and type of services provided; and

(B) Records of attendance of participants.

(d) Where appropriate, the following must be included:

(A) Pre-and post-tests or other inquiries at the time a service is delivered to indicate knowledge gained by participants;

(B) Measures of community and participant satisfaction with services received;

(C) Behavior change measurement instruments; and

(D) Other methods of measurement.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.240 - 430.415
Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0015; ADS 1-2007, f. & cert. ef. 3-8-07

415-056-0020
Administration

(1) Administration of Program. The substance abuse prevention agency must be administered by staff in accordance with standards set forth in OAR 309-014-0000 through 309-014-0040 which relate to subcontract agencies except 309-014-0030(1) and (2) (Fee Policy and Quality Assurance).

(2) Qualifications of Director. A program director must be designated who is qualified by virtue of knowledge, training, experience, and skills, to perform the defined services, implement the defined strategies, and administer requested funds if appropriate. The program director must manage the program and be accountable for the quality of service provided.

(3) Referral. As part of the written program, a written policy must exist establishing a referral process to be used to refer individuals not appropriate for the agency services to appropriate agencies or services.

(4) Coordination. Staff of the program must show evidence concerning coordination of activities with other related community agencies. (i.e., schools, parent groups, juvenile services department, alcohol and drug abuse treatment agencies.)

(5) Crisis Procedures. Staff of the agency must, if deemed appropriate, have written procedures for referral to emergency and crisis services, including procedures for referring participants to detoxification, crisis intervention and other elements in the continuum of care.

(6) Staff:

(a) Accountability. Accountability for the management and quality of service of the substance abuse prevention agency must reside with the Agency director;

(b) Supervision. Supervision and consultation must be available to all staff related to their skill level with the objective of achieving the objectives of the program and assisting staff to increase their skills;

(c) Qualification. The County or Tribal designated coordinator or contact person who is wholly responsible for developing, monitoring, and overseeing the substance abuse prevention plan, must be qualified by demonstrated competency in substance abuse prevention techniques through experience and training as specified in these rules. The roles, functions, competencies, and skills required of staff must include the following:

(A) 2,000 hours of Substance abuse Prevention related experience;

(B) 150 Education hours in the following "Prevention" specific topics:

(i) 20 hours minimum in Substance Abuse Education (i.e. drug 101, alcohol 101, marijuana, methamphetamine, inhalants, hallucinogens, opiates);

(ii) 50 hours minimum Substance Abuse Prevention Education Curricula, 10 hours minimum Risk & Protective Factor Education, Assets & Resiliency;

(iii) 70 hours general prevention topics which include: Delinquency, Teen pregnancy, school dropout, violence prevention, sexually transmitted diseases, Positive Youth Development, Cultural Competence; and

(iv) Must demonstrate competency by completing and passing certification exam.

(d) Personnel methods must be utilized to assure that the requirements are met and a staff development program instituted to maintain and upgrade staff skills;

(e) Staff of Prevention programs who do not hold a certificate that meets the Prevention Specialist criteria must make application within six months of the effective date of this rule and achieve the Certified Prevention Specialist Credential within (24) months of the application date;

(f) New Hires: New hires need not hold the Certified Prevention Specialist Credential but those who do not must make application within (12) months of employment and receive the Certified Prevention Specialist Credential within (24) months of the application date;

(g) Staffing Pattern. The number and responsibilities of the agency staff must be sufficient to provide the services required under these rules for the number of participants the agency intends to serve. Agency staff must be culturally competent to serve identified populations.

(7) Fee Schedule. A fee schedule may be established, if appropriate, which approximates actual cost of service delivery. The fee schedule must assess the cost to the participant for the service in accordance with the participant's ability to pay.

Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.240 - 430.415
Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0020; ADS 1-2007, f. & cert. ef. 3-8-07

415-056-0025
Variances

A variance from these rules may be granted to an agency in the following manner:

(1) An agency requesting a variance must submit, in writing, through the community mental health authority to the Division:

(a) The section of the rule from which the variance is sought;
(b) The reason for the proposed variance;
(c) The alternative practice proposed;
(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and
(e) Signed documentation from the local mental health authority indicating its position on the proposed variance.
(2) The Division shall approve or deny the request for variance.
(3) The Division shall notify the community mental health authority of the decision. The community mental health authority will forward the decision and reasons therefore to the program requesting the variance. This notice must be given to the program within 30 days of receipt of the request by the Division.
(4) Appeal of the denial of a variance request must be made to the Assistant Director, whose decision shall be final.
(5) A variance granted by the Division must be attached to, and become part of, the contract for that year.
Stat. Auth.: ORS 409.410
Stats. Implemented: ORS 430.240 - 430.415
Hist.: MHD 12-1983, f. & ef. 6-14-83; ADAP 3-1993, f. & cert. ef. 12-6-93, Renumbered from 309-056-0025; ADS 1-2007, f. & cert. ef. 3-8-07

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

Rule Caption: Updating and Renumbering Client Civil Rights Rules.
Adm. Order No.: DHSD 3-2007
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 2-1-07
Rules Ren. & Amend: 410-030-0010 to 407-030-0010, 410-030-0020 to 407-030-0020, 410-030-0030 to 407-030-0030, 410-030-0040 to 407-030-0040
Subject: The Client Civil Rights rules are being moved to the DHS department-wide rule chapter because they are agency-wide in nature. In addition, references to the Department of Human Resources are being changed to the Department of Human Services to reflect the current name of the Department.
Rules Coordinator: Patricia F. Bougher—(503) 947-5250

407-030-0010
Purpose
This rule requires Divisions of the Department of Human Services to insure federal civil rights regulations prohibiting discrimination on the basis of race, color, national origin and handicap. It provides authority enabling Divisions of the Department of Human Services to conduct compliance reviews of certain of its grantees, contractors, or providers of services, as required by the United States Department of Health and Human Services (DHHS). Only those Divisions which receive DHHS funds will conduct reviews annually on ten of their grantees, contractors, or providers of services. The compliance reviews will insure that the following federal regulations are being followed:
(1) Title VI, Civil Rights Act of 1964. This act prohibits discrimination on the basis of race, color, and national origin by federal recipients.
(2) Section 504, Rehabilitation Act of 1973. This act prohibits discrimination on the basis of handicap by federal recipients.
Stat. Authority: ORS 409.050, 411.060
Stats. Implemented: ORS 409.050, 411.060
Hist.: HR 5-1979(Temp), f. & ef. 8-1-79; HR 16-1979, f. & ef. 11-19-79; HR 7-1982, f. & ef. 8-26-82; Renumbered from 410-030-0010, DHSD 3-2007, f. & cert. ef. 3-1-07

407-030-0020
Review Requirements
(1) The Assistant Director for each Division shall insure that all reviews for which their Division is responsible are conducted by or with state agency Title VI/504 coordinators or their designees.
(2) Each actual review shall be preceded by written notification to each provider, contractor, or grantee containing:
(a) A statement as to the purpose of the review;
(b) The approximate time of the review; and
(c) A copy of the review document to be used.
(3) Each review shall be conducted and documented by the use of a review form approved by the Department of Health and Human Services and provided by the Department of Human Services.
Stat. Authority: ORS 409.050, 411.060
Stats. Implemented: ORS 409.050, 411.060
Hist.: HR 5-1979(Temp), f. & ef. 8-1-79; HR 16-1979, f. & ef. 11-19-79; HR 7-1982, f. & ef. 8-26-82; Renumbered from 410-030-0020, DHSD 3-2007, f. & cert. ef. 3-1-07

407-030-0030
Implementation
(1) The provider compliance reviews for which each Division is responsible shall be determined by the Department of Human Services and will be issued as Department policy.
(2) The methods of internal administration and coordination shall be determined by Department of Human Services and published as Department policy. The "methods of Administration" will specify the procedures for avoiding duplication of reviews among the divisions of the Department and will define a method for informing the Department of Human Services if similar reviews are being conducted at the same facility by other agencies.
Stat. Authority: ORS 409.050, 411.060
Stats. Implemented: ORS 409.050, 411.060
Hist.: HR 5-1979(Temp), f. & ef. 8-1-79; HR 16-1979, f. & ef. 11-19-79; HR 7-1982, f. & ef. 8-26-82; Renumbered from 410-030-0030, DHSD 3-2007, f. & cert. ef. 3-1-07

407-030-0040
Penalties for Non-Compliance
Following a review, if a provider of services, contractor, or grantee is found not be to be in compliance with Title VI or Section 504 regulations, an agreement will be developed between the reviewing Division and the provider, contractor, or grantee to assure that compliance occurs. If an agreement with time frames has been reached, compliance has not occurred, and appeal processes have been exhausted, the following will occur:
(1) Providers of Services: The reviewing Division will purchase no further services from the provider and will notify other affected agencies of the action. Service providers may be reinstated after assurance of compliance has been reached.
(2) Contractors and Grantees: The reviewing Division will notify the contractor or grantee that a breach of contract exists or the conditions of the grant have been violated. The grant or contract will be terminated and other affected agencies will be notified. Contractors and grantees may be reinstated after assurance of compliance has been reached.
Stat. Authority: ORS 409.050, 411.060
Stats. Implemented: ORS 409.050, 411.060
Hist.: HR 7-1982, f. & ef. 8-26-82; Renumbered from 410-030-0040, DHSD 3-2007, f. & cert. ef. 3-1-07

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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 2-2007(Temp)
Filed with Sec. of State: 2-26-2007
Certified to be Effective: 2-26-07 thru 8-24-07
Notice Publication Date:
Rules Amended: 413-120-0020, 413-120-0040, 413-120-0075
Subject: OAR 413-120-0020, 413-120-0040, and 413-120-0075 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 no adoption committee is required when the ICWA placement preferences apply and there is written documentation of the tribe's adoptive placement choice (i.e. written statement or letter from the tribe, documentation in a court order of the tribe's verbal statements in court). An approved adoption home study recommending the adoptive placement would still be needed. Rights, such as the right to request a review of certain adoption committee decisions, would not apply when the ICWA placement preference mandates the adoptive placement and no adoption committee is held.
Rules Coordinator: Annette Tesch—(503) 945-6067

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) No adoption committee is required when the Indian Child Welfare Act placement preferences apply, and there is written documentation specifying the tribe's adoptive placement choice.

[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

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/her supervisor, may involve the birth parent(s)' 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 DHSs 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

413-120-0075
Transition to Adoptive Home

(1) Scheduling Transition. The transition into an adoptive placement, including sharing of family information with the child, cannot 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 OAR 413-120-0075(4) 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 District 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:

(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; and

(b) The current caretaker is in agreement with the request for waiver or reduction of the waiting period; and

(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; and

(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 District 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 Deputy Director or designee shall provide written authorization waiving his/her right to review the adoption committee's decision in the case, and stating why DHS 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

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Department of Human Services, Children, Adults and Families Division: Self-Sufficiency Programs Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.
Adm. Order No.: SSP 2-2007(Temp)
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07 thru 3-31-07
Notice Publication Date:
Rules Amended: 461-155-0250, 461-155-0290, 461-155-0291, 461-155-0295
Subject: OAR 461-155-0250 about income and payment standards for the Oregon Supplemental Income Program (OSIP, serving the elderly and people with disabilities) and Oregon Supplemental Income Program Medical (OSIPM) programs is being amended to base its adjusted earned income limit for the OSIP-EPD and OSIPM-EPD (Employed Persons with Disabilities) programs on the 2007 Federal Poverty Level instead of the 2006 Federal Poverty Level. These changes are also pending as part of the permanent rulemaking process.

OAR 461-155-0290, 461-155-0291, and 461-155-0295 about the income standards for the QMB-BAS, QMB-DW, and QMB-SMB programs (Qualified Medicare Beneficiaries — Basic, Disabled Worker, Special Medicare Beneficiaries) are being amended to base their income standards on the 2007 Federal Poverty Level. Currently, these rules are based on the 2006 Federal Poverty Level. These changes are also pending as part of the permanent rulemaking process.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0250
Income and Payment Standard; OSIP, OSIPM

(1) For an OSIP (except OSIP-EPD) or OSIPM (except OSIPM-EPD) client in long-term care or in a waivered nonstandard living arrangement (see OAR 461-001-0000), the countable income limit standard is 300 percent of the full SSI standard for a single individual. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non-SSI OSIP and OSIPM (except OSIP-EPD and OSIPM-EPD) adjusted income standard takes into consideration the need for shelter (housing and utilities), food, and other items. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The standard in this section is used as the adjusted income limit for non-SSI OSIP and OSIPM clients. The OSIP-AB and OSIPM-AB adjusted income standard includes a transportation allowance. See OAR 461-155-0020 for the adjusted number in the household. The total standard is: [Table not included. See ED. NOTE.]

(4) To be eligible for OSIP (except OSIP-EPD or OSIP-IC), a person must be receiving SSI or be eligible for an ongoing special need. The payment standard for SSI/OSIP clients living in the community is the SIP (supplemental income payment) amount. The SIP is a need amount added to any other special or service needs to determine the actual payment. In some cases, the need amount is zero.

(a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than $20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is $20 or more: [Table not included. See ED. NOTE.]

(c) The SSI/OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, $20 is added to the SIP amount.

(d) For spouses who each receive SSI and live in an AFC, ALF or RCF, an amount is added to each person's SIP payment that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.

(e) For spouses who receive SSI as a couple and are not included in subsection (d) of this section, the two-person need group is used to determine their SIP amount. This amount is used even if one (or both) of the clients is receiving services and has a need group of one according to OAR 461-110-0630.

(5) For OSIP and OSIPM clients in long-term care, the following amounts are allowed for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unreimbursed medical expenses (UME), $90 is allowed.

(b) For all other clients, $30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted earned income limit is 250 percent of the 2007 federal poverty level for a family of one. This 250 percent limit equals $2,128 per month or $25,536 per year.

(7) In the OSIP-EPD and OSIPM-EPD programs, $1,000 in earnings is needed to meet the requirement in OAR 461-001-0035 for "sufficient earnings" in the definition of "attached to the workforce."

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.070
Stats. Implemented: ORS 411.060, 411.070
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 2-2007(Temp), f.& cert. ef. 3-1-07 thru 3-31-07

461-155-0290
Income Standard; QMB-BAS

The adjusted income standard for the QMB-BAS program is 100 percent of the 2007 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060 & 411.070
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f.& cert. ef. 3-1-07 thru 3-31-07

461-155-0291
Income Standard; QMB-DW

The adjusted income standard for the QMB-DW program is 200 percent of the 2007 federal poverty level (*see* OAR 461-155-0290). [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060 & 411.070
Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f.& cert. ef. 3-1-07 thru 3-31-07

461-155-0295
Income Standard; QMB-SMB

The adjusted income standard for QMB-SMB is 135 percent of the 2007 federal poverty level (*see* OAR 461-155-0290). [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060 & 411.070
Hist.: AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f.& cert. ef. 3-1-07 thru 3-31-07

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Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.
Adm. Order No.: SSP 3-2007(Temp)
Filed with Sec. of State: 3-9-2007
Certified to be Effective: 3-9-07 thru 6-30-07
Notice Publication Date:
Rules Amended: 461-155-0250
Rules Suspended: 461-155-0250(T)
Subject: OAR 461-155-0250 about income standards for the Oregon Supplemental Income Program (OSIP) and the Oregon Supplemental Income Program — Medical (OSIPM) is being amended to adjust the standards used to determine eligibility for individuals who live in the household of another. These amounts are based on the Social Security Federal Benefit Amounts. This temporary rule also continues the changes made by temporary rule on March 1, 2007 for the OSIP-EPD program.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0250
Income and Payment Standard; OSIP, OSIPM

(1) For an OSIP (except OSIP-EPD) or OSIPM (except OSIPM-EPD) client in long-term care or in a waivered nonstandard living arrangement (see OAR 461-001-0000), the countable income limit standard is 300 percent of the full SSI standard for a single individual. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non-SSI OSIP and OSIPM (except OSIP-EPD and OSIPM-EPD) adjusted income standard takes into consideration the need for shelter (housing and utilities), food, and other items. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The standard in this section is used as the adjusted income limit for non-SSI OSIP and OSIPM clients. The OSIP-AB and OSIPM-AB adjusted income standard includes a transportation allowance. See OAR 461-155-0020 for the adjusted number in the household. The total standard is: [Table not included. See ED. NOTE.]

(4) To be eligible for OSIP (except OSIP-EPD or OSIP-IC), a person must be receiving SSI or be eligible for an ongoing special need. The payment standard for SSI/OSIP clients living in the community is the SIP (supplemental income payment) amount. The SIP is a need amount added to any other special or service needs to determine the actual payment. In some cases, the need amount is zero.

(a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than $20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is $20 or more: [Table not included. See ED. NOTE.]

(c) The SSI/OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, $20 is added to the SIP amount.

(d) For spouses who each receive SSI and live in an AFC, ALF or RCF, an amount is added to each person's SIP payment that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.

(e) For spouses who receive SSI as a couple and are not included in subsection (d) of this section, the two-person need group is used to determine their SIP amount. This amount is used even if one (or both) of the clients is receiving services and has a need group of one according to OAR 461-110-0630.

(5) For OSIP and OSIPM clients in long-term care, the following amounts are allowed for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unreimbursed medical expenses (UME), $90 is allowed.

(b) For all other clients, $30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted earned income limit is 250 percent of the 2007 federal poverty level for a family of one. This 250 percent limit equals $2,128 per month or $25,536 per year.

(7) In the OSIP-EPD and OSIPM-EPD programs, $1,000 in earnings is needed to meet the requirement in OAR 461-001-0035 for "sufficient earnings" in the definition of "attached to the workforce."

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

Stat. Auth.: ORS 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 2-2007(Temp), f.& cert. ef. 3-1-07 thru 3-31-07; SSP 3-2007(Temp), f. 3-9-07 thru 6-30-07

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Department of Human Services,
Public Health Division
Chapter 333

Rule Caption: Family Planning Expansion Project.
Adm. Order No.: PH 3-2007(Temp)
Filed with Sec. of State: 2-23-2007
Certified to be Effective: 4-1-07 thru 9-28-07
Notice Publication Date:
Rules Amended: 333-004-0010, 333-004-0080, 333-004-0110
Subject: The Department of Human Services, Public Health Division has filed a Notice of Proposed Rulemaking Hearing with the Secretary of State that will be published in the March 1, 2007 Oregon Bulletin proposing to permanently amend the rules related to the Family Planning Expansion Project (333-004) to comply with the new federal Family Planning Expansion Project waiver.

Effective April 1, 2007, under the new Family Planning Expansion Project waiver, the Department may not reimburse any provider at the prospective payment system (PPS) rate. Following the requirements of the Administrative Procedures Act, the Department will not be able to permanently file the proposed rules until mid-April. For this reason, the Department is temporarily amending OAR 333-004-0010, 333-004-0080 and 333-004-0110 to delete all references to the PPS rate charged for each client encounter by a clinic certified by the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) as a federally qualified health center or rural health center. The rules are also being temporarily amended to remove all references that would permit a provider to bill or be paid at a PPS rate. Under the new Family Planning Expansion Project waiver, the Department of Human Services may not reimburse any provider at the PPS rate.

A hearing on the proposed rule changes is scheduled to take place on Wednesday, March 28, 2007 at 9:00 a.m. in Rm. 140 at the Portland State Office Building, 800 NE Oregon Street, Portland, Oregon.
Rules Coordinator: Christina Hartman—(971) 673-1291

333-004-0010
Definitions

(1) "Approved medical services agreement" means the completed Family Planning Expansion Project agreement, submitted to and approved by the Office of Family Health.

(2) "Client" means a person of any age or gender who is enrolled in and receives contraceptive management services from the Family Planning Expansion Project.

(3) "Client Visit Record" or "CVR" means the intake form that is completed for each client visit, and that is used as a billing claim form and a data collection instrument for the Family Expansion Project.

(4) "CMS" means the Centers for Medicare and Medicaid Services, located within the federal Department of Health and Human Services.

(5) "Contraceptive management" means a limited scope of family planning services as described in OAR 333-004-0040.

(6) "DHS" means the Department of Human Services.

(7) "Family Planning Expansion Project" or "FPEP" means the Medicaid waiver program that provides statewide family planning services to eligible clients, that is jointly administered by the Office of Family Health and the Division of Medical Assistance Programs, within the Department of Human Services.

(8) "Family planning services" means services provided to clients of childbearing age, including minors who can be considered to be sexually active, who desire such services and that are intended to prevent pregnancy or otherwise limit family size.

(9) "Family planning service provider" or "provider" means a licensed health care provider operating within a scope of practice, who is authorized by the Office of Family Health to bill for contraceptive management services for eligible Family Planning Expansion Project clients.

(10) "FPL" means the federal poverty level guidelines established each year by the Department of Health and Human Services, used to determine eligibility for the Family Planning Expansion Project and other federally funded programs.

(11) "Lawful Permanent Resident" means a person who, notwithstanding other eligibility requirements, is a qualified non-citizen as described in OAR 461-120-0125(4).

(12) "OFH" means the Office of Family Health, the office within the Department of Human Services, Public Health Division that operates the Family Planning Expansion Project.

(13) "DMAP" means the Division of Medical Assistance Programs, within the Department of Human Services.

(14) "Project number" means the administrative number assigned to the family planning service provider by the Office of Family Health for identification as a Family Planning Expansion Project provider.

(15) "Site number" means the administrative number assigned to the family planning service provider by the Office of Family Health for identification of the geographic location of each Family Planning Expansion Project provider.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 3-2007(Temp), f. 2-23-07, cert. ef. 4-1-07 thru 9-28-07

333-004-0080
Billing

(1) Only clinics providing family planning services pursuant to an approved medical services agreement, and who have been assigned a project number and site number may submit claims for FPEP services.

(2) All contraceptive management services are billed by submitting CVR data or by using the CVR form.

(3) Supplies are billed through the CVR form at actual acquisition cost; that is, the amount actually paid by the provider, including shipping, after applying any discounts, promotions or other reductions.

(4) All billings must be coded with the most appropriate International Classification of Diseases, 9th Revision, Clinical Modification, 2006 (ICD-9-CM) diagnosis codes in the V25 Contraceptive Management series to the highest level of specificity.

(5) Laboratory services related to contraceptive management are reimbursed through a global reimbursement that includes clinical services and laboratory services. No separate laboratory bills will be reimbursed.

(6) Birth control methods include natural family planning, abstinence, intrauterine devices, cervical caps, oral contraceptives, subdermal implants, condoms and diaphragms, patches, rings, injectibles, and any other method approved by the Food and Drug Administration.

(7) As reflected in the medical services agreement, the provider must assure that all laboratory tests done at the clinic site or by an outside clinic are conducted by Clinical Laboratory Improvement Amendments (CLIA) certified laboratories.

(8) Billing OFH for contraceptive management services requires an additional confidentiality protection for clients beyond the standard confidentiality of medical services. All clients who have private insurance may request that it not be billed, if they believe they are at risk of physical or emotional harm, should knowledge of the family planning services be known to the parent or partner or other household member. All clients must be asked at each visit whether they have insurance, and whether it can be billed.

(9) A provider enrolled with FPEP must not seek payment from an eligible client, or from a financially responsible relative or representative of that individual, for any services covered by FPEP. Provider accepts OFH reimbursement for each visit as payment in full.

(a) A client may be billed for services that are not covered by FPEP. However, the client must be informed in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must be able to document in writing signed by the client or client's representative, that the client was provided this information and the client knowingly and voluntarily agreed to be responsible for payment.

(b) Services not covered by FPEP are those outside of the scope of contraceptive management.

(10) All claims must be billed using the CVR as described in the claims section of the rules. A claim is considered a "valid claim" only if all required data is entered or is sent with each claim form for each visit.

(11) Prior to submission of a claim to OFH for payment, an approved provider agreement must be in place. Upon submission of a claim to OFH for payment, the provider agrees that it has complied with all rules of FPEP.

(a) Except for services performed by a CLIA certified laboratory outside of the clinic, all billings must be for services provided within the provider's licensure or certification.

(b) It is the responsibility of the provider to submit true and accurate information when billing OFH.

(c) A claim may not be submitted prior to providing services.

(12) Diagnosis Code Requirement:

(a) A primary diagnosis code is required on all claims.

(b) Use the highest degree of specificity within ICD-9-CM codes for Contraceptive Management. No other primary diagnosis code can be billed.

(13) No person shall submit to OFH:

(a) Any false claim for payment;

(b) Any claim altered in such a way as to result in a payment for a service that has already been paid;

(c) Any claim upon which payment has been made by another source unless the amount paid is clearly entered on the claim form.

(14) The provider is required to submit a billing error edit correction, or to refund the amount of the overpayment, on any claim where the provider identifies an overpayment made by OFH.

(15) A provider who, after having been previously warned in writing by DHS or the Department of Justice about improper billing practices, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to OFH for up to triple the amount of the established overpayment received as a result of such violation.

(16) Third Party Resources:

(a) Unless a client who has private insurance asks for special confidentiality as provided for in section 8 of this rule, federal law requires that all reasonable efforts be taken to ensure that FPEP will be the payor of last resort;

(b) Providers must make reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include:

(A) Determining the existence of insurance or other resource by asking the client;

(B) When third party coverage is known to the provider, by any other means available, prior to billing FPEP:

(i) The provider must bill the third party resource;

(ii) Comply with the insurer's billing and authorization requirements; and

(iii) Resubmit a denied claim when the service is payable in whole or in part by an insurer.

(c) If the client has private insurance that has been billed for FPEP services and the reimbursement from the insurance does not cover the entire cost of the services, the remaining balance may be billed to OFH.

(d) Providers are required to submit a billing error edit correction showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit a billing error edit correction within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery or sanction.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 3-2007(Temp), f. 2-23-07, cert. ef. 4-1-07 thru 9-28-07

333-004-0110
Payment

(1) OFH will make payment only to the enrolled provider who actually performs the services for eligible clients, except as provided for in OAR 333-004-0060(3)(a).

(2) The FPEP encounter rate is set by OFH. Claims are reimbursed at the rate in effect on the date of service.

(3) Family planning pharmaceuticals, devices and supplies are separately reimbursed at acquisition cost.

(4) OFH payments for FPEP provider services, pharmaceuticals, devices and supplies, unless in error, constitute payment in full.

(5) OFH will not make payment on claims that have been assigned, sold, or otherwise transferred, or on which a provider of billing services receives a percentage of the amount billed or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a provider for accounts receivable.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 3-2007(Temp), f. 2-23-07, cert. ef. 4-1-07 thru 9-28-07

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Rule Caption: Updates rules related to Radiation Protection Services.
Adm. Order No.: PH 4-2007
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 12-1-06
Rules Amended: 333-100-0001, 333-100-0005, 333-100-0010, 333-100-0015, 333-100-0020, 333-100-0025, 333-100-0030, 333-100-0035, 333-100-0040, 333-100-0045, 333-100-0050, 333-100-0055, 333-100-0057, 333-100-0060, 333-100-0065, 333-100-0070, 333-100-0080, 333-102-0001, 333-102-0005, 333-102-0010, 333-102-0015, 333-102-0020, 333-102-0025, 333-102-0030, 333-102-0035, 333-102-0040, 333-102-0075, 333-102-0101, 333-102-0103, 333-102-0105, 333-102-0110, 333-102-0115, 333-102-0120, 333-102-0125, 333-102-0130, 333-102-0135, 333-102-0190, 333-102-0200, 333-102-0203, 333-102-0235, 333-102-0245, 333-102-0247, 333-102-0250, 333-102-0255, 333-102-0260, 333-102-0265, 333-102-0270, 333-102-0275, 333-102-0285, 333-102-0290, 333-102-0293, 333-102-0297, 333-102-0300, 333-102-0305, 333-102-0310, 333-102-0315, 333-102-0320, 333-102-0325, 333-102-0327, 333-102-0330, 333-102-0335, 333-102-0340, 333-102-0345, 333-102-0350, 333-102-0355, 333-102-0360, 333-102-0365, 333-102-0900, 333-102-0910, 333-103-0001, 333-103-0003, 333-103-0005, 333-103-0010, 333-103-0015, 333-103-0020, 333-103-0025, 333-103-0030,

333-103-0035, 333-103-0050, 333-105-0001, 333-105-0003, 333-105-0005, 333-105-0050, 333-105-0075, 333-105-0420, 333-105-0430, 333-105-0440, 333-105-0450, 333-105-0460, 333-105-0470, 333-105-0480, 333-105-0490, 333-105-0500, 333-105-0510, 333-105-0520, 333-105-0530, 333-105-0540, 333-105-0550, 333-105-0560, 333-105-0570, 333-105-0580, 333-105-0590, 333-105-0600, 333-105-0610, 333-105-0620, 333-105-0630, 333-105-0640, 333-105-0650, 333-105-0660, 333-105-0670, 333-105-0680, 333-105-0690, 333-105-0700, 333-105-0710, 333-105-0720, 333-105-0730, 333-105-0740, 333-105-0750, 333-105-0760, 333-113-0001, 333-113-0005, 333-113-0007, 333-113-0010, 333-113-0101, 333-113-0105, 333-113-0110, 333-113-0115, 333-113-0120, 333-113-0125, 333-113-0130, 333-113-0135, 333-113-0140, 333-113-0145, 333-113-0150, 333-113-0201, 333-113-0203, 333-113-0205, 333-113-0210, 333-113-0301, 333-113-0305, 333-113-0310, 333-113-0315, 333-113-0325, 333-113-0335, 333-113-0401, 333-113-0403, 333-113-0405, 333-113-0410, 333-113-0501, 333-116-0010, 333-116-0020, 333-116-0025, 333-116-0027, 333-116-0030, 333-116-0035, 333-116-0040, 333-116-0045, 333-116-0050, 333-116-0055, 333-116-0057, 333-116-0059, 333-116-0090, 333-116-0100, 333-116-0105, 333-116-0107, 333-116-0110, 333-116-0120, 333-116-0123, 333-116-0125, 333-116-0130, 333-116-0140, 333-116-0150, 333-116-0160, 333-116-0165, 333-116-0170, 333-116-0180, 333-116-0190, 333-116-0200, 333-116-0220, 333-116-0250, 333-116-0255, 333-116-0260, 333-116-0280, 333-116-0290, 333-116-0300, 333-116-0310, 333-116-0320, 333-116-0330, 333-116-0340, 333-116-0350, 333-116-0360, 333-116-0370, 333-116-0380, 333-116-0390, 333-116-0400, 333-116-0405, 333-116-0410, 333-116-0420, 333-116-0425, 333-116-0430, 333-116-0440, 333-116-0445, 333-116-0447, 333-116-0450, 333-116-0460, 333-116-0470, 333-116-0475, 333-116-0480, 333-116-0490, 333-116-0495, 333-116-0500, 333-116-0525, 333-116-0530, 333-116-0540, 333-116-0550, 333-116-0560, 333-116-0570, 333-116-0573, 333-116-0577, 333-116-0580, 333-116-0583, 333-116-0585, 333-116-0587, 333-116-0590, 333-116-0600, 333-116-0605, 333-116-0610, 333-116-0620, 333-116-0640, 333-116-0650, 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0700, 333-116-0710, 333-116-0715, 333-116-0720, 333-116-0730, 333-116-0740, 333-116-0750, 333-116-0760, 333-116-0800, 333-116-0810, 333-116-0820, 333-116-0830, 333-116-0840, 333-116-0850, 333-116-0870, 333-116-0880, 333-116-0905, 333-116-0910, 333-116-0915, 333-116-1000, 333-116-1010, 333-116-1015, 333-116-1030, 333-118-0010, 333-118-0020, 333-118-0030, 333-118-0040, 333-118-0050, 333-118-0060, 333-118-0070, 333-118-0080, 333-118-0090, 333-118-0100, 333-118-0110, 333-118-0120, 333-118-0130, 333-118-0140, 333-118-0150, 333-118-0160, 333-118-0170, 333-118-0180, 333-118-0190, 333-118-0200, 333-118-0800, 333-120-0000, 333-120-0010, 333-120-0015, 333-120-0017, 333-120-0020, 333-120-0100, 333-120-0110, 333-120-0120, 333-120-0130, 333-120-0150, 333-120-0160, 333-120-0170, 333-120-0180, 333-120-0190, 333-120-0200, 333-120-0210, 333-120-0215, 333-120-0220, 333-120-0230, 333-120-0240, 333-120-0250, 333-120-0260, 333-120-0300, 333-120-0310, 333-120-0320, 333-120-0330, 333-120-0400, 333-120-0410, 333-120-0420, 333-120-0430, 333-120-0440, 333-120-0450, 333-120-0460, 333-120-0500, 333-120-0510, 333-120-0520, 333-120-0530, 333-120-0540, 333-120-0550, 333-120-0560, 333-120-0600, 333-120-0610, 333-120-0620, 333-120-0630, 333-120-0640, 333-120-0650, 333-120-0660, 333-120-0670, 333-120-0680, 333-120-0690, 333-120-0700, 333-120-0710, 333-120-0720, 333-120-0730, 333-120-0740

Subject: The Department of Human Services, Public Health Division is permanently amending their Oregon Administrative Rules relating to Radiation Protection Services to comply with the Nuclear Regulatory Commission. No significant changes were made to the rule text or to licensee requirements.

Rules Coordinator: Christina Hartman—(971) 673-1291

333-100-0001
Scope

Except as otherwise specifically provided, these rules apply to all persons who acquire receive, possess, use, transfer, own, or dispose of any source of radiation; provided, however, that nothing in these rules shall apply to any person to the extent such person is subject to regulation by the U.S. Nuclear Regulatory Commission.

NOTE: Attention is directed to the fact that state regulation of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission and to 10 CFR Part 150 of the Commission's regulations.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0005
Definitions

As used in these rules, these terms have the definitions set forth below. Additional definitions used only in a certain division will be found in that division.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "particle accelerator" is an equivalent term.

(3) "Accelerator-produced material" means any material made radioactive by a particle accelerator.

(4) "Act" means Oregon Revised Statutes 453.605 to 453.807.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq), defined as one disintegration per second, and the curie (Ci), defined as 3.7 x 1010 disintegrations per second.

(6) "Adult" means an individual 18 or more years of age.

(7) "Agency" means Radiation Protection Services of the Department of Human Services.

(8) "Agreement State" means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(9) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(10) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DAC's) specified in Appendix B, Table I, to 10 CFR Part 20.1001 to 20.2401; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

(11) "ALARA" (acronym for "As Low As Reasonably Achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(12) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(13) "Annual" means occurring every year or within a consecutive twelve month cycle.

(14) "Annual Limit on Intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed

dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(15) "As Low As Reasonably Achievable" see "ALARA."

(16) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive or special nuclear materials regulated by the Agency.

(17) "Becquerel" (Bq) means the International System of Units (SI) unit of activity. One becquerel is equal to one disintegration or transformation per second (dps or tps).

(18) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(19) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(20) "Byproduct material" means:

(a) Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction process. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(21) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year must begin in January and subsequent calendar quarters must be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant may change the method observed for determining calendar quarters except at the beginning of a calendar year.

(22) "Calibration" means the determination of

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(23) "CFR" means Code of Federal Regulations.

(24) "Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

(25) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. For purposes of these rules, "lung class" or "inhalation class" are equivalent terms. Materials are classified as D, W, or Y, which applies to a range of clearance half-times:

(a) For Class D, Days, of less than 10 days;

(b) For Class W, Weeks, from 10 to 100 days; and

(c) For Class Y, Years, of greater than 100 days.

(26) "Clinical laboratory" means a laboratory licensed pursuant to ORS 438.110 to 438.140.

(27) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(28) "Committed dose equivalent" (HT, 50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(29) "Committed effective dose equivalent" (HE, 50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues (HE, 50 = WT,HT,50).

(30) "Contamination" (Radioactive) means: deposition or presence of radioactive material in any place where it is not desired, and particularly in any place where its presence can be harmful. The harm may be in compromising the validity of an experiment or a procedure, or in being a source of danger to persons. Contamination may be divided into two types: Fixed and removable. Removable contamination may be transferred easily from one object to another by light rubbing or by the use of weak solvents such as water or alcohol. Removable contamination is evaluated and recorded in units of microcuries or dpm. Fixed contamination is not easily transferred from one object to another and requires mechanical or strong chemicals to remove it from its current location. Fixed contamination is evaluated and recorded in units of mR/hr.

(31) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material that decays at the rate of 3.7 x e10 disintegrations or transformations per second (dps or tps).

(32) "Declared pregnant woman" means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(33) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(34) "Deep dose equivalent" (Hd) which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm2).

(35) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(36) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(37) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(38) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(39) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem (see "Rem"). (See OAR 333-100-0070(2) for SI equivalent sievert.)

(40) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, "limits" is an equivalent term.

(41) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(42) "Effective dose equivalent" (HE) means the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factor (WT) applicable to each of the body organs or tissues that are irradiated (HE = WT HT).

(43) "Electronic product" means any manufactured product or device or component part of such a product or device that is capable of generating or emitting electromagnetic or sonic radiation such as, but not limited to, x-rays, ultrasonic waves, microwaves, laser light or ultraviolet light.

(44) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(45) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(46) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(47) "Explosive material" means any chemical compound, mixture, or device that produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(48) "Exposure" means:

(a) The quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. The SI unit of exposure is the coulomb per kilogram.

(b) Being exposed to ionizing radiation or to radioactive material.

(49) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(50) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(51) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(52) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm2).

(53) "Fixed gauge" means a measuring or controlling device that is intended to be mounted at a specific location, stationary, not to be moved, and is not portable.

(54) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(55) "General license" means a license granted by rule, in contrast to an issued license, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(56) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(57) "Gray" (Gy) means the International System of Units (SI), unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad). (See OAR 333-100-0070(2))

(58) "Hazardous waste" means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

(59) "Healing arts" means:

(a) The professional disciplines authorized by the laws of this state to use x-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this Agency, they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or

(b) Any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

(60) "Human use" means the internal or external administration of radiation or radioactive material to human beings.

(61) "Individual" means any human being.

(62) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(63) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(64) "Inhalation class" (see "Class").

(65) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Agency.

(66) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(67) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(68) "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. It includes any or all of the following: Alpha particles, beta particles, electrons, positrons, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, fission fragments and other atomic and subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(69) "Laser" means any device which, when coupled with an appropriate laser energy source, can produce or amplify electromagnetic radiation by the process of controlled stimulated emission.

(70) "License" means a license issued by the Agency in accordance with rules adopted by the Agency.

(71) "Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license granted or issued by the Agency. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), Naturally Occurring and Accelerator Produced Radioactive Material (NARM) refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(72) "Licensee" means any person who is licensed by the Agency in accordance with these rules and the Act.

(73) "Licensing state" means any state with rules or regulations equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of NARM.

(74) "Limits" (dose limits) means the permissible upper bounds of radiation doses.

(75) "Lost or missing licensed or registered source of radiation" means licensed or registered source(s) of radiation whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(76) "Lung class" (see "Class").

(77) "Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in division 118 of this chapter.

(78) "Member of the public" means an individual, except when that individual is receiving an occupational dose.

(79) "Minor" means an individual less than 18 years of age.

(80) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

(81) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material.

(82) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(83) "Naturally-occurring radioactive material" (NORM) means any nuclide that is found in nature as a radioactive material (i.e., not technologically produced).

(84) "Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

(85) "Natural uranium" means a mixture of the uranium isotopes 234, 235 and 238 (approximately 0.7 weight percent uranium- 235 and the remainder by weight essentially uranium-238), found in nature, that is neither enriched nor depleted in the isotope uranium 235.

(86) "Nonstochastic effect" means a health effect that varies with the dose and a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, "deterministic effect" is an equivalent term.

(87) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material". See "Special form."

(88) "NRC" is the acronym for Nuclear Regulatory Commission.

(89) "Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

(90) "Package" means packaging together with its radioactive contents as presented for transport.

(91) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(92) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

(93) "Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual. See "Individual monitoring devices."

(94) "Pharmacist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(95) "Physician" means an individual licensed by the Oregon State Board of Medical Examiners to dispense drugs in the practice of medicine.

(96) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(97) "Portable gauge" means a measuring or controlling device that is intended to be portable and is not fixed to a specific location. All portable gauges require a specific license (there is no general license granted for portable generally licensed devices in the State of Oregon).

(98) "Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130 %F (54.4 %C).

(99) "Pyrophoric solid" means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

(100) "Qualified expert" means an individual, approved by the Agency, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual must:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed one year of documented, full time training in the appropriate field and also one year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual must have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Agency for specific activities.

(101) "Quality factor" (Q) means the modifying factor (listed in Tables 1004(b).1 and 1004(b).2 of 10 CFR Part 20.1004 provided at the end of this division) that is used to derive dose equivalent from absorbed dose.

(102) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(103) "Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray). See OAR 333-100-0070(2) for SI equivalent gray.

(104) "Radiation" means:

(a) Ionizing radiation including gamma rays, x-rays, alpha and beta particles, protons, neutrons, and other atomic or nuclear particles or rays;

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the Agency has determined to present a biological hazard to the occupational or public health and safety but does not include electromagnetic radiation which can be generated during the operation of an electronic product licensed by the Federal Communications Commission;

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the Agency has determined to present a biological hazard to the occupational or public health and safety.

(105) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(106) "Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

(107) "Radiation safety officer" means:

(a) An individual who has the knowledge, responsibility, and authority to apply appropriate radiation protection rules; or

(b) The representative of licensee management, authorized by the Agency, and listed on the specific license as the radiation safety officer, who is responsible for the licensee's radiation safety program.

(108) "Radioactive material" means any solid, liquid, or gas that emits radiation spontaneously.

(a) Radioactive material, as used in these rules, includes: byproduct material, naturally occurring radioactive material, accelerator produced material, and source material, as defined in this rule.

(b) Radioactive material, as used in these rules, does not include special nuclear material.

(109) "Radioactive waste" means radioactive material that is unwanted or is unusable, as defined in division 50 of chapter 345. No radioactive material may be disposed of in Oregon except as provided in division 50 of chapter 345.

(110) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(111) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(112) "Registrant" means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to these rules and the Act.

(113) "Registration" means the identification of any material or device emitting radiation, and the owner of such material or device must furnish information to the Agency in accordance with the rules adopted by the Agency.

(114) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(115) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

(116) "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(117) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(118) "Restricted area" means an area to which access is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(119) "Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58 x 10-4 Coulombs/kilogram of air (see "Exposure" and division 120).

(120) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(121) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(122) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(123) "Sealed Source and Device Registry" means the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and Agreement States, that summarize the radiation safety information for sealed sources and devices and describe the licensing and use conditions approved for the product.

(124) "Shallow dose equivalent" (Hs), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm2) averaged over an area of one square centimeter.

(125) "SI" means the abbreviation for the International System of Units.

(126) "Sievert" means the International System of Units (SI), unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem). (See OAR 333-100-0070(2).)

(127) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(128) "Source material" means:

(a) Uranium or thorium or any combination of uranium and thorium in any physical or chemical form; or

(b) Ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(129) "Source material milling" means any activity that results in the production of byproduct material, as defined by this rule.

(130) "Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation. Source of radiation, pursuant to this rule, includes, but is not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material sealed and unsealed form (normal form and special form), and radioactive material uses.

(131) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31. 1996, and constructed prior to April 1, 1998, may continue to be used. Any other special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(132) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(133) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination must not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula: * * 175 (grams contained U-235) + 50 (grams U-233) + 50 (grams Pu) = 1 350 200 200

(134) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(135) "Stochastic effect" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(136) "Supervision" as used in these rules, means the responsibility for, and control of, the application, quality, radiation safety and technical aspects of all sources of radiation possessed, used and stored through authorization granted by the Agency.

(137) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(138) "Termination" means:

(a) The end of employment with the licensee or registrant or, in the case of individuals not employed by the licensee or registrant, the end of work assignment in the licensee's or registrant's restricted area in a given calendar quarter, without expectation or specific scheduling of re-entry into the licensee's or registrant's restricted area during the remainder of that calendar quarter; or

(b) The closure of a registered or licensed facility and conclusion of licensed or registered activities, pursuant to a registration or specific license.

(139) "Test" means the process of verifying compliance with an applicable rule.

(140) "These rules," mean all parts of the Oregon Administrative Rules promulgated under ORS 453.605 through 453.807.

(141) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(142) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in OAR 333-120-650(1)(d).

(143) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package.

(144) "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(145) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

NOTE: "Ore" refers to fuel cycle materials pursuant to 10 CFR Part 150.

(146) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

(147) "Uranium — depleted, enriched" means:

(a) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(b) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(148) "Validation certificate" means the official document issued upon payment to the Agency of the appropriate fee listed in division 103 of this chapter. The license or registration is subject and void without the annual validation certificate.

(149) "Waste" means radioactive waste.

(150) "Week" means seven consecutive days starting on Sunday.

(151) "Weighting factor" (WT) for an organ or tissue (T) means:

(a) The proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of WT are:

(A) Gonads 0.25

(B) Breast 0.15

(C) Red Bone Marrow 0.12

(D) Lung 0.12

(E) Thyroid 0.03

(F) Bone Surfaces 0.03

(G) Remainder 0.30 (see note below)

(H) Whole Body 1.00

Note: Assignment of 0.30 for the remaining organs results from a weighting factor of 0.06 for each of five "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, WT = 1.0, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(152) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(153) "Worker" means an individual engaged in work under a license or registration issued by the Agency and controlled by a licensee or registrant, but does not include the licensee or registrant.

(154) "Working level" (WL) means any combination of short-lived radon progeny in one liter of air that will result in the ultimate emission of 1.3 x 105 MeV of potential alpha particle energy. The short-lived radon-222 progeny are: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220 the progeny are: polonium-216, lead-212, bismuth-212, and polonium-212.

(155) "Working level month" (WLM) means an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

(156) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

[ED. NOTE: Tables and Appendices referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0010
Additional Definitions

Other definitions used only in a certain division of these rules will be found in that division.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0015
Interpretations

Except as specifically authorized by the Agency in writing, no interpretation of the meaning of these rules by any officer or employee of the Agency, other than a written interpretation, will be recognized to be binding upon the Agency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0020
Prohibited Uses

(1) Hand-held fluoroscopic screens shall not be used unless they have been listed in the Registry of Sealed Source and Devices or accepted for certification by the U.S. Food and Drug Administration, Center for Devices and Radiological Health.

(2) Shoe-fitting fluoroscopic devices shall not be used.

(3) Sources of radiation shall not be used to expose any individual solely for training or demonstration purposes.

(4) Sources of radiation shall not be used for the purpose of screening or inspecting individuals for concealed weapons, hazardous materials, stolen property, illegal goods or contraband.

(5) No person shall intentionally apply or allow to be applied, either directly or indirectly, ionizing radiation to human beings except by, or under the supervision of, persons licensed by the State of Oregon to practice the healing arts and who are authorized to use radiation on humans. Notwithstanding this restriction, the Agency recognizes practitioners of the healing arts to be as outlined in ORS 676.110, that is:

(a) Podiatrists, Chiropractors, Dentists, Naturopath, Osteopaths, Medical Doctors, and Veterinarians;

(b) Nurse Practitioners and Physician Assistants may prescribe x-ray when doing so within the bounds of their independent rules;

(c) No person will be allowed to use x-ray producing equipment without first meeting the requirements of OAR 333-106-0045(7) or 333-106-0055.

(6) No person shall intentionally or unintentionally expose another individual to radiation other than ionizing radiation in such a way as to adversely affect the health or safety of that individual. Notwithstanding this restriction, the use of radiation other than ionizing radiation by persons licensed by the State of Oregon to practice the healing arts and who are authorized to use radiation will be allowed.

(7) Dental units which are 50 kVp and below are prohibited from being sold, leased, transferred or lent.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0025
Exemptions

(1) General Provision. The Agency may, upon application or upon its own initiative, grant such exemptions or exceptions from the requirements of these rules as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

(2) U.S. Department of Energy Contractors and U.S. Nuclear Regulatory Commission Contractors. Any U.S. Department of Energy contractor or subcontractor and any U.S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this state is exempt from these rules to the extent that such contractor or subcontractor under his contract receives, possesses, uses, transfers or acquires sources of radiation:

(a) Prime contractors performing work for the U.S. Department of Energy at U.S. Government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;

(b) Prime contractors of the U.S. Department of Energy performing research in, or development, manufacture, storage, testing, or transportation of, atomic weapons or components thereof;

(c) Prime contractors of the U.S. Department of Energy using or operating nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel; and

(d) Any other prime contractor or subcontractor of the U.S. Department of Energy or of the U.S. Nuclear Regulatory Commission when the state and the U.S. Nuclear Regulatory Commission jointly determine:

(A) That the exemption of the prime contractor or subcontractor is authorized by law; and

(B) That, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807PH 4-2007, f. & cert. ef. 3-1-07
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0030
Additional Requirements

The Agency may, by rule, regulation, or order, impose upon any licensee or registrant such requirements in addition to those established in these rules as it deems appropriate or necessary to minimize danger to public health and safety or property.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0035
Violations

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any rule or order issued thereunder. Any person who willfully violates any provision of the Act or any rule or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by ORS 453.990.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85 ; HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0040
Impounding

Sources of radiation shall be subject to impounding pursuant to Section 453.705 of the Act.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0045
Communications

All communications and reports concerning these rules, and applications filed thereunder, should be addressed to Radiation Protection Services, Office of Environmental Public Health, 800 NE Oregon Street, Suite 640, Portland, OR 97232.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0050
Severability

Should any section, subsection, paragraph, sentence, clause or phrase of these rules be declared unconstitutional or invalid for any reason, the remainder of these rules shall not be affected thereby.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0055
Records

Each licensee and registrant must maintain records showing the receipt, transfer, and disposal of all sources of radiation. Additional record requirements are specified elsewhere in these rules.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0057
Maintenance of Records

Each record required by this division must be legible throughout the retention period. For the purposes of these rules and unless otherwise specified, records must be retained a minimum of five years. The record may be the original or a reproduced copy or a microfilm provided that the copy or microfilm is authenticated by authorized personnel and that the microfilm is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability of producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0060
Inspections

(1) Each licensee and registrant must afford to the Agency at all reasonable times opportunity to inspect sources of radiation and radioactive material and the premises and facilities wherein such sources of radiation and radioactive material are used or stored.

(2) Each licensee and registrant must make available to the Agency for inspection, upon reasonable notice, records maintained pursuant to the rules in this chapter.

(3) Within the available resources of the Agency, X-Ray Machine Registrants must be inspected at the following frequency based upon the class of x-ray machine(s) registered:

(a) Every Year: Hospitals and Radiologists.

(b) Every Two Years: Chiropractors, Medical and Osteopaths.

(c) Every Three Years: Academic, Dental, Industrial, Podiatry, and Veterinary.

(4) Not withstanding the above, the Agency may inspect more frequently as deemed necessary to protect public health and safety.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 16-1994, f. & cert. ef. 6-27-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0065
Tests

Each licensee and registrant must perform, or permit the Agency to perform, such tests as the Agency deems appropriate or necessary for the administration of the rules in this division and divisions 101, 105, 106, 108, 109, 112, 113, 115, 116, 117, 119, and 121 of this chapter including, but not limited to, tests of:

(1) Sources of radiation and radioactive material;

(2) Facilities wherein sources of radiation and radioactive material are used or stored;

(3) Radiation detection and monitoring instruments; and

(4) Other equipment and devices used in connection with the utilization or storage of licensed or registered sources of radiation and radioactive material.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-81-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0070
Units of Exposure and Dose

The Metric Conversion Act of 1975 (PL 94-168) urged the increasing awareness and use of the International System of Units (SI). The generally accepted regulatory values in the narrative portions of this document are followed by the SI equivalents in parentheses. Where appropriate, schedules and appendices are provided with notes concerning conversion factors. The inclusion of the SI equivalent is for informational purposes only.

(1) The unit of exposure is the coulomb per kilogram (C/kg). One roentgen is equal to 2.58x10-4 coulomb per kilogram of air.

(2) The units of radiation dose are:

(a) Gray (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad);

(b) Rad is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy);

(c) Rem is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(d) Sievert is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

(e) As used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in 10 CFR 20 part 20.1004 Table 1004(b).1.

(3) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rem per hour or sieverts per hour, as provided in (2)(b) of this rule, one rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of the regulations in this part, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee may use the fluence rate per unit dose equivalent or the appropriate Q value from 10 CFR 20 part 20.1004 Table 1004(b).2 (at the end of this division) to convert a measured tissue dose in gray or rad to dose equivalent in sievert rem.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-100-0080
Deliberate Misconduct

(1) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part; may not:

(a) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Agency; or

(b) Deliberately submit to the Agency, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the Agency.

(2) A person who violates section (1)(a) or (1)(b) of this rule may be subject to enforcement action in accordance with OAR 333-100-0035.

(c) For purposes of section (1)(a) of this rule, deliberate misconduct by a person means an intentional act or omission that the person knows:

(A) Would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Agency; or

(B) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.625 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0001
Purpose and Scope

(1) This division prescribes rules applicable to all persons in the State of Oregon governing licensing of radioactive material, and for exemptions from licensing requirements. No person may receive, produce, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license pursuant to this division or divisions 105, 113, 115, 116, 117, or 121 of this chapter.

(2) In addition to the requirements of division 102, all licensees are subject to applicable requirements in divisions 100, 103, 111, 118, and 120 of this chapter. The requirements of this division are in addition to, and not in substitution for, other requirements of this chapter. In any conflict between the requirements in this division and a specific requirement in another division of the rules in this chapter, the specific requirement governs.

(3) This division establishes general licenses for the possession and use of source material and depleted uranium, for radioactive material contained in certain items, and for ownership of radioactive material.

(4) This division gives notice to all persons who knowingly provide to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this division, that they may be individually subject to Agency actions pursuant to OAR 333-100-0035 or 333-100-0040.

(5) This division prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing radioactive material for sale or distribution to persons granted a general license by this division or to persons authorized by the US Nuclear Regulatory Commission to distribute to persons exempted from licensing requirements, and it prescribes certain rules governing holders of these licenses. In addition, this division prescribes requirements for the issuance of specific licenses to persons who introduce radioactive material into a product or material owned by or in the possession of the licensee or another and rules governing holders of such licenses. Further, this division describes procedures and prescribes requirements for the issuance of certificates of registration (governing radiation safety information about a product) to manufacturers or initial transferors of sealed source or devices containing sealed sources, which are to be used by persons specifically licensed under this division or equivalent regulations of an Agreement State or the US Nuclear Regulatory Commission.

(6) The Agency may engage the services of qualified persons in order to assist the Agency in meeting the requirements of this chapter, including, but not limited to, evaluating information that may be required under OAR 333-102-0200(6).

(7) Information provided to the Agency by an applicant for a license or by a licensee or information required by statute or by the Agency's rules, orders, or license conditions to be maintained by the applicant or the licensee must be complete and accurate in all material respects.

(8) Each applicant or licensee must notify the Agency of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety. An applicant or licensee violates this rule only if the applicant or licensee fails to notify the Agency of information that the applicant or licensee has identified as having a significant implication for public health and safety. Notification must be provided to the Agency within two working days of identifying the information. This requirement is not applicable to information that already is required to be provided to the Agency by other reporting or updating requirements.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.625 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0005
Source Material

(1) Any person is exempt from this division to the extent that such person receives, possesses, uses, owns or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution or alloy.

(2) Any person is exempt from this division to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person must not refine or process such ore.

(3) Any person is exempt from this division to the extent that such person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

(A) Incandescent gas mantles;

(B) Vacuum tubes;

(C) Welding rods;

(D) Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;

(E) Germicidal lamps, sun lamps and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(F) Rare earth metals and compounds, mixtures and products containing not more than 0.25 percent by weight thorium, uranium or any combination of these; or

(G) Personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium.

(b) Source material contained in the following products:

(A) Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material;

(B) Piezoelectric ceramic containing not more than two percent by weight source material;

(C) Glassware containing not more than ten percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or

(D) Glass enamel or glass enamel frit containing not more than ten percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four percent by weight and that this exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles or stored or handled in connection with installation or removal of such counterweights, provided that:

(A) The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, authorizing distribution by the licensee pursuant to 10 CFR Part 40;

(B) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";

NOTE: The requirements specified in sections (3)(e)(B) and (3)(e)(C) of this rule need not be met by counterweights manufactured prior to December 31, 1969 provided, that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and are impressed with the legend required by 10 CFR 40.13(c)(5)(ii) in effect on June 30, 1969, which read CAUTION — RADIOACTIVE MATERIAL — URANIUM.

(C) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and

(D) This exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.

(f) Natural or depleted uranium metal used as shielding constituting part of any shipping container, provided that:

(A) The shipping container is conspicuously and legibly impressed with the legend "CAUTION — RADIOACTIVE SHIELDING — URANIUM"; and

(B) The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of 1/8 inch (3.2 mm).

(g) Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium, and that this exemption must not be deemed to authorize either:

(A) The shaping, grinding or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or

(B) The receipt, possession, use or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

(h) Uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 185 Bq (0.005 microCi) of uranium; or

(i) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(B) The thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(4) The exemptions in section (3) of this rule do not authorize the manufacture of any of the products described.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0010
Exempt Concentrations

(1) Except as provided in sections (3) or (4) of this rule, any person is exempt from this division to the extent that such person receives, possesses, uses, transfers, owns or acquires products containing radioactive material introduced in concentrations not in excess of those listed in 10 CFR Part 30.70 Schedule A.

(2) This section shall not be deemed to authorize the import of byproduct material or products containing byproduct material.

(3) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license to the extent that he transfers radioactive material contained in a product or material in concentrations not in excess of those specified in 10 CFR Part 30.70 Schedule A and introduced into the product or material by a licensee holding a specific license issued by an agreement State, or the Nuclear Regulatory Commission, expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(4) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under section (1) of this rule or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State, or Licensing State except in accordance with a specific license issued pursuant to OAR 333-102-0245 or the general license granted by OAR 333-102-0340.

NOTE: 10 CFR Part 30.70 Schedule A is available from the Agency.
Health Services, Radiation Protection Services.
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0015
Certain Items Containing Radioactive Material

(1) Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these rules to the extent that he or she receives, possesses, uses, transfers, owns or acquires the following products:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(A) 25 millicuries (925 MBq) of tritium per timepiece;

(B) Five millicuries (185 MBq) of tritium per hand;

(C) 15 millicuries (555 MBq) of tritium per dial (when used, bezels must be considered as part of the dial);

(D) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(E) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(F) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial (when used, bezels must be considered as part of the dial);

(G) 0.15 microcurie (5.55 kBq) of radium per timepiece;

(H) 0.03 microcurie (1.11 kBq) of radium per hand;

(I) 0.09 microcurie (3.33 kBq) of radium per dial (when used, bezels must be considered as part of the dial);

(J) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(i) For wrist watches, 0.1 millirad (one Gy) per hour at ten centimeters from any surface;

(ii) For pocket watches, 0.1 millirad (one Gy) per hour at one centimeter from any surface; and

(iii) For any other timepiece, 0.2 millirad (two Gy) per hour at ten centimeters from any surface.

(K) One microcurie (37 kBq) of radium-226 per timepiece in timepieces acquired prior to June 1, 1977.

(b) Lock illuminators containing not more than 15 millicuries (555 MBq) of tritium or not more than two millicuries (74 MBq) of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than one millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries (925 MBq) of tritium;

(e) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries (925 MBq) of tritium per thermostat;

(g) Electron tubes: Provided, that each tube does not contain more than one of the following specified quantities of radioactive material:

(A) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or ten millicuries (370 MBq) of tritium per any other electron tube;

(B) One microcurie (37 kBq) of cobalt-60;

(C) Five microcuries (185 kBq) of nickel-63;

(D) 30 microcuries (1.11 MBq) of krypton-85;

(E) Five microcuries (185 kBq) of cesium-137; or

(F) 30 microcuries (1.11 MBq) of promethium-147.

(G) And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through seven milligrams per square centimeter of absorber.

NOTE: For purposes of, section (1)(g) of this rule "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(A) Each source contains no more than one exempt quantity set forth in 10 CFR Part 30.71 Schedule B; and

(B) Each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in 10 CFR Part 30.71 Schedule B provided that the sum of such fractions must not exceed unity.

(C) For americium-241, 0.05 microcuries (1.85 kBq) is considered an exempt quantity under section (8) of this rule.

(i) Spark gap irradiators containing not more than one microcurie (37 kBq) of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons per hour (11.4 liters per hour).

(2) The exemptions contained in this rule must not authorize any of the following:

(a) The manufacture of any product listed;

(b) The application or removal of radioactive luminous material to or from meters and timepieces or hands and dials therefore;

(c) The installation into automobile locks of illuminators containing tritium or promethium-147 or the application of tritium to balances of precision or parts thereof;

(d) Human use, or the use in any device or article, except timepieces, which is intended to be placed on or in the human body;

(e) As applied to radioactive material exempted under section (2)(e) of this rule, the production, packaging, repackaging or transfer of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0020
Resins Containing Scandium-46, Designed for Sand Consolidation in Oil Wells

Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins must have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or must have been manufactured in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer of such resins pursuant to licensing requirements equivalent to those in sections 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission. This exemption does not authorize the manufacture of any resins containing scandium-46.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0025
Gas and Aerosol Detectors Containing Radioactive Material

(1) Except for persons who manufacture, process, produce or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license and from the rules in this division and in divisions 105, 113, 115, 116, 117, 120, and 121 of this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided that detectors containing radioactive material shall have been manufactured, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.26 of 10 CFR Part 32; or a Licensing State pursuant to OAR 333-102-0260, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State must be considered exempt under section (1) of this rule, provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of OAR 333-102-0260.

(3) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State must be considered exempt under section (1) of this rule, provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of OAR 333-102-0260.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0030
Self-Luminous Products Containing Radioactive Material

(1) Except for persons who manufacture, process, produce or initially transfer for sale or distribution self-luminous products containing radioactive material, any person is exempt from the requirements for a license and from the rules in this division and in divisions 105, 113, 115, 116, 117, 120, and 121 of this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in self-luminous products designed to protect life or property from fires and airborne hazards provided that the products containing radioactive material must have been manufactured, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.26 of 10 CFR Part 32; or a Licensing State pursuant to OAR 333-102-0265, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State must be considered exempt under section (1) of this rule, provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of OAR 333-102-0265.

(3) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State must be considered exempt under section (1) of this rule, provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of OAR 333-102-0265.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0035
Exempt Quantities

(1) Except as provided in sections (2) and (3) of this rule, any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in individual quantities, each of which does not exceed the applicable quantity set forth in 10 CFR Part 30.71 Schedule B.

(2) This rule does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

(3) Any person who possesses radioactive material received or acquired under the general license formerly provided in OAR 333-102-0105(2) is exempt from the requirements for a license set forth in this rule to the extent that such person possesses, uses, transfers or owns such radioactive material. Such exemption does not apply for radium-226.

(4) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in 10 CFR Part 30.71 Schedule B, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under this rule or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.18 of 10 CFR Part 32 or by the Agency pursuant to OAR 333-102-0255, which license states that the radioactive material may be transferred by the licensee to persons exempt under this rule or the equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-2985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0040
In Vivo Testing in Humans for H. Pylori Using Carbon-14 Labeled Urea

(1) Except as provided in sections (3) and (4) of this rule, any person is exempt from the requirements for a specific license pursuant to this division and divisions 116 of this chapter provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1 microcurie) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for "in vivo" diagnostic use for humans.

NOTE: "Nominal variation" as used in this context means + 10% of the reported per capsule dose.

(2) Any person who desires to use the capsules for research involving human subjects must apply for and receive a specific license pursuant to division 102 of this chapter.

(3) Any person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution such capsules must apply for and receive a specific license pursuant to 10 CFR 32.21.

(4) Nothing in this rule relieves persons from complying with applicable FDA, other Federal, and State requirements governing receipt, administration, and use of drugs.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0075
Types of Licenses

Licenses for radioactive materials are of two types: General and specific.

(1) General licenses provided in this division are granted as being effective without the filing of applications with the Agency or the issuance of licensing documents to particular persons, except Depleted Uranium subject to OAR 333-102-0103, Measuring, Gauging, and Controlling devices subject to 333-102-0115, and In Vitro Clinical or Laboratory Testing subject to 333-102-0130.

(2) Specific licenses require the submission of an application to the Agency and the issuance of a specific licensing document by the Agency. The licensee is subject to all applicable portions of these rules as well as any limitations specified in the licensing document. Specific licenses are issued to named persons upon applications filed pursuant to OAR 333-102-0200 and divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(3) General licenses granted by 333-102-0101, 333-102-0103, 333-102-0115, and 333-102-0130 require the submission of an application to the Agency for registration pursuant to 333-101-0007, payment of a fee in accordance with 333-103-0015, and the issuance of a registration (licensing document or general license acknowledgment) by the Agency.

(4) General licenses are subject to 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) (Terms and Conditions of Licenses), 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 103, 111, 118, and 120 of this chapter unless indicated otherwise in the language of the general license.

NOTE: Attention is directed particularly to the provisions of the regulations in division 120 of this chapter that relate to the labeling of containers and notification of incidents.

(5) Any record required by this division must be legible throughout the retention period specified by each Agency rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as letters, stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0101
General Licenses — Source Material

A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 15 pounds (6.82 kg) of source material at any one time for research, development, educational, commercial or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive or possess more than a total of 150 pounds (68.2 kg) of source material in any one calendar year.

(1) Persons who receive, possess, use, or transfer source material pursuant to the general license granted by section (1) of this rule are prohibited from administering source material, or the radiation therefrom, either externally or internally to human beings except as may be authorized by the Agency in a specific license.

(2) Persons who receive, possess, use or transfer source material pursuant to the general license granted by section (1) of this rule are exempt from the provisions of divisions 111 and 120 of this chapter to the extent that such receipt, possession, use or transfer is within the terms of such general license; provided, however, that this exemption must not be deemed to apply to any such person who also is in possession of source material under a specific license issued pursuant to this division.

(3) A general license is hereby granted authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use or transfer source material.

(4) Persons who receive, acquire, possess or use source material pursuant to the general license granted by section (1) of this rule must develop and maintain procedures to establish physical control over the source material and prevent transfer of such source material to persons not authorized to receive the source material.

(5) A person who receives, acquires, possesses or uses source material pursuant to the general license granted by section (1) of this rule:

(a) Must not introduce such source material, in any form, into a chemical, physical, or metallurgical treatment or process;

(b) Must not abandon such source material; and

(c) Must transfer or dispose of such source material only by transfer in accordance with the provisions of OAR 333-102-0330 or 333-120-0500.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0103
General Licenses — Depleted Uranium in Industrial Products and Devices

(1) A general license is hereby granted to receive, acquire, possess, use or transfer, in accordance with the provisions of sections (2), (3), (4) and (5), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(2) The general license in section (1) of this rule applies only to industrial products or devices that have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to OAR 333-102-0235 or in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission or an Agreement State that authorizes manufacture of the products or devices for distribution to persons granted a general license by the U.S. Nuclear Regulatory Commission or an Agreement State.

(3) Persons who receive, acquire, possess or use depleted uranium pursuant to the general license established by section (1) of this rule must apply for registration of the general license pursuant to OAR 333-101-0007, and submit the required fee pursuant to 333-103-0015. Applicants will receive a validation certificate from the Agency Application for registration must be submitted within 30 days after the first receipt or acquisition of such depleted uranium.

(a) The general licensee must provide the following information in accordance with the registration application required by OAR 333-101-0007 and such other information as may be required by that form:

(A) Name and address of the general licensee;

(B) A statement that the general licensee has developed and will maintain procedures designed to establish physical control over the depleted uranium described in section (1) of this rule and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee in supervising the procedures identified in section (3)(b) of this rule.

(b) The general licensee possessing or using depleted uranium under the general license established by section (1) of this rule must report any changes in information in writing to the Agency within 30 days after the effective date of such change.

(4) A person who receives, acquires, possesses or uses depleted uranium pursuant to the general license established by section (1) of this rule:

(a) Must not introduce such depleted uranium, in any form, into a chemical, physical or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(b) Must not abandon such depleted uranium;

(c) Must transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of OAR 333-102-0330. In the case where the transferee receives the depleted uranium pursuant to the general license granted by section (1) of this rule, the transferor must furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007. In the case where the transferee receives the depleted uranium pursuant to a general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to section (1) of this rule, the transferor must furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007 accompanied by a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in this rule;

(d) Must report in writing to the Agency, within 30 days of any transfer, the name and address of the person receiving the depleted uranium pursuant to such transfer; and

(e) Must not export such depleted uranium except in accordance with a license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 110.

(5) Any person receiving, acquiring, possessing, using or transferring depleted uranium pursuant to the general license established by section (1) of this rule is exempt from the requirements of divisions 111 and 120 of this chapter with respect to the depleted uranium covered by that general license.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0105
Certain Devices and Equipment

A general license is hereby granted to transfer, receive, acquire, own, possess and use radioactive material incorporated in the following devices or equipment that have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), and 333-100-0065 (Tests), 333-102-0010(2) (Exempt Concentrations), 333-102-0305(1) through 333-102-0305(7) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of Material), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 111, 118, and 120 of this chapter.

NOTE: Attention is directed particularly to the provisions of division 120 of this chapter that relate to the labeling of containers (OAR 333-120-0430 and 333-120-0440).

(1) Static Elimination Devices. Devices designed for use as static eliminators that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device;

(2) Ion Generating Tubes. Devices designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device or a total of not more than 50 millicuries (1.85 GBq) of hydrogen-3 (tritium) per device.

NOTE: Different general licenses are issued in this division, each of which has its own specific conditions and requirements.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0110
Luminous Safety Devices for Aircraft

(1) A general license is hereby granted to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(a) Each device contains not more than 10 curies (370 GBq) of tritium or 300 millicuries (11.1 GBq) of promethium-147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in 10 CFR Part 32.53.

(2) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in section (1) of this rule are exempt from the requirements of divisions 111 and 120 of this chapter except that they must comply with the provisions of 333-120-0700 and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly or repair of luminous safety devices containing tritium or promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(7) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of Material), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and division 118 of this chapter.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0115
Certain Measuring, Gauging and Controlling Devices

(1) A general license is hereby issued to commercial and industrial firms and to research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, receive, acquire, possess, use or transfer in accordance with the provisions of OAR 333-103-0015 and sections (2), (3) and (4) of this rule, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in section (1) of this rule applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the Agency pursuant to OAR 333-102-0200 or in accordance with the specifications contained in a specific license issued by the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, that authorizes distribution of devices to persons generally licensed by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

(3) The devices must have been received from one of the specific licensees described in section (2) of this rule or through a transfer made in accordance with section (4)(h) of this rule.

NOTE: Regulations under the Federal Food, Drug and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(4) Any person who owns, receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license in section (1) of this rule:

(a) Must assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon and must comply with all instructions and precautions provided by such labels;

(b) Must assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any,

at no longer than six-month intervals or at such other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material; and

(B) Devices containing only tritium or not more than 100 microcuries (3.7 MBq) of other beta and/or gamma emitting material or 10 microcuries (0.37 MBq) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose.

(c) Must assure that tests required in section (4)(b) of this rule and other testing, installation servicing and removing from installation involving the radioactive materials, its shielding or containment, are performed:

(A) In accordance with the instructions provided by the labels; or

(B) By a person holding an applicable specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform such activities.

(d) Must maintain records showing compliance with the requirements of section (4)(b) and (c) of this rule. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installation servicing and removal from installation concerning the radioactive material, its shielding or containment. The licensee must retain these records as follows:

(A) Records of tests for leakage of radioactive material required by section (4)(b) of this rule must be maintained as required in 333-100-0057.

(B) Records of tests of the on-off mechanism and indicator required by section (4)(b) of this rule must be maintained as required in 333-100-0057.

(C) Records which are required by section (4)(c) of this rule must be maintained as required in 333-100-0057;

(e) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 Bq) or more of removable radioactive material, the licensee must immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to repair such devices. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Agency. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be submitted to the Agency within 30 days. Under these circumstances, the criteria set out in 333-120-0190, as determined by the Agency, on a case-by-case basis;

(f) Must not abandon the device containing radioactive material;

(g) Except as provided in section (4)(h) of this rule, must transfer or dispose of the device containing radioactive material only by export as provided by section (4)(k) of this rule, by transfer to another general licensee as authorized in section (4)(h) of this rule, or by transfer to a specific licensee of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State whose specific license authorizes the individual to receive the device; and

(A) Must furnish to the Agency, within 30 days after transfer of a device to a specific licensee or export, a report containing identification of the device by manufacturer's name, model number, serial number, the date of transfer, and the name, address and license number of the person receiving the device;

(B) The general licensee must obtain written Agency approval before transferring the device to any other specific licensee not specifically identified in section (4)(g) of this rule.

(h) Must transfer the device to another general licensee only:

(A) Where the device remains in use at a particular location. In such case the transferor must give the transferee a copy of this rule and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Agency the manufacturer's (or initial transferor's) name, model number, serial number of the device transferred, the date of transfer, the name and address of the transferee and the location of use, and the name, title and phone number of the individual who is a point of contact between the Agency and the transferee. This individual must have the knowledge and authority to take actions to ensure compliance with the appropriate rules and requirements concerning the possession and use of these devices; or

(B) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee.

(i) Must comply with the provisions of OAR 333-120-0700 and 333-120-0710 for reporting radiation incidents, theft or loss of licensed material but shall be exempt from the other requirements of divisions 111 and 120 of these rules;

(j) Must submit the required Agency form and receive from the Agency a validated registration certificate acknowledging the general license and verifying that all provisions of these rules have been met. The form must be submitted within 30 days after the first receipt or acquisition of such device. The general licensee must develop and maintain procedures designed to establish physical control over the device as described in this rule and designed to prevent transfer of such devices in any form, including metal scrap, to persons not authorized to receive the devices.

(k) Shall not export a device containing radioactive material except in accordance with 10 CFR Part 110.

(5) The general license in section (1) of this rule does not authorize the manufacture of devices containing radioactive material.

(6) The general license provided in section (1) of this rule is subject to the provisions of OAR 333-100-0040 through 333-100-0055, 333-102-0335, 333-103-0015 and 333-118-0050.

(7) The general licensee possessing or using devices licensed under the general license established by section (1) of this rule must report in writing to the Agency any changes in information furnished by the licensee on the required Agency form. The report must be submitted within 30 days after the effective date of such change.

(8) The licensee must appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, must ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard.

(9)(a) A device distributed or otherwise received as a generally licensed device must be registered with the Agency. Devices containing more than 37 MBq (1 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, any quantity of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), are required to have a specific license. Each address for a location of use, as described under section (9)(b) of this rule, represents a separate general licensee and requires a separate registration and fee.

(b) In registering devices, the general licensee must furnish the following information and any other information specifically requested by the Agency:

(A) Name and mailing address of the general licensee;

(B) Information about each device. The manufacturer (or initial transferor), model number, serial number, the radioisotope and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under section section (8) of this rule.

(D) Address or location at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage.

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information.

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license.

(10) General licensees must report changes to their mailing address or the location of use (including a change in name of general licensee) to the Agency within 30 days of the effective date of the change.

(11) Generally licensed devices that are not in use for longer than two years must be transferred to an authorized recipient or disposed of as radioactive waste. Shutters must be locked in the closed position on devices that are not being used or are in storage. The testing required by section (4)(b) of this rule need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use.

(12) Persons generally licensed by an Agreement State with respect to devices meeting the criteria in section (9)(a) of this rule are not subject to registration requirements if the devices are used in areas subject to NRC

jurisdiction for a period less than 180 days in any calendar year. The Nuclear Regulatory Commission does not require registration information from such licensees.

(13) The general license in section (1) of this rule does not authorize the manufacture or import of devices containing radioactive material.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0120
Ownership of Radioactive Material

A general license is hereby granted to own radioactive material without regard to quantity. Notwithstanding any other provisions of this division, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0125
Calibration and Reference Sources

(1) A general license is hereby granted to those persons listed in sections (1)(a) and (1)(b) of this rule to own, receive, acquire, possess, use, and transfer, in accordance with the provisions of sections (4) and (5) of this rule, americium-241, plutonium, and/or radium-226, in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material; and

(b) Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission that authorizes receipt, possession, use, and transfer of special nuclear material.

(2) A general license is hereby granted to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of sections (4) and (5) of this rule to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material.

(3) A general license is hereby granted to own, receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of sections (4) and (5) of this rule to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer radioactive material.

(4) The general licenses in sections (1), (2), and (3) of this rule apply only to calibration or reference sources that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to section 32.57 of 10 CFR Part 32 or section 70.39 of 10 CFR Part 70 or that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Agency, any Agreement State or Licensing State pursuant to licensing requirements equivalent to those contained in section 32.57 of 10 CFR Part 32, or section 70.39 of 10 CFR Part 70.

(5) The general licenses provided in sections (1), (2) and (3) of this rule are subject to the provisions of 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) (Terms and Conditions of Licenses), 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 111, and 120 of this chapter. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(a) Must not possess at any one time, at any one location of storage or use, more than five microcuries (185 kBq) each of americium-241, of plutonium-238, plutonium-239, or of radium-226 in such sources; and

(b) Must not receive, possess, use or transfer such source unless the source or the storage container, bears a label which includes one of the following statements, as appropriate, or a substantially similar statement that contains the information called for in one of the following statements, as appropriate:

(A) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION – RADIOACTIVE MATERIAL -THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM) DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE. _____ Name of manufacturer or importer
NOTE: Show only the name of the appropriate material.

(B) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of any Licensing State. Do not remove this label.

CAUTION – RADIOACTIVE MATERIAL -THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE._____ Name of manufacturer or importer

(c) Must not transfer, abandon or dispose of such source except by transfer to a person authorized by a specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to receive the source;

(d) Must store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 that might otherwise escape during storage; and

(e) Must not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium, or radium-226.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1085, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0130
General License for Use of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing

(1) A general license is hereby granted to any physician, veterinarian, clinical laboratory, or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with sections (2), (3), (4), (5) and (6) of this rule, the following radioactive materials in prepackaged units for use in in Vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(a) Iodine-125 in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(b) Iodine-131, in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(c) Carbon-14, in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(d) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(e) Iron-59 in units not exceeding 20 microcuries (740 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(f) Selenium-75, in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(g) Mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcuries (1.85 kBq) of iodine-129 and 0.005 microcuries (185 Bq) of americium-241 each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(2) A person may not receive, acquire, possess, use or transfer radioactive material under the general license granted by section (1) of this rule unless that person:

(a) Has filed the required Agency application for registration pursuant to OAR 333-101-0007 and submitted the registration fee pursuant to 333-103-0015 and received from the Agency a validated license with certification number assigned; or

(b) Has a license that authorizes the medical use of radioactive material that was issued under OAR 333-116.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by section (1) of this rule must comply with the following:

(a) The general licensee must not possess at any one time, at any one location of storage or use a total amount of iodine-125, iodine-131, selenium-75, cobalt-57 and/or iron-59 in excess of 200 microcuries (7.4 MBq);

(b) The general licensee must store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection;

(c) The general licensee must use the radioactive material only for the uses authorized by section (1) of this rule;

(d) The general licensee must dispose of the mock iodine-125 reference or calibration sources described in section (1)(g) of this rule as required by OAR 333-120-0500 and section (6);

(e) The general licensee must not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(4) The general licensee must not receive, acquire, possess or use radioactive material pursuant to section (1) of this rule:

(a) Except as prepackaged units that are labeled in accordance with the provisions of an applicable specific license issued by the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, cobalt-57, iron-59 or mock iodine-125 for distribution to persons generally licensed under section (1) of this rule or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(A) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____
Name of Manufacturer

(B) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

_____
Name of Manufacturer

(5) The registrant possessing or using radioactive material granted by the general license of section (1) of this rule must report in writing to the Agency any changes in the information furnished on the required Agency form. The report must be furnished within 30 days after the date of such change.

(6) Any person using radioactive material pursuant to the general license granted by section (1) of this rule is exempt from the requirements of divisions 111 and 120 of this chapter with respect to radioactive material covered by that general license, except that such persons using mock iodine-125 described in section (1)(g) of this rule must comply with provisions of OAR 333-120-0500, 333-120-0700 and 333-120-0710.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0135
Ice Detection Devices

(1) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries (1.85 MBq) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Agency or an Agreement State to the manufacturer of such device pursuant to licensing requirements equivalent to those in section 32.61 of 10 CFR Part 32.

(2) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license granted by section (1) of this rule:

(a) Must, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Agency, the U.S. Nuclear Regulatory Commission or any other Agreement State to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of OAR 333-120-0500;

(b) Must assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(c) Are exempt from the requirements of divisions 111 and 120 of this chapter except that such persons must comply with the provisions of OAR 333-120-0500, 333-120-0700, and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly, disassembly or repair of strontium-90 in ice detection devices.

(4) This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of material), 333-102-0335 (Modification, Revocation, and Termination of Licenses) and division 118 of this chapter.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. &ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0190
Application for Specific Licenses.

(1) Applications for specific licenses must be filed on a form prescribed by the Agency. Information contained in previous applications, statements or reports filed with the Agency, the US Nuclear Regulatory Commission, or an Agreement State or a Licensing State or the Atomic Energy Commission may be incorporated by reference, provided that the reference is clear and specific.

(2) The Agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application must be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

(4) An application for a license filed pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act, provided that the application specifies the additional activities for which licenses are requested and complies with rules of the Agency and the US Nuclear Regulatory Commission as to applications for such licenses.

(5) Each new application for a radioactive material license must be accompanied by the fee prescribed by OAR 333-103-0010. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in 333-103-0010.

(6) An application for a license to receive and possess radioactive material for the conduct of any activity that the Agency has determined, pursuant to Subpart A of Part 51 of 10 CFR (Environmental Protection Regulations applicable to materials licensing), will significantly affect the quality of the environment, must be filed at least nine months prior to commencement of construction of the plant or facility in which the activity will be conducted and must be accompanied by any Environmental Report required pursuant to Subpart A of 10 CFR Part 51.

(7) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source must either:

(a) Identify the source or device by manufacturer and model number as registered with the US Nuclear Regulatory Commission under 10 CFR Part 32.210 or with an Agreement State; or

(b) Contain the information identified in 10 CFR Part 32.210(c).

(8) As provided by OAR 333-102-0200, certain applications for specific licenses filed under this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning as follows:

NOTE: If a renewal application was submitted on or before July 27, 1990, the decommissioning information may follow the renewal application but must be submitted prior to the license being issued.

(9)(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, "Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release," must contain either:

(A) An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed one rem effective dose equivalent or five rems to the thyroid; or

(B) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under section (9)(a)(A) of this rule:

(A) The radioactive material is physically separated so that only a portion could be involved in an accident;

(B) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) The release fraction in the respirable size range would be lower than the release fraction shown in 10 CFR Part 30.72 (Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) due to the chemical or physical form of the material;

(D) The solubility of the radioactive material would reduce the dose received;

(E) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in 10 CFR Part 30.72;

(F) Operating restrictions or procedures would prevent a release fraction as large as that shown in 10 CFR Part 30.72; or

(G) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under section (9)(a)(B) of this rule must include the following information:

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radio-active materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the Agency; also responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee also must commit to notify the Agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not supercede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the Agency.

(J) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training must familiarize personnel with site-specific emergency procedures. Also, the training must thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee must invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios must not be known to most exercise participants. The licensee must critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(d) The licensee must allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to Agency. The licensee must provide any comments received within the 60 days to the Agency with the emergency plan.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0200
General Requirements for the Issuance of Specific Licenses

An application for a specific license, will be approved if:

(1) The application is for a purpose authorized by the Act;

(2) The applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property;

(3) The applicant's proposed equipment and facilities are adequate to protect health and minimize danger to life or property;

(4) The applicant satisfies any applicable special requirements contained in divisions 102, 105, 113, 115, 116, 117, or 121 of this chapter; and

(5) In the case of an application for a license to receive and possess radioactive material for the conduct of any activity which the Agency determines will significantly affect the quality of the environment, the Agency Manager or designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Subpart A of Part 51 of 10 CFR, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion must be grounds for denial of a license to receive and possess byproduct material in such plant or facility. As used in this rule, the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values. Upon a determination that an application meets the requirements of the Act, and the rules of the Agency, the Agency will issue a specific license authorizing the possession and use of radioactive material (Radioactive Materials License'').

(6) Financial assurance and recordkeeping for decommissioning must meet the following requirements:

(a) 10 CFR 30.35 and 30.36 for radioactive material that is not source or special nuclear material; or

(b) 10 CFR 40.36 for source material; or

(c) 10 CFR 70.25 for special nuclear material.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0203
Definitions

The following definitions apply for Radioactive Material Licenses issued pursuant to this division and divisions 105, 113, 115, 117, and 121 of this chapter:

NOTE: Unless otherwise specified in this rule, the licenses described in this rule are limited by conditions of the radioactive materials license issued pursuant to OAR 333-102-0200, and other applicable rules in this chapter.

(1) "Analytical Leak Test" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(a), authorizing possession of environmental samples, sealed source leak-test, contamination wipe, etc. samples for radioanalytical measurements. This license does not authorize collection of samples, or decommissioning or decontamination activities.

(2) "Assets" means anything of material value or usefulness. In the context of a materials license, assets include all existing capital, effects, possessions, and belongings and all probable future economic benefits obtained or controlled by a particular entity.

(3) "Basic License" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing the receipt, possession, use, transfer, and disposal of sources of radiation or radioactive materials incident to gauge service, teletherapy service, medical afterloader service, and other licensed service activities; pre-packaged waste pickup (not packaging), storage of materials prior to license termination, instrument quality control servicing or calibration (excluding activities authorized by OAR 333-103-0010(2)(m)), or other minor activities not otherwise specified in these rules, such as authorization for "systems," as defined in these rules, pursuant to that definition.

(4) "Beneficiating" means subjecting a product to any process that will increase or concentrate any component (including the radioactive materials) to benefit the product;.

(5) "Brachytherapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(c) authorizing the use of brachytherapy sources for in vivo application of radiation in accordance with 333-116-0420. Brachytherapy includes radioactive material sealed sources in seeds, needles, plaques, or other localized medical devices, but excludes remote afterloaders.

(6) "Broad Scope A" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(d), authorizing activities in 333-102-0900(1)(a), under the authority of a Radiation Safety Committee.

(7) "Broad Scope B" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(e) authorizing activities described in 333-102-0900(1)(b), under the authority of a Radiation Safety Officer.

(8) "Broad Scope C" means a facility-specific license issued pursuant to 333-103-0010(2)(f) authorizing activities described in 333-102-0900(1)(c), under the authority of an authorized user.

(9) "Commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that would adversely affect the natural environment of a site.

(10) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(11) "Decontamination and Decommissioning" means:

(a) A facility specific license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that result in returning a site to its original pre-license condition prior to termination of licensed activities; and

(b) Activities performed pursuant to OAR 333-102-0335 on any portion of a site prior to license termination.

(12) "Diagnosis" means examination, determination, identification, study, or analysis of a medical condition.

(13) "Distribution" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(g), authorizing transfer or distribution (sale) of general or specific license radioactive material to persons granted a general license or issued a specific license, or, in the case of NARM, to persons exempt from the rules in this chapter.

(14) "Exempt Source" means radioactive material, exempt from the rules in this chapter.

(15) "Facility" means location of licensed activities under the direct control of licensee management. If a "Facility," as used in this division, includes multiple separate addresses, the Agency may determine how the scope of licensed activities, pursuant to OAR 333-102-0190, 333-102-0300, 333-102-0305, 333-102-0315, 333-102-0320, or 333-102-0325, is authorized.

(16) "Fixed Gauge" means a source-specific license for measuring, gauging, or controlling devices pursuant to OAR 333-103-0010(2)(h). The fixed gauge license also includes X-Ray & Hybrid Gauges pursuant to division 115 of this chapter, that contain either an x-ray source or a radioactive sealed source.

(17) "General License" means a granted license, as opposed to an issued license, effective under these rules, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(18) "General License Depleted Uranium" means the general license granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for depleted uranium used for shielding or counter weights and issued pursuant to 333-102-0103.

(19) "General License Device" means the general license for in vitro materials granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for measuring, gauging.

(20) "General License In Vitro Laboratory" means the general license granted by OAR 333-102-0130, subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for in vitro materials granted a general license by 333-102-0130.

(21) "General License Source Material" means the general license granted for use and possession of source material pursuant to OAR 333-102-0101.

(22) "General License for Certain Devices and Equipment" means the general license granted for use and possession of devices consisting of not more than 500 microcuries of polonium-210 or not more than 50 millicuries of tritium (H-3) per device, pursuant to 10 CFR 31.3.

(23) "General License for Luminous Devices for Aircraft" means the general license granted for use and possession of devices containing not more than ten curies of tritium or not more than 300 millicuries of promethium-147.

(24) "General License for Ownership of Radioactive Material and Limits of Possession" means the general license granted to own material that is not necessarily possessed; conversely, material that is possessed is, by grant of general license, not necessarily owned, pursuant to the general license in OAR 333-102-0120.

(25) "General License for Calibration and Reference Sources" means the general license granted to possess not more than five microcuries (185 kBq) of americium-241, plutonium-238, plutonium-239, or radium-226, pursuant to the general license in OAR 333-102-0125.

(26) "General License for Ice Detection Devices" means the general license granted to possess not more than 50 microcuries (1.85 MBq) of strontium-90, pursuant to the general license in OAR 333-102-0135.

(27) "Generators and Kits" means "Imaging and Localization."

(28) "Healing Arts Specific License" means a specific license authorizing activities in division 116 of this chapter.

(29) "High Doserate Remote Afterloader" means a source-specific license issued pursuant to OAR 333-103-0010(2)(i) authorizing the use of sources in accordance with 333-116-0475, which may be either mobile or stationary, and which deliver a doserate in excess of two Gray (200 rad) per hour at the point or surface where the dose is prescribed. A device may be designated as being high, medium, or pulsed dose remote afterloader or mobile high, medium, or pulsed doserate remote afterloader.

(30) "Hybrid Gauge" means a fixed gauging device that contains both a sealed source and an x-ray source, pursuant to division 115 of this chapter.

(31) "In Vitro Laboratory" means a Healing Arts facility-specific license, under management of a physician or Healing Arts specialist, issued pursuant to OAR 333-103-0010(2)(k) authorizing the use of prepackaged radioactive materials in quantities greater than those authorized by the General License granted by OAR 333-102-0130(2).

(32) Imaging and Localization means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(j) authorizing the use of generators and kits for nuclear medicine imaging and localization in accordance with 333-116-0320 or positron emission tomography studies in accordance with 333-116-0800 through 333-116-0880.

(33) "Industrial Radiography" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(l) authorizing activities in division 105 of this chapter.

(34) "Instrument Calibration" means a source-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(m) for sources of radiation used to calibrate instruments.

(35) "Investigational New Drug" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(n) authorizing the use of any investigational product or device approved by the US Food and Drug Administration (FDA) for human use research, diagnosis, or therapy, in accordance with the rules in this chapter.

(36) "Irradiator-Other" means an irradiator with greater than 10,000 curies (370 TBq) licensed pursuant to OAR 333-103-0010(2)(w) and 333-103-0010(7), designed to produce extremely high dose rates as authorized by division 121 of this chapter.

(37) "Irradiator Self-shielded or Other — Less than 10,000 Curies" means a source-specific license issued pursuant to OAR 333-103-0010(2)(o) authorizing self-shielded irradiators, including blood irradiators, panoramic irradiators, and converted teletherapy units, with less than 10,000 Ci (370 TBq) activity.

(38) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(39) "Lot Tolerance Percent Defective" means, expressed in percent defective, the poorest quality in an individual inspection lot that should be accepted.

(40) "Low Doserate Remote Afterloader Device" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing devices 333-116-0475, which remotely deliver a doserate of less than two Gray (200 rad) per hour at the point or surface where the dose is prescribed.

(41) "Manufacturing or Compounding" means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(p) authorizing manufacture, fabrication, assembly, construction, combining, processing, concentrating, beneficiating, or processing items or products using or containing radioactive materials into a finished product containing radioactive material in accordance with applicable requirements in division 102 of this chapter.

(42) "Manufacturing or Compounding and Distribution" means activities performed as defined in sections (13) and (41) of this rule and require separate specific licenses for each activity.

(43) "Mobile Nuclear Medicine Service" means a facility-specific Healing Arts license issued pursuant to OAR 333-116-0120 authorizing the medical use of radioactive material at specified temporary locations.

(44) "Naturally occurring radioactive material (NORM)" means radioactive material in the uranium or thorium decay series existing in nature in concentrations less than 0.05% source material.

(45) "Net working capital" means current assets minus current liabilities.

(46) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(47) "Neutron Howitzer" means a device that contains a sealed source containing Special Nuclear Material (see definition in OAR 333-100-0005) that generates neutrons that are used for analytical, teaching, or research purposes.

(48) "Neutron Production" denotes a process in which neutrons are produced, either by natural or artificial means.

(49) "NORM (no processing)" means a facility-specific license pursuant to OAR 333-103-0010(2)(n) authorizing possession, use, and transfer of NORM in accordance with division 117 of this chapter.

NOTE: NORM licenses authorize licensable quantities of radioactive material in the uranium or thorium decay series. Licensable quantities of NORM are derived from disposal limits in OAR 345-050. Any material that contains NORM requires a specific license unless exempted in OAR 345-050. Zircon sand is used as the NORM model for licensing purposes. Quantities of zircon sand in excess of 20,000 pounds in a year constitute a licensable quantity of NORM. NORM materials that are not zircon are based on the zircon model.

(50) "Nuclear Laundry" means a laundry facility designed specifically to clean or launder clothing contaminated with licensed radioactive materials. Nuclear Laundry facilities must have process and waste management control procedures to prevent reconcentrating of licensed materials in sewers, drains, premises, and the environment. Nuclear Laundry activities are authorized pursuant to OAR 333-103-0010(2)(w), "Radioactive Material Not Otherwise Specified Facility," see 333-102-0203(61).

(51) "Nuclear Pharmacy" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(s) for activities authorized by 333-102-0285 and the Oregon Board of Pharmacy rules, to compound Radiopharmaceutical and distribute (sell or transfer) to persons specifically licensed to receive such compounds or products.

NOTE: Nuclear Pharmacies, pursuant to policy provisions of chapter 345 division 50 may collect syringes containing residual licensed material from spent patient doses, since the syringe is considered to be a transport device under the administrative control of the pharmacy rather than the licensed material transferred as the dose. Residual licensed material may be considered either to be exempt pursuant to Table 1 of division 50 or under the authority of a division license if the receding licensee stores syringes for decay. In either case, the division license should specify which disposal method is being used by the pharmacy and licensee to avoid compatibility conflicts with division 50 requirements.

(52) "Other Measuring Device" means a source-specific license issued pursuant to OAR 333-103-0010(2)(t), authorizing analytical instruments, gas chromatograph electron capture detectors, and other nonportable analytical instruments, including those devices that contain multiple sources but are configured and used as a "system," in accordance with the definition in this rule.

NOTE: General license gas chromatograph detectors that formerly were granted a general license by OAR 333-102-0115, but which required a registration fee pursuant 333-103-0015(2)(b), now are subject to the specific license in 333-103-0010(2)(t).

(53) "Pool-type Irradiator" means an irradiator with greater than 10,000 curies (370 TBq) in which water provides the radiation shielding, authorized in accordance with division 121 of this chapter.

(54) "Portable Gauge" means a source-specific license issued pursuant to OAR 333-103-0010(2)(u) for sources used in devices that can be transported and used at temporary job sites.

NOTE: Any device that meets the definition of "portable gauge" and is transported or used at temporary job sites within the state of Oregon, requires an application for and issuance of an Oregon specific license subject to OAR 333-103-0010(2)(u).

(55) "Positron Emission Tomography" (PET) means a licensed healing arts activity authorized by 333-116-0800 and included in the facility specific license issued pursuant to OAR 333-103-0010(2)(j). PET nuclides, which are NARM, are subject to all Oregon rules.

(56) "Possession or Storage of Industrial Wastes Containing Radioactive Material" means activities subject to division 110 of this chapter for the production or storage of wastes that are exempt from division 50 of chapter 345 facility siting requirements, and were generated under a current NRC, Agreement State, or Licensing State specific radioactive materials license.

(57) "Possession or Storage of Uranium Tailings" means activities incident to uranium processing or milling operations resulting in the production of tailings.

(58) "Principal Activities" means activities authorized by the license that are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(59) "Processing" means chemically or physically changing a licensed material from one physical form to another form or specie (e.g., breaking an ore down into its components resulting in "tailings"; milling a raw licensed material and combining to form another product or material. See "Beneficiating"; "Manufacturing or Compounding").

(60) "Radiation Source" means source of radiation (see definition of "Source of radiation" in OAR 333-100-0005).

(61) "Radioactive Material Not Otherwise Specified Facility" means a license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that includes, but are not limited to, complex licensable activities such as facility decontamination and decommissioning, nuclear laundry activities, uranium mill tailings storage, storage of industrial wastes containing radioactive materials, large irradiator management, and other complex activities not otherwise specified in these rules.

(62) "Radioactive Materials License" means the document, pursuant to OAR 333-102-0300, issued after an application, pursuant to OAR 333-102-0190, has been accepted as adequate, that specifies radioactive materials, use authorizations, safety procedures, and use locations.

(63) "Radiopharmaceutical Therapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(v) authorizing the use of Radiopharmaceutical for therapy in accordance with OAR 333-116-0360.

(64) "Remote Afterloader" means a medical device that moves a sealed source to an interstitial (in vivo) location without exposing the practitioner to the radiation dose. Remote afterloader sources may be manipulated using computer software and engineering techniques.

(65) "Research & Development" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(x) authorizing research and development activities, as defined in OAR 333-100-0005, but does not authorize additional specific sources of radiation, which must be licensed separately pursuant to OAR 333-103-0010 and 333-103-0015.

(66) "Responsible Representative" means

(a) The person designated as having responsibility for general license device or general license material;

(b) The person management has selected to certify general license inventory; and

(c) The individual responsible to the Agency and to management to ensure that all regulatory elements are adequate.

(67) "Sealed Source/Device Evaluation" means the review of a licensee's prototype source or device prior to registration by the Nuclear Regulatory Commission in the Sealed Source and Device Catalog.

NOTE: The Agency no longer has authority to review sources or devices. All source or device reviews must be forwarded to the NRC for review. Authority to conduct device or source evaluations was rescinded by the NRC in 1998.

(68) "Site Area Emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(69) "Sealed Sources for Diagnosis" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(y) authorizing the use of sealed sources for diagnosis in accordance with OAR 333-116-0400.

(70) "Special Nuclear Material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of section 51 of the act, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(71) "Specific License Radioactive Material" means radioactive material that requires authorization in a specific license document pursuant to OAR 333-102-0075(2) where materials must be annoted on the specific license, and validated with a specific license fee pursuant to 333-103-010(2)(a) through 333-103-0010(2)(hh) (see "Radioactive Materials License").

(72) "System," as used in this division, means multiple separate (individual) sources of radiation (sealed radioactive sources), which together, rather than independently, achieve a desired functionality. Such "system" is subject to one specific license fee or general license registration fee, as the case may be.

(73) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(74) "Teletherapy" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(cc) authorizing teletherapy procedures in accordance with OAR 333-116-0480. This license also includes other high dose rate external beam therapy devices such as the "gamma knife."

(75) "Temporary Job Site" means any location, where specific license material is used that is either:

(a) Not the specific location of the licensee if an in-state licensee; or

(b) Any location in the State if an out-of-state specific licensee pursuant to a specific radioactive materials license.

NOTE: Persons authorized for temporary jobsites in Oregon must have a specific license for such activities.

(76) "Therapy" means a process that is meant to be restorative, promotes healing, or is beneficial to a patient in a healing arts context.

(77) "Unique" means a specific license issued pursuant to OAR 333-103-0010(2)(dd) to Agencies in the Department of Human Services.

(78) "Uptake and Dilution" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ee) authorizing activities in 333-116-0300 for uptake, dilution, and excretion studies.

(79) "Use and Possession of Source Material " means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(z) to possess, use, process, or transfer source material, as defined in OAR 333-100-0005, in quantities greater than general license quantities or in concentrations greater than 0.05 percent source material.

NOTE: This definition was amended to avoid confusion between the definition of "source material" in division 100 of this chapter and the specific license (billable object) in division 103 of this chapter.

(80) "Use of Xenon Gas" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ff) authorizing the use of Xe-133 for diagnosis pursuant to OAR 333-116-0280;

(81) "Waste Packaging" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(gg), authorizing packaging, collection, storage, and transfer of radioactive waste. This specific license does not authorize storage of radioactive wastes, but does authorize temporary job sites.

(82) "Well Logging" means a license issued pursuant to OAR 333-103-0010(2)(hh) authorizing the possession, use, transfer, or disposal of sources of radiation used for well logging activities authorized by division 113 of this chapter.

NOTE: Unless specifically authorized in this rule or in a radioactive materials license that authorizes temporary job sites, specific licenses must be used only at one authorized site.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0235

Requirements for License to Manufacture, or Initially Transfer Radioactive Material Contained in Devices Granted a General License Under OAR 333-102-0115

(1) An application for a specific license to manufacture, or initially transfer devices containing radioactive material, excluding special nuclear material, to persons granted a general license by OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(a) The applicant satisfies the general requirements of OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(A) The device can be safely operated by persons not having training in radiological protection;

(B) Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device; and it is unlikely that any person will receive in one year a dose in excess of ten percent of the annual limits specified in OAR 333-120-0100; and

(C) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the dose to the appropriate organ as specified in Column IV of the table in 10 CFR Part 32.24:

(i) Whole body, head and trunk, active blood-forming organs, gonads, or lens of eye 150 mSv (15 rem);

(ii) Hands and forearms, feet and ankles, localized areas of skin averaged over areas no larger than one square centimeter two Sv (200 rem);

(iii) Other organs 500 mSv (50 rem).

(c) Each device bears a durable, legible, clearly visible label or labels approved by the Agency, which contain in a clearly identified and separate statement:

(A) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(B) The requirements, or lack of requirement, for leak testing, or for testing of any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(C) The information called for in the following statement in the same or substantially similar form:

The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or of a State with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION – RADIOACTIVE MATERIAL

_____

(Name of manufacturer or initial transferor)

NOTE: Devices licensed under 10 CFR Part 32.51 prior to January 19, 1975 may bear labels authorized by the regulations in effect on January 1,1975. The model, serial number, and name of manufacturer, or initial transferor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(D) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in 333-120-0400, and the name of the manufacturer or initial distributor.

(E) Each device meeting the criteria of 333-102-0115(9)(a), bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not

separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in 333-120-0400.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or both, the applicant must include in this application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

(a) Primary containment (source capsule);

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under OAR 333-102-0115, or under equivalent rules of the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, be authorized to install the device, collect the sample to be analysed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant must include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and the bases for these estimates. The submitted information must demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of ten percent of the annual limits specified in OAR 333-120-0100.

(4) Prior to transfer of a device to a person granted a general license by OAR 333-102-0115(1), the licensee must:

(a) Furnish a copy of the general license contained in OAR 333-102-0115 to each person to whom the licensee directly, or through an intermediate person, transfers radioactive material in a device for use pursuant to the general license contained in OAR 333-102-0115;

(b) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State's rules equivalent to OAR 333-102-0115. Alternatively, a copy of the general license contained in OAR 333-102-0115 must be furnished to each person to whom directly, or through an intermediate person, is transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission, the Agreement State or the Licensing State. If a copy of the general license in OAR 333-102-0115 is furnished to such person, it must be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State under requirements substantially the same as those in OAR 333-102-0115;

(c) Report to the Agency all transfers of such devices to persons for use under the general license in OAR 333-102-0115. Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. If no transfers have been made to persons granted a general license by OAR 333-102-0115 during the reporting period, the report must so indicate. The report must cover each calendar quarter and must be filed within 30 days after the end of each quarter;

(d) Furnish reports to other agencies

(A) Report to the U.S. Nuclear Regulatory Commission all transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 31.5 of 10 CFR Part 31. Reports must be submitted on the NRC form "Transfers of Industrial Devices Report" or on a clear and legible report containing all of the data required by the form. The required information includes:

(i) The identity of each general licensee by name and address;

(ii) The name and phone number of the person designated by the general licensee to be responsible for ensuring compliance with the appropriate regulations and requirements;

(iii) The date of transfer;

(vi) The type, model number, and serial number of the device transferred; and

(v) The quantity and type of byproduct material contained in the device.

(B) If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include the same information for each intermediate person, and clearly designate that person as an intermediate person.

(C) If the device transferred replaced another returned by the general licensee, report also the type, model number, and serial number of the one returned.

(D) If no transfers have been made to persons generally licensed under 10 CFR 31.5 or OAR 333-102-0115 during the reporting period, the report must so indicate.

(E) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(F) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(e) Report to the responsible Agreement or Licensing State Agency all transfers of such devices to persons for use under a general license in an Agreement State's regulations equivalent to OAR 333-102-0115. Such reports must identify all of the information in 333-102-0235(4)(d) of this rule, including each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. The report must be submitted within 30 days after the end of each calendar quarter in which such device is transferred to the person granted a general license;

(f) If no transfers have been made to U.S. Nuclear Regulatory Commission's licensees during the reporting period, this information must be reported to the U.S. Nuclear Regulatory Commission;

(g) If no transfers have been made to persons granted a general license within a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State Agency upon request of the Agency;

(h) Keep records showing the name, address and the point of contact for each general licensee to whom directly, or through an intermediate person is transferred radioactive material in devices for use pursuant to the general license provided in OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The records should show the date of each transfer, the isotope and the quantity of radioactive material in each device transferred, the identity of any intermediate person and compliance with the reporting requirements of section (4)(h) of this rule. Records required by this rule must be maintained for a period of three years following the estimated useful life of the device or the date of final disposition, if known;

(i) Furnish a list of the services that only can be performed by a specific licensee, and information on acceptable disposal options, including estimated costs of disposal, to each person to whom he directly, or through an intermediate person, transfers radioactive material in a device for use under the general license granted in 333-102-0115;

(j) Furnish the name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained. If a copy of the general license in OAR 333-102-0115 is furnished to such person, it must be accompanied by a note explaining that use of the device is regulated by the Agreement State.

(k) Label each device transferred if more than one year after the effective date of this rule in accordance with the labeling requirements in 10 CFR Part 32.51(a)(3) through (5).

(l) If a notification of bankruptcy has been made under 10 CFR Part 30.34(h) or the license is to be terminated, provide, upon request, to the NRC and to any appropriate Agreement State, records of final disposition required under 10 CFR Part 32.52(c).

(5) License Conditions.

(a) If a device containing radioactive material is to be transferred for use under the general license contained in 333-102-0115, each person that is licensed under this rule must provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of the general license contained in 333-102-0115; if 333-102-0115(4)(b) through (d) or 333-102-0115(8) do not apply to the particular device, those sections may be omitted;

(B) A copy of 333-102-0115, 333-100-0055, 333-100-0057, 333-120-0700 and 333-120-0710;

(C) A list of the services that can only be performed by a specific licensee;

(D) Information on acceptable disposal options including estimated costs of disposal; and

(b) If radioactive material is to be transferred in a device for use under an equivalent general license of an Agreement State, each person that is licensed under this rule must provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of the Agreement State's regulations equivalent to 333-102-0115, 333-100-0055, 333-100-0057, 333-120-0700 and 333-120-0710 or a copy of 10 CFR Secs. 31.5, 31.2, 30.51, 20.2201, and 20.2202. If a copy of the Nuclear Regulatory Commission regulations is provided to a prospective general licensee in lieu of the Agreement State's regulations, it must be accompanied by a note explaining that use of the device is regulated by the Agreement State. If certain sections of the regulations do not apply to the particular device, those sections may be omitted;

(B) A list of the services that can only be performed by a specific licensee;

(C) Information on acceptable disposal options including estimated costs of disposal; and

(D) The name or title, address, and phone number of the contact at the Agreement State regulatory agency or the Nuclear Regulatory Commission from which additional information may be obtained.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0245

Introduction of Radioactive Material in Exempt Concentrations into Products or Materials, and Transfer of Ownership or Possession: Requirements for License

An application for a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another and the transfer of ownership or possession of the product or material containing the radioactive material: will be approved if the applicant:

(1) Satisfies the general requirements specified in OAR 333-102-0200;

(2) Provides a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioiosotopes in the product or material at the time of transfer;

(3) Provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in 10 CFR Part 30.70 Schedule A, that reconcentrating of the radioactive material in concentrations exceeding those in 10 CFR Part 30.70 Schedule A is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(4) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under 10 CFR Part 30.14 or equivalent regulations of an Agreement State, except in accordance with a license issued pursuant to 10 CFR Part 32.11 or the general license provided in 10 CFR Part 150.20 (reciprocity).

(5) Each person licensed under this rule must maintain records of transfer of material and file reports with the Agency as required in 333-102-0247.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0247

Records and Material Transfer Reports

Each person licensed under 333-102-0235 to initially transfer devices to generally licensed persons must comply with the requirements of this rule.

(1) The licensee must report on a quarterly basis all transfers of devices to persons for use under the general license in 333-102-0115 and all receipts of devices from persons licensed under 333-102-0115 to the Agency.

(a) The required information for transfers to general licensees includes:

(A) The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee must be submitted along with information on the actual location of use;

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type, model number, and serial number of the device transferred; and

(E) The quantity and type of byproduct material contained in the device.

(b) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(c) For devices received from a 333-102-0115 general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(d) If the licensee makes changes to a device possessed by a 333-102-0115 general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(e) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(f) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(g) If no transfers have been made to or from persons generally licensed under 333-102-0115 during the reporting period, the report must so indicate.

(2) The licensee must report all transfers of devices to persons for use under a general license in an Agreement State's regulations that are equivalent to 333-102-0115 and all receipts of devices from general licensees in the Agreement State's jurisdiction to the responsible Agreement State Agency.

(a) The required information for transfers to general licensees includes:

(A) The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, an alternate address for the general licensee must be submitted along with information on the actual location of use.

(B) The name, title, and phone number of the person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the appropriate regulations and requirements;

(C) The date of transfer;

(D) The type, model number, and serial number of the device transferred; and

(E) The quantity and type of byproduct material contained in the device.

(b) If one or more intermediate persons will temporarily possess the device at the intended place of use before its possession by the user, the report must include the same information for both the intended user and each intermediate person, and clearly designate the intermediate person(s).

(c) For devices received from a general licensee, the report must include the identity of the general licensee by name and address, the type, model number, and serial number of the device received, the date of receipt, and, in the case of devices not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.

(d) If the licensee makes changes to a device possessed by a general licensee, such that the label must be changed to update required information, the report must identify the general licensee, the device, and the changes to information on the device label.

(e) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(f) The report must clearly identify the specific licensee submitting the report and must include the license number of the specific licensee.

(g) If no transfers have been made to or from a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State Agency upon request of the Agency.

(3) The licensee must maintain all information concerning transfers and receipts of devices that supports the reports required by this section. Records required by this section must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0250
Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under a General License

An application for a specific license to manufacture or distribute radioactive material for use under the general license specified in OAR 333-102-0130 or equivalent will be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Carbon-14 in units not exceeding ten microcuries (370 kBq) each;

(b) Cobalt-57 in units not exceeding ten microcuries (370 kBq) each;

(c) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each;

(d) Iodine-125 in units not exceeding ten microcuries (370 kBq) each;

(e) Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each;

(f) Iodine-131 in units not exceeding ten microcuries (370 kBq) each;

(g) Iron-59 in units not exceeding 20 microcuries (740 kBq) each;

(h) Selenium-75 in units not exceeding ten microcuries (370 kBq) each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed ten microcuries (370 kBq) of iodine-125, iodine-131, carbon-14, cobalt-57 or selenium-75; 50 microcuries (1.85 MBq) of hydrogen-3 (tritium); 20 microcuries (740 kBq) of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each; and

(b) Displaying the radiation caution symbol described in OAR 333-120-0400 and the words, CAUTION, RADIOACTIVE MATERIAL and Not for Internal or External Use in Humans or Animals.

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____
Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

_____
Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements in OAR 333-120-0500.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0255
Licensing the Distribution of Radioactive Material in Exempt Quantities

(1) An application for a specific license to distribute NARM to persons exempted from these rules pursuant to OAR 333-102-0035 will be approved if:

(a) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(b) The radioactive material is in the form of processed chemical elements, compounds or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product or device intended for commercial distribution; and

(c) The applicant submits copies of prototype labels and brochures and the Agency approves such labels and brochures.

(2) The license issued under this rule is subject to the following conditions:

(a) No more than ten exempt quantities may be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions must not exceed unity;

(b) Each exempt quantity must be separately and individually packaged. No more than ten such packaged exempt quantities must be contained in any outer package for transfer to persons exempt pursuant to OAR 333-102-0035. The outer package must be such that the dose rate at the external surface of the package does not exceed 0.5 millirem (5 microSv) per hour;

(c) The immediate container of each quantity or separately packaged fractional quantity of radioactive material must bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and

(B) Bears the words Radioactive Material.

(d) In addition to the labeling information required by section (2)(c) of this rule, the label affixed to the immediate container, or an accompanying brochure, must:

(A) State that the contents are exempt from Licensing State requirements;

(B) Bear the words, Radioactive Material — Not for Human Use — Introduction into Foods, Beverages, Cosmetics, Drugs or Medicinals or into Products Manufactured for Commercial Distribution is Prohibited — Exempt Quantities Should Not Be Combined; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(3) Each person licensed under this rule must maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under OAR 333-102-0035 or the equivalent rules of any Agreement State or Licensing State and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license must be filed with the Agency. Each report must cover the year ending June 30, and must be filed within 30 days thereafter. If no transfers of radioactive mate-

rial have been made pursuant to this rule during the reporting period, the report must so indicate.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0260

Licensing the Incorporation of Naturally Occurring and Accelerator-Produced Radioactive Material into Gas and Aerosol Detectors

An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under OAR 333-102-0025 will be approved if the application satisfies requirements equivalent to those contained in section 32.26 of 10 CFR Part 32. The maximum quantity of radium-226 in each device must not exceed 0.1 microcurie (3.7 kBq).

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0265

Special Requirements for the Manufacture, Assembly or Repair of Luminous Safety Devices for Use in Aircraft

An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons granted a general license by OAR 333-102-0110 will be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200; and

(2) The applicant satisfies the requirements of sections 32.53, 32.54, 32.55, 32.56, 32.101, and 32.110 of 10 CFR Part 32 or their equivalent.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0270

Special Requirements for License to Manufacture Calibration Sources Containing Americium-241, Plutonium or Radium-226 for Distribution to Persons Granted a General License by OAR 333-102-0125

An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons granted a general license by OAR 333-102-0125 will be approved if:

(1) The applicant satisfies the general requirement of OAR 333-102-0200; and

(2) The applicant satisfies the requirements of sections 32.57, 32.58, 32.59, and 32.102 of 10 CFR Part 32 and section 70.39 of 10 CFR Part 70 or their equivalent.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0275

Licensing the Manufacture and Distribution of Ice Detection Devices

An application for a specific license to manufacture and distribute ice detection devices to persons granted a general license by OAR 333-102-0135 will be approved if:

(1) The applicant satisfies the general requirements of OAR 333-102-0200;

(2) The criteria of sections 32.61, 32.62, 32.103, and 32.110 of 10 CFR Part 32 are met.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0285

Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Radioactive Material for Medical Use Under Division 116

(1) An application for a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs containing radioactive material for use by persons authorized pursuant to division 116 of this chapter will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits evidence that the applicant is at least one of the following:

(A) Registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer;

(B) Registered or licensed with a state agency as a drug manufacturer;

(C) Licensed as a pharmacy by a State Board of Pharmacy; or

(D) Operating as a nuclear pharmacy within a Federal medical institution.

(c) The applicant submits information on the radionuclide, chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

(d) The applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee described by sections (1)(b)(C) or (D) of this rule:

(a) May prepare radioactive drugs for medical use, as defined in OAR 333-116-0020, provided that the radioactive drug is prepared either by an authorized nuclear pharmacist, as specified in sections (2)(b) and (2)(c) of this rule, or an individual under the supervision of an authorized nuclear pharmacist as specified in 333-116-0100.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) This individual qualifies as an authorized nuclear pharmacist as defined in OAR 333-116-0020;

(B) This individual meets the requirements specified in OAR 333-116-0910 and 333-116-0915 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) This individual is designated as an authorized nuclear pharmacist in accordance with section (2)(c) of this rule.

(c) The actions authorized in sections (2)(a) and (2)(b) of this rule are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist (as defined in OAR 333-116-0020 as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an authorized user on a nuclear pharmacy license issued by the Agency pursuant to this division.

(e) Must provide to the Agency a copy of each individual's certification by the Board of Pharmaceutical Specialties, the Commission or Agreement State license, or the permit issued by a licensee of broad scope, and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to sections (2)(b)(A) and (C) of this rule, the individual to work as an authorized nuclear pharmacist.

(3) A licensee must possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee must have procedures for use of the instrumentation. The licensee must measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive

drugs prior to transfer for commercial distribution. In addition, the licensee must:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this rule relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

NOTE: Although the Agency does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radio pharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Agency for use by persons licensed for medical use pursuant to OAR 333-116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0290

Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use

(1) An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to division 116 of this chapter for use as a calibration or reference source or for the uses listed in OAR 333-116-0400 and 333-116-0420 will be approved if:

(a) The applicant satisfies the general requirements in OAR 333-102-0200.

(b) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(A) The radioactive material contained, its chemical and physical form and amount;

(B) Details of design and construction of the source or device;

(C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(D) For devices containing radioactive material, the radiation profile of a prototype device;

(E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(F) Procedures and standards for calibrating sources and devices;

(G) Legend and methods for labeling sources and devices as to their radioactive content; and

(H) Instructions for handling and storing the source or device from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device. Provided, that instructions that are too lengthy for such a label may be summarized on the label and printed in detail on a brochure that is referenced on the label.

(c) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, date of assay and a statement that the U.S. Nuclear Regulatory Commission has approved distribution of the (name of source or device) to persons licensed to use radioactive material identified in OAR 333-116-0190, 333-116-0400, or 333-116-0420, as appropriate, and to persons who hold an equivalent license issued by an Agreement State or the US Nuclear Regulatory Commission. However, labels worded in accordance with requirements that were in place on March 30, 1987 may be used until March 30, 1989.

(2) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months:

(a) The applicant must include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(b) In determining the acceptable interval for test of leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

(A) Primary containment or source capsule;

(B) Protection of primary containment;

(C) Method of sealing containment;

(D) Containment construction materials;

(E) Form of contained radioactive material;

(F) Maximum temperature withstood during prototype tests;

(G) Maximum pressure withstood during prototype tests;

(H) Maximum quantity of contained radioactive material;

(I) Radiotoxicity of contained radioactive material; and

(J) Operating experience with identical sources or devices similarly designed and constructed sources or devices.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0293

Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications

(1) An application for a specific license to manufacture industrial products or devices containing depleted uranium for use pursuant to OAR 333-102-0103 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of ten percent of the limits specified in OAR 333-120-0100; and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the Agency will approve an application for a specific license under this rule only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The Agency may deny any application for a specific license under this rule if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to section (1) of this rule must:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device; and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

(A) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the quantity of depleted uranium in each product or device; and

(B) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State.

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: Depleted Uranium.

(A) Furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license contained in OAR 333-102-0103; or

(B) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to OAR 333-102-0103 and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom depleted uranium in a product or device is transfered for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device

is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in OAR 333-102-0103.

(d) Report to the Agency all transfers of industrial products or devices to persons for use under the general license in OAR 333-102-0103. Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons granted a general license by OAR 333-102-0103 during the reporting period, the report must so indicate.

(e) Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 40.25 of 10 CFR Part 40.

(A) Report to the responsible state agency all transfers of devices manufactured and distributed pursuant to OAR 333-102-0115 for use under a general license in that state's regulations equivalent to OAR 333-102-0103.

(B) Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of the device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person.

(C) If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information must be reported to the U.S. Nuclear Regulatory Commission.

(f) If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State Agency upon the request of that Agency.

(g) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in OAR 333-102-0101(4) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records must be maintained until inspection by the Agency and must show the date of each transfer, the quantity of depleted uranium in each product or device transferred and compliance with the report requirements of section (9) of this rule.

(h) Licensees required to submit emergency plans by OAR 333-102-0190(9) must follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Agency.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0297
Sealed Source or Device Evaluation

No sealed source or device containing radioactive material may be authorized on a specific license or general license until radiation safety information for that sealed source or device has been evaluated by the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0300
Issuance of Specific Licenses

(1) Upon a determination that an application meets the requirements of the Act and these rules, the Agency will issue a specific license authorizing the proposed activity in such form and containing such conditions and limitations as it deems appropriate or necessary.

(2) The Agency may incorporate in any license at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material subject to this Division as it deems appropriate or necessary in order to:

(a) Minimize danger to public health and safety or property;

(b) Require such reports and the keeping of such records and to provide for such inspections of activities under the license as may be appropriate or necessary; and

(c) Prevent loss of theft of material subject to this Division.

(3) Whenever the Agency denies an application for a new license or a license renewal, the Agency will notify the applicant in writing stating the grounds for denial. Upon denial, the applicant may request a hearing pursuant to OAR 333-102-0345.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0305
Specific Terms and Conditions of License

(1) Each license issued pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter are subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations and orders of the Agency.

(2) No license issued or granted pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter nor any right may be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Agency, after securing full information, shall find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

(3) Each person licensed by the Agency pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter must confine the use and possession of the radioactive material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall carry with it the right to receive, acquire, own, and possess radioactive material. Preparation for shipment and transport of radioactive material must be in accordance with the provisions of division 118 of this chapter.

(4) Each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be deemed to contain the provisions set forth in section 183b.-d., inclusive, of the Atomic Energy Act of 1954, As Amended, whether or not these provisions are expressly set forth in the license.

(5) The Agency may incorporate, in any license issued pursuant to pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material as it deems appropriate or necessary in order to:

(a) Promote the common defense and security;

(b) Protect health or to minimize danger to life or property;

(c) Protect restricted data;

(d) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(6) Licensees required to submit emergency plans by OAR 333-102-0200(10) must follow the emergency plan approved by the Agency. The licensee may change the approved plan without Agency approval only if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Agency and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Agency.

(7) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators must test the generator eluates for molybdenum-99 breakthrough in accordance with OAR 333-116-0330. The licensee must record the results of each test and retain each record for three years after the record is made.

(8)(a) Each general licensee subject to the registration requirement in OAR 333-101-0007 and each specific licensee must notify the Agency in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101 (14)) controlling the licensee or listing the license or licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101 (2)) of the licensee.

(b) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) The date of the filing of the petition.

(9) Sealed sources or detector cells containing licensed material must not be opened or sources removed from source holders or detector cells by the licensee.

(10) No licensee may acquire licensed radioactive material in a sealed source or in a device that contains a sealed source unless the source or device has been registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.

(11) Any sealed source fabricated by a licensee must be registered, inspected, and tested for construction defects, leakage, and contamination prior to any use or transfer as a sealed source in accordance with requirements in 10 CFR 32.210.

(12) Each licensee must conduct a physical inventory at intervals not to exceed six months to account for all radioactive material received and possessed by licensee. Inventories must include the types and quantities of radioactive material, location of materials, date of receipt, and the date of the inventory; and for sealed sources, the inventory must include the types and quantities of sealed sources, sealed source manufacturer, model number, serial number, date of receipt, condition of sealed sources, and the date of the inventory. Records of the inventories required by section (12) of this rule must be kept until inspection by the Agency.

(13) Each licensee must transport radioactive material or deliver radioactive material to a carrier for transport in accordance with the provisions of Parts 170 through 189 of Title 49, Code of Federal Regulations and in accordance with division 118 of this chapter, "Transportation of Radioactive Material."

(14) Each licensee possessing a device licensed pursuant to OAR 333-103-0010(2)(h) must perform an inspection of all devices at intervals not to exceed six months. Inspections must include condition of labeling and posting of each radiation device, and corrective actions taken if any; condition of shutter operation, if applicable, of each device, and corrective actions taken if any; and location of each device. Records of the inspections required by section (14) of this rule must be kept until inspection by the Agency.

(15) No licensee may open or remove radioactive material from sealed sources or detector cells containing licensed radiation sources.

(16) No person may repair, modify, dismantle, or effect any change in licensed devices or radiation sources, nor modify nor alter labels affixed to licensed devices by the manufacturer

(17) Installation, initial radiation survey, relocation, removal from service, maintenance, and repair of fixed gauging devices containing radioactive sealed sources, and installation, replacement, and disposal of sealed sources must be performed only by persons specifically authorized by the Agency, the U.S. Nuclear Regulatory Commission, or another Agreement state to perform such services. Records of all surveys must be maintained for inspection by the Radiation Protection Agency.

(18) If the licensee has previously determined that monitoring for internal exposure pursuant to OAR 333-120-0130, 333-120-0210, or 333-120-0320 is required, the data and results of this evaluation must be placed in the worker's exposure records and included the worker's Oregon Form Z report.

(19) Testing for Leakage or Contamination of Sealed Sources must be in accordance with requirements in OAR 333-120-0460. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, a sealed source or detector cell received from another person must not be put into use until tested.

(20) Detector cells must be used only in conjunction with a properly operating temperature control mechanism that prevents foil temperatures from exceeding manufacturer's specifications. Exhaust from detector cells must be vented to keep exposures to personnel and the public as low as reasonably achievable pursuant to OAR 333-120-0180.

(21) Licensees who possess sealed sources used for testing at field sites must possess at such locations transport documents, a current copy of the specific radioactive materials license, specific license validation certificates, the current leak test certificate, and the licensee's operating and emergency procedures. Licensed materials stored in an unrestricted area must be secured from unauthorized removal from the place of storage in accordance with provisions of OAR 333-120-0250 and 333-120-0260.

(22) Any specific licensee is authorized to receive, possess, use, transfer, and import up to 999 kilograms of uranium contained as shielding for specific licensed radioactive material authorized by license.

(23) A licensee may store, pursuant to OAR 333-120-0500, radioactive waste with a physical half-life of less than 65 days, for decay-in-storage, before disposal in ordinary trash, provided that:

(a) Waste to be disposed of by storage-for-decay must be held for decay a minimum of ten half-lives; and

(b) Prior to disposal in ordinary trash, decayed waste must be surveyed with an instrument that will properly record background radiation dose, to confirm that the radioactivity cannot be distinguished from background. All radiation labels must be removed or obliterated; and

(c) Notwithstanding OAR 333-102-0305(23)(a) iodine-125 waste in microcurie amounts may be held for a minimum of five half-lives. Such waste must be surveyed with an appropriate instrument prior to disposal to confirm that waste is indistinguishable from background.

(24) Licensed materials in an unrestricted area and not in storage must be tended under the constant surveillance and immediate control of the licensee.

(25) Except as otherwise specified in a radioactive materials license, the licensee must have available and follow the instructions contained in the manufacturer's instruction manual for the chromatography device.

(26) In lieu of using the conventional radiation caution colors (magenta or purple on yellow background) as provided in OAR 333-120-0400(2), the licensee is hereby authorized to label detector cells and cell baths, containing licensed radioactive material and used in gas chromatography devices, with conspicuously etched or stamped radiation caution symbols without a color requirement.

(27) If a radiography licensee plans to use, during normal industrial radiographic operations subject to division 105 of this chapter, two or more exposure devices at one jobsite, the licensee must require at least one Radiographer or Radiographer Instructor authorized user for each exposure device, and the total number of authorized personnel (radiographers and assistant radiographers) at the temporary jobsite must not be less than n+1 where n=the number of cameras.

(28) Security requirements for portable devices containing licensed radioactive materials. Each portable device containing licensed radioactive materials must be secured using a minimum of two independent physical controls that form tangible barriers to prevent unauthorized removal or use, whenever the portable device is not under the direct control and constant surveillance of the licensee.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0310

Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

(1)(a) Except as provided in section (1)(b) of this rule, each specific license must expire at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under 333-102-0315 before the expiration date stated in the existing license (or, for those licenses subject to section (1)(b) of this rule, before the deemed expiration date in that section). If an application for renewal has been filed before the expiration date stated in the existing license (or, for those licenses subject to section (2)(a) of this rule, before the deemed expiration date in that section), the existing license expires at the end of the day on which the Agency makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in section (1)(c) of this rule, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(c) The following specific licenses are not subject to, or otherwise affected by, the provisions of section (1)(b) of this rule:

(A) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with OAR 333-102-0190(9);

(B) Specific licenses whose holders are subject to the financial assurance requirements specified in OAR 333-102-0200(6), and on February 15, 1996, the holders either:

(i) Have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or

(ii) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(C) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(D) Specific licenses who need an environmental assessment or environmental impact statement pursuant to Subpart A of Part 51 and OAR 333-102-0200(5);

(E) Specific licenses whose holders have not had at least one Agency inspection of licensed activities before February 15, 1996;

(F) Specific licenses whose holders, as the result of the most recent Agency inspection of licensed activities conducted before February 15, 1996, have been:

(i) Cited for a serious health and safety noncompliance;

(ii) Subject to an Order issued by the Agency; or

(iii) Subject to a Confirmatory Action Letter issued by the Agency.

(G) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under OAR 333-102-0315.

(2) Each specific license revoked by the Agency expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Agency Order.

(3) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material or source material until the Agency notifies the licensee in writing that the license is terminated. During this time, the licensee must:

(a) Limit actions involving material to those related to decommissioning; and

(b) Continue to control entry to restricted areas until they are suitable for release in accordance with Agency requirements.

(4) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in OAR 333-100-0045, each licensee must provide notification to the Agency in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with Agency requirements, or submit within 12 months of notification a decommissioning plan, if required by section (7)(a) of this rule, and begin decommissioning upon approval of that plan if:

(a) The license has expired pursuant to sections (1) or (2) of this rule; or

(b) The licensee has decided to permanently cease principal activities, as defined in OAR 333-102-0203, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements; or

(c) No principal activities under the license have been conducted for a period of 24 months; or

(d) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Agency requirements.

(5) Coincident with the notification required by section (4) of this rule, the licensee must maintain in effect all decommissioning financial assurances established by the licensee pursuant to OAR 333-102-0200(6) in conjunction with a license issuance or renewal or as required by this rule. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to section (7)(d)(E) of this rule.

(a) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan must do so when this rule becomes effective November 24, 1995.

(b) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Agency.

(6) The Agency may grant a request to extend the time periods established in section (4) of this rule if the Agency determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to section (4) of this rule. The schedule for decommissioning set forth in section (4) of this rule may not commence until the Agency has made a determination on the request.

(7)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Agency and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) Procedures could result in significantly greater airborne concentrations of radioactive material or source material than are present during operation; or

(D) Procedures could result in significantly greater releases of radioactive material or source material to the environment than those associated with operation.

(b) The Agency may approve an alternate schedule for submittal of a decommissioning plan required pursuant to section (4) of this rule if the Agency determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in section (7)(a) of this rule with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(A) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(B) A description of planned decommissioning activities;

(C) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(D) A description of the planned final radiation survey; and

(E) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning.

(F) For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan must include a justification for the delay based on the criteria in section (9) of this rule.

(e) The proposed decommissioning plan will be approved by the Agency if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(8)(a) Except as provided in section (9) of this rule, licensees must complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(b) Except as provided in section (9) of this rule, when decommissioning involves the entire site, the licensee must request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

(9) The Agency may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Agency determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the Agency may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(10) As the final step in decommissioning, the licensee must:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E. The licensee must, as appropriate:

(A) Report levels of gamma radiation in units of millisieverts (microroentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters — removable and fixed — for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(11) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Agency determines that:

(a) Radioactive material or source material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(A) A radiation survey has been performed that demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E; or

(B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E.

(d) The licensee has kept records of receipt, transfer, and disposal of radioactive material or source material, pursuant to OAR 333-100-0055 that meet the following criteria:

(A) The licensee must retain each record of receipt of radioactive material or source material as long as the material is possessed and for three years following transfer or disposal of the material.

(B) The licensee who transferred the material must retain each record of transfer for three years after each transfer unless a specific requirement in another part of the rules in this chapter dictates otherwise.

(C) The licensee who disposed of the material must retain each record of disposal of byproduct material until the Agency terminates each license that authorizes disposal of the material.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0315
Application for Renewal of Licenses

(1) Application for renewal of a specific license must be filed in accordance with OAR 333-102-0190.

(2) In any case in which a licensee, not less than 30 days prior to expiration of the existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until final action by the Agency.

(3) Unless otherwise specified, specific licenses shall expire after five years.

(4) The Agency shall require reapplication when the license expires.

(5) The Agency may grant, upon written request from a licensee, extension of the license expiration date up to five years from the original expiration date. Notwithstanding any licensee request, the Agency is not required, and may deny, any license extension, based on review of licensed activities.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0320
Amendment of Licenses at Request of Licensee

Application for amendment of a license must be filed in accordance with OAR 333-102-0190 and must specify the respects in which the licensee desires the license to be amended and the grounds for such amendment.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0325
Agency Action on Applications to Renew and Amend

In considering an application by a licensee to renew or amend the license, the Agency will apply the criteria set forth in OAR 333-102-0200 through 0290, as applicable.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0327
Specifically Licensed Items — Registration of Product Information

(1) Any manufacturer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to the U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards for evaluation of radiation safety information about its product and for its registration.

(2) The request for review must be made in duplicate and sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTE: The U.S. Nuclear Regulatory Commission charges a fee for processing a sealed source or device evaluation request. Contact the U.S. Nuclear Regulatory Commission directly for current fee structure.

(3) The request for review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and, for a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

(4) The U.S. Nuclear Regulatory Commission normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. The U.S. Nuclear Regulatory Commission uses criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property.

(5) After completion of the evaluation, the U.S. Nuclear Regulatory Commission, issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product.

(6) The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with:

(a) The statements and representations, including quality control program, contained in the request; and

(b) The provisions of the registration certificate.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0330
Transfer of Material

(1) No licensee may transfer radioactive material except as authorized pursuant to this rule.

(2) Except as otherwise provided in the license and subject to the provisions of sections (3) and (4) of this rule, any licensee may transfer radioactive material:

(a) To the Agency;

NOTE: A licensee may transfer radioactive material to the Agency only after receiving prior approval in writing from the Agency.

(b) To the U.S. Department of Energy;

(c) To any person exempt from the rules in this division to the extent permitted under such exemption;

(d) To any person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State, or to any person otherwise authorized to receive such material by the Federal Government or any agency thereof, the Agency, an Agreement State or a Licensing State; or

(e) As otherwise authorized by the Agency in writing.

(3) Before transferring radioactive material to a specific licensee of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, or to a general licensee who is required to register with

the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State prior to receipt of the radioactive material, the licensee transferring the material must verify that the transferee's license authorizes the receipt of the type, form and quantity of radioactive material to be transferred.

(4) Any of the following methods for the verification required by section (3) of this rule are acceptable:

(a) The transferor may possess and read a current copy of the transferee's specific license or registration certificate;

(b) The transferor may possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(c) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date; provided, that the oral certification is confirmed in writing within 10 days;

(d) The transferor may obtain other information compiled by a reporting service from official records of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State regarding the identity of licensees and the scope and expiration dates of licenses and registration;

(e) When none of the methods of verification described in sections (4)(a) through (4)(d) of this rule are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Agency, the U.S. Nuclear Regulatory Commission, the licensing agency of an Agreement State or a Licensing State that the transferee is licensed to receive the radioactive material.

(5) Shipment and transport of radioactive material must be in accordance with the provisions of division 118 of this chapter.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0335
Modification, Revocation and Termination of Licenses

(1) The terms and conditions of each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be subject to amendment, revision or modification or by reason of amendments to the Act, or by reason of rules, regulations and orders issued in accordance with the terms of the Act by the Agency.

(2) Any license may be revoked, suspended or modified, in whole or in part, for any material false statement in the application or any statement of fact required under section 182 of the Act, or because of conditions revealed by such application or statement of fact or any report, record or inspection or other means that would warrant the Agency to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of the Act or of any rule, regulation or order of the US Nuclear Regulatory Commission or the Agency.

(3) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license shall be modified, suspended or revoked unless, prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(4) The Agency may terminate a specific license upon request submitted by the licensee to the Agency in writing.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0340
Reciprocal Recognition of Licenses

(1) Subject to these rules, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, an Agreement State, or a licensing state, and issued by the Agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 days in any calendar year, provided that:

(a) The licensing document does not limit the activity authorized by such document to specified installations or locations;

(b) The out-of-state licensee has notified the Agency using the Agency Reciprocity Application form at least three days prior to engaging in such activity and has paid the applicable registration fee pursuant to OAR 333-103-0030. Such notification shall indicate the location, period and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the Agency, obtain permission to proceed sooner. The Agency may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities under the general license granted by section (1)(a) of this rule;

(c) The out-of-state licensee complies with all applicable rules of the Agency and with all the terms and conditions of the licensing document, except any such terms and conditions that may be inconsistent with applicable rules of the Agency or laws of the State of Oregon;

(d) The out-of-state licensee supplies such other information as the Agency may request; and

(e) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in section (1)(a) of this rule except by transfer to a person:

(A) Specifically licensed by the Agency or by the U.S. Nuclear Regulatory Commission to receive such material; or

(B) Exempt from the requirements for a license for such material under OAR 333-102-0010(2).

(2) Notwithstanding the provisions of section (1) of this rule, any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR 31.6 or equivalent regulations of an Agreement State, authorizing the holder of the license to manufacture, transfer, install or service a device described in OAR 333-102-0115(1) within the State of Oregon is hereby granted a general license to install, transfer, demonstrate or service such a device in this state provided that:

(a) Such person shall register the general license pursuant to OAR 333-101-0007;

(b) File a report with the Agency within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the quantity and type of radioactive material contained in the device;

(c) Ensure that the device has been manufactured, labeled, installed and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or an Agreement State;

(d) Ensure that any labels required to be affixed to the device under rules of the licensing authority also include the statement "Removal of this label is prohibited"; and

(e) The holder of the specific license shall furnish to each general licensee to whom such device is transferred, or on whose premises such a device is installed, a copy of the general license contained in OAR 333-102-0115 or in equivalent rules of the Agency having jurisdiction over the manufacture and distribution of the device.

(3) The Agency may withdraw, limit or qualify its acceptance of any specific license or equivalent licensing document issued by the U.S. Nuclear Regulatory Commission or an Agreement State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(4) The out-of-state licensee shall at all times during work at any work location within the state have available the pertinent licensing document, the applicable sections of the State of Oregon radiation regulations, a complete source inventory, pertinent U.S. Department of Transportation documentation, leak test records, instrument calibration records, personnel training records, and necessary documentation required by applicable special requirements of these regulations.

(5) While working in Oregon, the out-of-state licensee shall notify the Agency (in writing, indicating date and court) immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title II (bankruptcy) of the United States code by or against:

(a) The licensee;

(b) An entity (as that term is defined in II U.S.C 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as that term is defined in II U.S.C. 101(2)) of the license.

(6) The out-of-state licensee shall notify the Agency within one hour after arrival at the actual work location within the state and notification within one hour after any change of work location within the state.

(7) If multiple work crews or persons work concurrently at more than one work location under a general license granted pursuant to this rule, each day worked at each location shall count toward the limit of 180 days in a calendar year.

(8) The Agency may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by the U. S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(9) Each general licensee granted authorization to conduct activities within the State of Oregon pursuant to this rule, based upon an acceptable licensing document, will receive acknowledgment from the Agency. This acknowledgment shall be kept at the site of use.

(10) Each general licensee granted authorization to conduct activities within the state of Oregon pursuant to this rule based upon an acceptable licensing document is subject to the reciprocity fee and may be inspected by the Agency. The fee for the general license granting reciprocity shall:

(a) Be charged as provided by division 103 of this chapter; and

(b) Shall not be charged more often than once during each calendar year.

(11) Each general licensee operating within the state under reciprocity in areas of exclusive federal jurisdiction shall comply with the applicable provisions of 10 CFR 150.20.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0345
Special Procedures in Regulatory Review

(1) The provisions of ORS 183 governing contested cases are applicable in any case where the Agency proposes to refuse to issue, renew, modify, amend, revise, revoke or suspend a general or specific license or to find noncompliance with or to refuse to grant exemption from a regulation of the Agency.

(2) In any case where the Agency proposes to grant, issue, renew, modify, amend or revise a general or specific license, or to find compliance or to grant exemption from a regulation of the Agency and the Public Health Division Administrator determines that such action would first merit public notice and opportunity for hearing, the following procedures shall be applicable:

(a) Notice of the proposed action shall be published in the Secretary of State's bulletin or a newspaper of general circulation in the state, which notice shall provide that within 15 days of the day of publication of the notice, any person whose interest may be affected by the outcome of the proceeding, or who represents a public interest in the results of the proceeding, may file a petition to be made a party and given an opportunity for hearing in the matter. The notice of proposed action shall set forth:

(A) The nature of the action proposed;

(B) The manner in which and the location at which inspection may be made of the Agency records pertaining to the proposed action; and

(C) A reference of the Agency's rules governing institution and conduct of hearings in radiation control proceedings.

(b) If no request for hearing is filed within the time prescribed in the notice, the proposed action shall be taken;

(c) If a hearing is requested, the person requesting to participate as a party must file a petition requesting party status and opportunity for hearing, setting forth the same information required of a person requesting party status in a contested case when the Agency has given notice that it intends to hold a contested case hearing pursuant to OAR 137-003-0005(6). The same procedures for determining party status under OAR 137-003-0005 shall be followed upon receipt of the petition;

(d) If the Agency allows party status, it shall in the same order set the time for a contested case hearing and provide notice of the order to the petitioner and all parties;

(e) A contested case shall proceed in accordance with the provisions of ORS 183 governing contested cases.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0350
Reporting Requirements

(1) Immediate report. Each licensee must notify the Agency as soon as possible but not later than four hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(2) Twenty-four hour report. Each licensee must notify the Agency within 24 hours after the discovery of any of the following events involving licensed material:

(a) An unplanned contamination event that:

(A) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(B) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001-20.2401 of 10 CFR part 20 for the material; and

(C) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(b) An event in which equipment is disabled or fails to function as designed when:

(A) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(B) The equipment is required to be available and operable when it is disabled or fails to function; and

(C) No redundant equipment is available and operable to perform the required safety function.

(c) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(d) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(A) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001-20.2401 of 10 CFR part 20 for the material; and

(B) The damage affects the integrity of the licensed material or its container.

(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of this rule must be made as follows:

(a) Licensees must make reports required by sections (1) and (2) of this rule by telephone to the Agency. To the extent that the information is available at the time of notification, the information provided in these reports must include:

NOTE: The 24-hour telephone number for the Agency is 971-673-0515.

(A) The caller's name and call back telephone number;

(B) A description of the event, including date and time;

(C) The exact location of the event;

(D) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(E) Any personnel radiation exposure data available.

(b) Written report. Each licensee who makes a report required by sections (1) or (2) of this rule must submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be Faxed or sent to the Agency with Attention to Manager, Radiation Protection Services, Office of Environmental Public Health, 800 NE Oregon Street, Suite 640, Portland, OR 97232. The reports must include the following:

(A) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(B) The exact location of the event;

(C) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(D) Date and time of the event;

(E) Corrective actions taken or planned and the results of any evaluations or assessments; and

(F) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(4) The provisions of this rule apply to licensees subject to the notification requirements in OAR 333-102-0200(5).

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0355
Records

(1) Each person who receives radioactive material pursuant to a license issued in accordance with the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter must keep records showing the receipt, transfer, and disposal of the radioactive material as follows:

(a) The licensee must retain each record of receipt of radioactive material as long as the material is possessed and for three years following transfer or disposal of the material.

(b) The licensee who transferred the material must retain each record of transfer for three years after each transfer unless a specific requirement in another division of the rules in this chapter dictates otherwise.

(c) The licensee who disposed of the material must retain each record of disposal of radioactive material until the Agency terminates each license that authorizes disposal of the material.

(2) The licensee must retain each record that is required by the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter or by license condition for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified by rule or license condition, the record must be retained until the Agency terminates each license that authorizes the activity that is subject to the record-keeping requirement.

(3)(a) Records that must be maintained pursuant to this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Agency rules. The record also may be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, or specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

(b) If there is a conflict between the Agency's rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter, license condition, or other written Agency approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter for such records must apply unless the Agency, pursuant to OAR 333-102-0003, has granted a specific exemption from the record retention requirements specified in the rules in this division or divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(4) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, must forward the following records to the Agency office:

(a) Records of disposals of licensed material made prior to January 28, 1981; and

(b) Records required by OAR 333-120-0620(2)(d).

NOTE: Prior to Oregon Department of Energy's Energy Facility Siting Council rules for burial of small quantities of licensed materials in soil was permitted without specific Agency authorization.

(5) If licensed activities are transferred or assigned in accordance with OAR 333-102-0305(2), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, must transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal of licensed material made under OAR 333-120-0510 (including burials authorized before January 28, 1981), 333-120-0520, 333-120-0530, 333-120-0540; and

(b) Records required by 333-120-0620(2)(d).

(6) Prior to license termination, each licensee must forward the records required by OAR 333-102-0200(6) to the Agency office.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0360
Right to Cause the Withholding or Recall of Byproduct Material

The Agency may cause the withholding or recall of byproduct material from any licensee who is not equipped to observe or fails to observe such safety standards to protect health as may be established by the Agency, or who uses such materials in violation of law or regulation of the Agency, or in a manner other than as disclosed in the application therefore or approved by the Agency.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0365
Third Party Method

If the applicant consents, the Agency may enter into third party agreements for the applicant to engage and pay for the services of a third party contractor to prepare an environmental impact analysis required by OAR 333-102-0190 and/or to furnish an opinion of independent experts, satisfactory to the Agency, in respect to the completeness and adequacy of any information or data furnished by the applicant and on any aspect of the applicant's project or effects thereof.

(1) When the license applicant pays for a third party agreement, the monies paid for the consultant must not be considered as specific license fees, pursuant to OAR 333-103-0010 of this chapter.

(2) In proceeding under the third party agreement, the Agency shall carry out the following practices:

(a) Such contractor shall be chosen solely by the Agency.

(b) The Agency shall manage the contract.

(c) The consultant must be selected based on the consultant's ability and relevant and applicable work experience and an absence of conflict of interest. Third party contractors shall be required to execute a disclosure statement showing that they have no financial or other conflicting interest in the outcome of the project.

(d) The Agency shall specify the information to be developed and supervise the gathering, analysis and presentation of the information. The Agency shall have sole authority for approval and modification of the statement, analysis, and conclusions included in third party's report.

(e) The Agency has the single right of refusal of the final application and the Agency is not obligated to approve the application or issue a license.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0900
Special Requirements for Specific Licenses of Broad Scope

This rule prescribes requirements for the issuance of specific licenses of broad scope for radioactive material and certain rules governing holders of such licenses.

(1) The different types of broad scope licenses are set forth below:

(a) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the multicurie range;

(b) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in 10 CFR, Part 30.100, Schedule A, for any authorized purpose. The possession limit for a Type B license of broad scope, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in 10 CFR, Part 30.100, Schedule A, Column I. If two or more radionuclides are possessed thereunder, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in 10 CFR, Part 30.100, Schedule A Column I, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license must not exceed unity;

(c) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in 10 CFR, Part 30.100, Schedule A, for any authorized purpose. The possession limit for a Type C license of broad scope, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in 10 CFR, Part 30.100, Schedule A, Column II. If two or more radionuclides are possessed thereunder, the possession limit is determined for each as follows: For each

radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in 10 CFR, Part 30.100, Schedule A, Column II, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license must not exceed unity.

(2) An application for a Type A specific license of broad scope will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(c) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting and management review that are necessary to assure safe operations, including:

(A) The establishment of a radiation safety committee composed of such persons as a radiation safety officer, a representative of management and persons trained and experienced in the safe use of radioactive material;

(B) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(C) The establishment of appropriate administrative procedures to assure:

(i) Control of procurement and use of radioactive material;

(ii) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user and the operating or handling procedures; and

(iii) Review, approval and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with section (2)(c)(C)(ii) of this rule prior to use of the radioactive material.

(3) An application for a Type B specific license of broad scope will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200; and

(b) The applicant has established administrative controls and provisions relating to organization and management, procedures, record keeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(A) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(B) The establishment of appropriate administrative procedures to assure:

(i) Control of procurement and use of radioactive material;

(ii) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user and the operating or handling procedures; and

(iii) Review, approval and recording by the radiation safety officer of safety evaluations of proposed uses prepared in accordance with section (3)(b)(B)(ii) of this rule prior to use of the radioactive material.

(4) An applicant for a Type C specific license of broad scope will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:

(A) A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

(B) At least 40 hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used.

(c) The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, record keeping, material control and accounting, and management review necessary to assure safe operations.

(5) Specific licenses of broad scope are subject to the following conditions:

(a) Unless specifically authorized, persons licensed pursuant to this rule must not:

(A) Conduct tracer studies in the environment involving direct release of radioactive material;

(B) Receive, acquire, own, possess, use or transfer devices containing 100,000 curies (3.7 PBq) or more of radioactive material in sealed sources used for irradiation of materials;

(C) Conduct activities for which a specific license issued by the Agency under OAR 333-102-0235, 333-102-0245, 333-102-0250, 333-102-0255, 333-102-0260, 333-102-0265, 333-102-0270, 333-102-0275, 333-102-0285, 333-102-0290, 333-102-0293, 333-105, 333-110, 333-113, 333-115, 333-116, or 333-117 is required; or

(D) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion or inhalation by, or application to, a human being.

(b) Each Type A specific license of broad scope issued under this division shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee;

(c) Each Type B specific license of broad scope issued under this division shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer;

(d) Each Type C specific license of broad scope issued under this division shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of section (4) of this rule.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-102-0910

Specific Terms and Conditions for Broad Licenses

(1) No licensee may use radioactive material in or on human beings or in field applications where radioactive material is released except as specifically authorized by license.

(2) Experimental animals administered radioactive materials or their products must not be used for human consumption.

(3) Licensees must conduct a physical inventory every six months to account for all radioactive material received and possessed under the license. The records of the inventories must be maintained until inspection by the Radiation Protection Agency, and must include the quantities and kinds of radioactive material, location of sealed sources and the date of the inventory.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0001

Purpose and Scope

(1) The rules in this division establish fees for sources of radiation and provide for their payment. Sources of radiation, as defined in OAR 333-100-0005, include, but are not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material in sealed and unsealed form (normal form and special form), and radioactive material uses.

(2) Except as otherwise specifically provided, the rules in this division apply as follows:

(a) Radiation producing machines, radiation facility registration, radiation machine vendors and/or services, accredited hospital radiology inspectors, and non-ionizing sources of radiation are subject to OAR chapter 333, divisions 101, 105, 106, 108, 109, 112, 115, 119, or 122;

(b) Radioactive materials pursuant to OAR chapter 333 divisions 102, 105, 110, 113, 115, 116, 117, or 121;

(c) General licenses and registrations pursuant to divisions 101 and 102 of this chapter;

(d) Microwave Oven Service Licensees;

(e) Radiological Analyses; and

(f) Tanning Device Registrations.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; DOA 13-2006, f.& cert. ef. 6-21-06; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0003

Definitions

As used in this division, the following definitions apply:

(1) "License" ("Acknowledgment of Validation," "Validation Certificate": "Certificate of Validation" means the document issued that validates receipt of payment for a specific license or registration fee.

(2) "Registration Fee" means:

(a) The fee paid to the Agency for a license for Radiation Producing Machines; or

(b) The fee paid to the Agency to validate a general license registration issued pursuant to OAR 333-102-0101, 333-102-0103, 333-102-0115, 333-102-0130, or 333-102-0340

(3) "Specific License Fee" means:

(a) The annual fee payable July 1 of each year, to validate specific licenses for sources of radiation; or

(b) The fee paid upon application to the Agency for a Oregon Radioactive Materials License to license specific licensed sources of radiation pursuant to OAR 333-103-0010; or

(c) The fee paid to license additional sources of radiation pursuant to OAR 333-103-0010.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0005
Biennial Fee for Radiation Machines

(1) For the purpose of this division, a radiation machine is defined under OAR 333-100-0005.

(2) Each radiation machine shall be validated biennially by a radiation machine fee in the following amounts:

(a) Hospital, radiologist, chiropractic, osteopathic or medical x-ray machine, $173;

(b) Hospital x-ray machine when x -ray machine inspection is performed by an accredited hospital radiology inspector rather than an Agency inspector, $88;

(c) Industrial or podiatry x-ray machine, $115;

(d) Dental, academic or veterinary x-ray machine, $87.

(3) The radiation machine fee shall be due and payable for each radiation machine on or before July 1 of each biennium.

(4) A certificate of validation or acknowledgment of validation for the current biennium must be posted on or near the radiation machine by the registrant.

(5) In any case in which a registrant has submitted the proper fee prior to the expiration of a validation certificate, such existing validation certificate shall not expire until the issuance of a new validation certificate for the current biennium.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0010
Annual Fee for Specific Licenses

(1)(a) Each specific license listed in section (2) of this rule, as defined in OAR 333-102-0203, shall be licensed pursuant to sections (2), (3), (4), (5), and (6) of this rule by a specific license fee.

(b) Upon written request and approval by the Agency, fees for new licenses or additional sources may be prorated on a quarterly basis for the current fiscal year.

(2) Each specific license type appearing in the following fee schedule shall be licensed separately with a specific license fee as indicated:

(a) Analytical/Leak Test/Fixed X-Ray Fluorescence, $458(F);
(b) Basic License, $812(F);
(c) Brachytherapy, $1,836(F);
(d) Broad Scope A, $3,000(F);
(e) Broad Scope B, $1,836(F);
(f) Broad Scope C, $916(F);
(g) Distribution, $916 (F);
(h) Fixed Gauge, $228(S);
(i) High, medium and low doserate brachytherapy, $2,296(S);
(j) Imaging and Localization, $916(F);
(k) In Vitro Laboratory, $304(F);
(l) Industrial Radiography:
(A) Fixed Facility, $3,000(F);
(B) Field Use, $3,000(F);
(m) Instrument Calibration, $688(S);
(n) Investigational New Drug, $1,376(F);
(o) Irradiator Self-Shielded, $916 (S);
(p) Manufacturing/Compounding, $2,448(F);
(q) Mobile Nuclear Medicine, $2,448(F);
(r) NORM (no processing), $612(F);
(s) Nuclear Pharmacy, $3,000(F);
(t) Other Measuring Device, $132(S);
(u) Portable Gauge:
(A) X-Ray Fluorescence, $458(S);
(B) All other portable gauges, $612(S);
(v) Radiopharmaceutical Therapy, $1,376(F);
(w) RAM/NOS Facility, $3,000(F);
(x) Research & Development, $1,376(F);
(y) Sealed Sources for Diagnosis, $458(S);
(z) Source Material, $3,000(F);
(aa) Special Nuclear Material (sealed), $916(S);
(bb) Special Nuclear Material (unsealed), $2,296(F);
(cc) Teletherapy (external beam), $3,000(S);
(dd) Unique, $No Fee;
(ee) Uptake and Dilution, $612(F);
(ff) Use of Xenon Gas, $612(F);
(gg) Waste Packaging, $3,000(F);
(hh) Well Logging, $1,376(S).

(NOTE: (F) means facility; (S) means source.)

(3) Each specific license validation fee shall be due and payable:

(a) On or before July 1 of each year;

(b) For each specific license source of radiation listed in section (2) of this rule for which application pursuant to OAR 333-102-0190 for an Oregon Radioactive Materials License has been made;

(c) For each additional specific license source of radiation in an amendment to an existing Oregon Radioactive Materials License pursuant to OAR 333-102-0320.

(4) A license for each specific license issued pursuant to section (3) of this rule for the then or current fiscal year shall be provided by the Agency. The certificate of validation for the then or current fiscal year shall be retained by the licensee and attached to the license pursuant to requirements in OAR 333-111-0005.

(5) The specific license fee that validates specific sealed sources also validates possession of one additional sealed source during source exchange (one new source and one spent source) for a period not to exceed ten working days.

(6) Sealed sources manufactured and distributed as reference sources that do not exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 are exempt from specific license fees and validation if used pursuant to a specific license listed in section (2) of this rule. The license validation fee for reference sources that exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 or reference sources authorized alone without additional licensed radioactive material shall be $916, pursuant to subsection (2)(b) of this rule.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0015
Annual Registration Fee for General Licenses and Devices

(1) Any general license granted by the Agency must be validated annually by the general license registration fee listed in section (2) of this rule, unless otherwise exempted by subsection (2)(e) of this rule. Validation must be confirmed by verifying, correcting, and/or adding to the information provided in a request for registration received from the Agency. General License registration fees as defined in OAR 333-103-0003 shall:

(a) Validate each general licensed source of radiation due July 1 of each year for sources of radiation; and

(b) Validate each new application to register general license material pursuant to OAR 333-101-0007; and

(c) Registration

(2) The general licenses appearing in the following fee schedule shall be registered on the appropriate Agency form and shall be validated annually by a general license registration fee:

(a) Each healing arts facility that uses radioactive material for In Vitro laboratory or clinical testing authorized by OAR 333-102-0130, $132;

(b) Each radiation source in a generally licensed measuring, gauging or controlling device authorized pursuant to OAR 333-102-0115(1), $132;

(c) For radioactive material contained in devices designed and manufactured for the purpose of producing light, except Tritium exit signs, or an ionized atmosphere that exceed the limits in 333-102-0105, $132 per

device for the first six devices after which a Basic Specific License is required.

(d) Each general licensee possessing or using depleted uranium for the purpose of providing a concentrated mass in a small volume of the product or device pursuant to OAR 333-102-0103, $132;

(e) Each General Licensee possessing or using source material for research, development, educational, commercial or operational purposed pursuant to OAR 333-102-0101, $200;

(f) General licenses not specifically identified in sections 2(a), 2(b), 2(c) and 2(d) of this rule are exempt from the payment of an annual general license registration fee.

(g) Each out-of-state or NRC specific licensee granted a general license pursuant to OAR 333-102-0340 to conduct activities within the state of Oregon for a period not to exceed 180 days in a calendar year must pay a registration validation fee as required by OAR 333-103-0030(6).

(h) State and local government agencies are required to register each generally licensed device but are exempt from the fees required in this section.

(3) Notwithstanding subsection (2)(g) of this rule, the general license fee shall be due and payable on or before July 1 of each year.

(4) A certificate of validation for the then current fiscal year shall be provided by the Agency. The certificate for the then current fiscal year must be retained by the licensee and attached to the general license.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0020
Biennial Fee for Microwave Oven Service Licensees

(1) Each specific license issued by the Agency for microwave oven service shall be subject to a biennial $87 specific license fee.

(2) The specific license fee shall be due and payable on or before July 1 of each biennium.

(3) A certificate of validation or acknowledgement of validation for the then current fiscal year shall be provided by the Agency. The current certificate of validation must be retained by the licensee.

(4) Unless validated by the annual fee, each specific license shall be deemed to expire on June 30 of each year.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 15-1994, f. & cert. ef. 6-5-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0025
Annual Fee for Tanning Devices

(1) Each tanning device must be validated annually by a tanning device fee of $76.

(2) The tanning device fee shall be due and payable for each tanning device on or before January 1 of each year.

(3) A certificate of validation or acknowledgment of validation for the then current fiscal year must be posted on or near the tanning device, by the registrant.

(4) In any case in which a registrant has submitted the proper fee prior to the expiration of a validation certificate, such existing validation certificate shall not expire until the issuance of a new validation certificate for the then current fiscal year.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 13-1993, f. & cert. ef. 9-27-93; HD 15-1994, f. & cert. ef. 5-6-94; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0030
Reciprocal Recognition Fee

(1) Any radiation machine or radioactive material source brought into the state for use under reciprocity must pay a fee equal to 100 percent of the appropriate license or registration validation fee, listed in OAR 333-103-0005 or 333-103-0010, not to exceed $3,000 in a year.

(2) Reciprocal fees shall be due and payable prior to entry into the state.

(3) An acknowledgment of fee payment, such as a certificate of validation, will be provided by the Agency. The acknowledgment of fee payment must be retained by the licensee or registrant and attached to the license or registration.

(4) Reciprocal fees shall not be transferred or refunded.

(5) Reciprocal fees shall expire 12 months from the issue date.

(6) Any use of radioactive material in Oregon pursuant to OAR 333-102-0340 exceeding 30 consecutive days or 180 calendar days shall require an application for an Oregon specific radioactive materials license pursuant to OAR 333-102-190.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0035
Fees For Radiological Analyses

(1) An individual, agency, or company that requests that the Agency Radiation Laboratory perform radiological analyses on samples must pay a fee to the Agency in accordance with the schedule in section (2) of this rule. The responsible individual submitting the sample(s) must first obtain a request form from the Agency. This form contains the fee schedule and the types of radiological analyses offered. That individual must then submit the completed form along with the sample and the appropriate fee to the Agency. The Agency will send the results by return mail in accordance with the estimated time as per section (3) of this rule.

(2) Fee Schedule: Water — Solid:

(a) Gamma Isotopic — $206 — $236;

(b) Low-level Iodine-131 — $212;

(c) Tritium (H-3) — $92.

(3) The analyses results will be available in approximately five working days for Gamma Isotopic analyses. All other types of radiological analyses results will be available in approximately 15 working days.

NOTE: If the Agency cannot complete the analyses according to the schedule in section (3) of this rule, the Agency will notify the customer as soon as possible.

(4) A $100 surcharge shall be added to the fee for a one-day completion schedule for a Gamma Isotopic analysis. .

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-103-0050
Fees for Accredited Hospital Radiology Inspectors

(1) Each accreditation for a radiology inspector shall be subject to an accreditation fee of $200.

(2) Each accreditation issued by the Agency for a radiology inspector shall be subject to a biennial renewal fee of $200.

(3) Each accreditation shall expire in the second year on the last day of the month of issuance unless renewed.

Stat. Auth.: ORS 453.757
Stats. Implemented: ORS 453.757
Hist.: HD 3-1996, f. & cert. ef. 8-9-96; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0001
Purpose

This division prescribes requirements for the industrial use of sources of radiation and radiation safety requirements for persons using these sources of radiation in industrial radiography.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0003
Scope

The provisions and requirements of this division are in addition to, and not in substitution for, other requirements of these rules. In particular, the general requirements of divisions 100, 102, 111, 118, and 120 of this chapter apply to applicants and licensees, subject to this division. Divisions 102 and 118 of these rules apply to licensing and transportation of radioactive material, respectively. This rule does not apply to medical uses addressed in division 116.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0005
Definitions

As used in this division, the following definitions apply:

(1) “Annual refresher safety training” means a review conducted or provided by the licensee for its employees on radiation safety aspects of

industrial radiography. The review must include, as a minimum, a review of radiation safety aspects of industrial radiography, any results of internal audits, Agency inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed. The review must also provide opportunities for employees to ask safety questions.

(2) "ANSI" means the American National Standards Institute.

(3) "Associated equipment" means equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures that drives, guides, or comes in contact with the source, (e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube and collimator when it is used as an exposure head.

(4) "Camera" see "Radiographic exposure device".

(5) "Certifying entity" means an independent certifying organization meeting the requirements in Appendix A of division 105 or an Agreement State regulatory program meeting the requirements in **Appendix A**, Sections II and III.

(6) "Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size, shape, and direction of the radiation beam when the sealed source is cranked into position to make a radiographic exposure.

(7) "Control drive cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

(8) "Control drive mechanism" means a device that enables the source assembly to be moved into and out of the exposure device.

(9) "Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

(10) "Drive cable" see "Control cable".

(11) "Exposure head" means a device that locates the gamma radiography sealed source in the selected working position. An exposure head also is known as a source stop or end cap.

(12) "Field station" means a facility from which sources of radiation may be stored or used and from which equipment is dispatched.

(13) "Guide tube" (projection sheath) means a flexible or rigid tube, or "J" tube, for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

(14) "Hands-on experience" means experience in all of those areas considered to be directly involved in the radiography process, and includes taking radiographs, calibration of survey instruments, operational and performance testing of survey instruments and devices, film development, posting of radiation areas, preparing radiographic sources for transport, set-up of radiography equipment, posting of records and radiation area surveillance, etc., as applicable. In addition the Radiation Safety Officer experience must include source exchange and source retrieval. Excessive time spent in only one or two of these areas, such as film development or radiation area surveillance, should not be counted toward the 2000 hours of hands-on experience required for a radiation safety officer in 333-105-0520 or the hands-on experience for a radiographer as required by 333-105-0530.

(15) "Independent certifying organization" means an independent organization that meets all of the criteria of Appendix A of this part.

(16) "Industrial radiography" means a nondestructive examination of the structure of materials using ionizing radiation to make radiographic images.

(17) "Lay-barge radiography" means industrial radiography performed on any water vessel used for laying pipe.

(18) "Lixiscope" means a portable light-intensified imaging device using a sealed source.

(19) "Offshore platform radiography" means industrial radiography conducted from a platform over a body of water.

(20) "Permanent radiographic installation" means an enclosed shielded room, cell, or vault, not located at a temporary jobsite, in which radiography is performed.

(21) "Personal supervision" means supervision in which the radiographer is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the radiographer's assistant and in such proximity that immediate assistance can be given if required.

(22) "Pigtail" see "Source assembly".

(23) "Pill" see "Sealed source".

(24) "Practical examination" means a demonstration through application of the safety rules and principles in industrial radiography including use of all procedures and equipment to be used by radiographic personnel.

(25) "Projection sheath" see "Guide tube".

(26) "Projector" see "Radiographic exposure device".

(27) "Radiation safety officer for industrial radiography" means an individual with the responsibility for the overall radiation safety program on behalf of the licensee and who meets the requirements of 333-105-0520.

(28) "Radiographer" means any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee for assuring compliance with the requirements of these rules and the conditions of the license or registration.

(29) "Radiographer certification" means written approval received from a certifying entity stating that an individual has satisfactorily met the radiation safety, testing, and experience criteria in 333-105-0530.

(30) "Radiographer's assistant" means any individual who, under the direct supervision of a radiographer, uses radiographic exposure devices, sources of radiation, related handling tools or radiation survey instruments in industrial radiography.

(31) "Radiographer instructor" means any radiographer who has been authorized by the Agency to provide on-the-job training to radiographer trainees in accordance with OAR 333-105-0530(3).

(32) "Radiographer trainee" means any individual who, under the direct supervision of a radiographer instructor, uses sources of radiation, related handling tools or radiation survey instruments during the course of his instruction.

(33) "Radiographic exposure device" (also called a camera or a projector) means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure.

(34) "Radiographic operations" means all activities performed with a radiographic exposure device. Activities include using, transporting (except when being transported by common or contract carriers), storing at a temporary job site, performing surveys to confirm the adequacy of boundaries, setting up equipment, and any activity inside restricted area boundaries. Transporting a radiation machine is not considered a radiographic operation.

(35) "Radiographic personnel" means any radiographer, radiographer's assistant, radiographer instructor or radiographer trainee.

(36) "Radiography" see "Industrial radiography".

(37) "Residential location" means any area where structures in which people lodge or live are located and the grounds on which such structures are located including, but not limited to, houses, apartments, condominiums and garages.

(38) "S-tube" means a tube through which the radioactive source travels when inside a radiographic exposure device.

(39) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(40) "Shielded position" means the location within the radiographic exposure device, source changer, or storage container that, by manufacturer's design, is the proper location for storage of the sealed source.

(41) "Source assembly" means an assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

(42) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices. They also may be used for transporting and storing sealed sources.

(43) "Storage area" means any location, facility or vehicle that is used to store and secure a radiographic exposure device, a radiation machine, or a storage container when it is not used for radiographic operations. Storage areas are locked or have a physical barrier to prevent accidental exposure, tampering with or unauthorized removal of the device, container, source, or machine.

(44) "Storage container" means a device in which sealed sources are secured and stored.

(45) "Temporary jobsite" means any location where radiographic operations are performed and where sources of radiation may be stored other than those location(s) of use authorized on the license or registration.

(46) "Transport container" means a package that is designed to provide radiation safety and security when sealed sources are transported and which meets all applicable requirements of the U.S. Department of Transportation.

(47) "Underwater radiography" means radiographic operations performed when the radiographic exposure device or radiation machine and/or related equipment are beneath the surface of the water.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0050
Exemptions

Industrial uses of lixiscopes are exempt from the requirements of this division if the dose rate 18 inches from the source of radiation to any individual does not exceed two millirem per hour. Devices that exceed this limit must meet the applicable requirements of this division and the licensing or registration requirements of division 101 or division 102 of these rules, as applicable.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0075
Licensing and Registration Requirements for Industrial Radiography Operations

The Agency will approve an application for a specific license for the use of licensed material if the applicant meets the following requirements:

(1) The applicant satisfies the general requirements specified in 333-102-0200 for radioactive material and any special requirements contained in this division;

(2) The applicant submits an adequate program for training radiographers and radiographer's assistants that meets the requirements of 333-105-0530:

(a) After July 1, 2003, the applicant need not describe the initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(b) From December 1, 2002 to July 1, 2003, the applicant may affirm that all individuals acting as industrial radiographers will be certified in radiation safety by a certifying entity before commencing duty as radiographers. This affirmation substitutes for a description of its initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(3) The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals acting as radiographers remains valid;

(4) The applicant submits written operating and emergency procedures as described in 333-105-0540;

(5) The applicant submits a description of a program for inspections of the job performance of each radiographer and radiographer's assistant at intervals not to exceed 6 months as described in 333-105-0530(5);

(6) The applicant submits a description of the applicant's overall organizational structure as it applies to the radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility;

(7) The applicant submits the qualifications of the individual(s) designated as the radiation safety officer as described in 333-105-0520(1);

(8) If an applicant intends to perform leak testing of sealed sources or exposure devices containing depleted uranium (DU) shielding, the applicant must describe the procedures for performing the test. The description must include the:

(a) Methods of collecting the samples;

(b) Qualifications of the individual who analyzes the samples;

(c) Instruments to be used; and

(d) Methods of analyzing the samples.

(9) If the applicant intends to perform calibrations of survey instruments and alarming ratemeters, the applicant must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in 333-105-0450 and 333-105-0560(7)(d);

(10) The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations;

(11) The applicant identifies the location(s) where all records required by this and other divisions of these rules will be maintained;

(12) If a license application includes underwater radiography, a description of:

(a) Radiation safety procedures and radiographer responsibilities unique to the performance of underwater radiography;

(b) Radiographic equipment and radiation safety equipment unique to underwater radiography; and

(c) Methods for gas-tight encapsulation of equipment; and

(13) If an application includes offshore platform and/or lay-barge radiography, a description of:

(a) Transport procedures for radioactive material to be used in industrial radiographic operations;

(b) Storage facilities for radioactive material; and

(c) Methods for restricting access to radiation areas.

(14) A license will be issued if sections (1) through (13) of this rule, as applicable, are met.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0420
Performance Requirements for Industrial Radiography Equipment

Equipment used in industrial radiographic operations must meet the following minimum criteria:

(1) Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standard Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981);

(2) In addition to the requirements specified in section (1) of this rule, the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources;

(a) The licensee must ensure that each radiographic exposure device has attached to it a durable, legible, clearly visible label bearing the:

(A) Chemical symbol and mass number of the radionuclide in the device;

(B) Activity and the date on which this activity was last measured;

(C) Model or product code and serial number of the sealed source;

(D) Name of the manufacturer of the sealed source; and

(E) Licensee's name, address, and telephone number.

(b) Radiographic exposure devices intended for use as Type B packages must meet the applicable transportation requirements of division 118 of these rules.

(c) Modification of radiographic exposure devices, source changers, and source assemblies and associated equipment is prohibited, unless approved by the Agency or other approval body.

(3) In addition to the requirements specified in sections (1) and (2) of this rule, the following requirements apply to radiographic exposure devices, source assemblies, and associated equipment that allow the source to be moved out of the device for radiographic operations or to source changers;

(a) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it cannot be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. This securing system may only be released by means of a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand or other foreign matter.

(d) Each sealed source or source assembly must have attached to it or engraved on it, a durable, legible, visible label with the words:

"DANGER --RADIOACTIVE."

The label may not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube must be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use.

(f) Guide tubes must be used when moving the source out of the device.

(g) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube must be attached to

the outermost end of the guide tube during industrial radiography operations.

(h) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432-1980.

(i) Source changers must provide a system for ensuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(4) All radiographic exposure devices and associated equipment in use after January 10, 1996, must comply with the requirements of this section; and

(5) As an exception to section (1) of this rule, equipment used in industrial radiographic operations need not comply with 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can reasonably exert on the lever or crankshaft of the drive mechanism.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0430
Limits on External Radiation Levels From Storage Containers and Source Changers

The maximum exposure rate limits for storage containers and source changers are two millisieverts (200 mrem) per hour at any exterior surface, and 0.1 millisieverts (10 mrem) per hour at one meter from any exterior surface with the sealed source in the shielded position.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0440
Locking of Sources of Radiation, Storage Containers and Source Changers

(1) Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its container must be kept locked (If a keyed lock, the key must be removed at all times) when not under the direct surveillance of a radiographer or a radiographer's assistant except at permanent radiographic installations as stated in 333-105-0580. In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

(2) Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked (If a keyed lock, the key must be removed at all times) when containing sealed sources except when under the direct surveillance of a radiographer or a radiographer's assistant.

(3) The control panel of each radiation machine must be equipped with a lock that will prevent the unauthorized use of an x-ray system or the accidental production of radiation. The radiation machine must be kept locked and the key removed at all times except when under the direct visual surveillance of a radiographer or a radiographer's assistant.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0450
Radiation Survey Instruments

(1) The licensee must keep sufficient calibrated and operable radiation survey instruments at each location where sources of radiation are present to make the radiation surveys required by this division and by division 120 of these rules. Instrumentation required by this section must be capable of measuring a range from 0.02 millisieverts (2 mrem) per hour through 0.01 sievert (1 rem) per hour.

(2) The licensee must have each radiation survey instrument required under section (1) of this rule calibrated:

(a) At energies appropriate for use and at intervals not to exceed six months or after instrument servicing, except for battery changes;

(b) For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at three points between 0.02 and ten millisieverts (2 and 1000 mrem) per hour; and

(c) So that an accuracy within plus or minus 20 percent of the true radiation dose rate can be demonstrated at each point checked.

(3) The licensee must maintain records of the results of the instrument calibrations in accordance with 333-105-0620.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0460
Leak Testing and Replacement of Sealed Sources

(1) The replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source must be performed by persons authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(2) The opening, repair, or modification of any sealed source must be performed by persons specifically authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(3) Testing and recordkeeping requirements.

(a) Each licensee who uses a sealed source must have the source tested for leakage at intervals not to exceed six months. The leak testing of the source must be performed using a method approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State. The wipe sample should be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis.

(b) The licensee must maintain records of the leak tests in accordance with 333-105-0630.

(c) Unless a sealed source is accompanied by a certificate from the transferor that shows that it has been leak tested within six months before the transfer, it may not be used by the licensee until tested for leakage. Sealed sources that are in storage and not in use do not require leak testing, but must be tested before use or transfer to another person if the interval of storage exceeds six months. Leak test results must be received prior to use or transfer.

(4) Any test conducted pursuant to section (2) and (3) of this rule that reveals the presence of 185 Becquerel (0.005 microCurie) or more of removable radioactive material must be considered evidence that the sealed source is leaking. The licensee must immediately withdraw the equipment involved from use and must have it decontaminated and repaired or disposed of in accordance with Agency rules. A report must be filed with the Agency within five days of any test with results that exceed the threshold in this paragraph, describing the equipment involved, the test results, and the corrective action taken.

(5) Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis. Should such testing reveal the presence of DU contamination, the exposure device must be removed from use until an evaluation of the wear of the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while not in use and in storage. Before using or transferring such a device, however, the device must be tested for DU contamination, if the interval of storage exceeds 12 months. A record of the DU leak-test must be made in accordance with 333-105-0630.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0470
Quarterly Inventory

(1) Each licensee must conduct a quarterly physical inventory to account for all sources of radiation, and for devices containing depleted uranium received and possessed under the license.

(2) The licensee must maintain records of the quarterly inventory in accordance with 333-105-0640.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0480
Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) The licensee must perform visual and operability checks on survey meters, radiation machines, radiographic exposure devices, transport and storage containers, associated equipment and source changers before each day's use, or work shift, to ensure that:

(a) The equipment is in good working condition;

(b) The sources are adequately shielded; and

(c) Required labeling is present.

(2) Survey instrument operability must be performed using check sources or other appropriate means.

(3) If equipment problems are found, the equipment must be removed from service until repaired.

(4) Each licensee must have written procedures for and perform inspection and routine maintenance of radiation machines, radiographic exposure devices, source changers, associated equipment, transport and storage containers, and survey instruments at intervals not to exceed three months or before the first use thereafter to ensure the proper functioning of components important to safety. If equipment problems are found, the equipment must be removed from service until repaired.

(5) The licensee's inspection and maintenance program must include procedures to assure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

(6) Records of equipment problems and of any maintenance performed under this rule must be made in accordance with 333-105-0660.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0490
Permanent Radiographic Installations

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation must have either:

(a) An entrance control of the type described in OAR 333-120-0220 that causes the radiation level upon entry into the area to be reduced; or

(b) Both conspicuous visible and audible warning signals to warn of the presence of radiation. The visible signal must be actuated by radiation whenever the source is exposed. The audible signal must be actuated when an attempt is made to enter the installation while the source is exposed or the machine is energized.

(2) The alarm system must be tested for proper operation with a radiation source each day before the installation is used for radiographic operations. The test must include a check of both the visible and audible signals. Entrance control devices that reduce the radiation level upon entry as designated in section (1)(a) of this rule must be tested monthly. If an entrance control device or an alarm is operating improperly, it must be immediately labeled as defective and repaired within seven calendar days. The facility may continue to be used during this seven-day period, provided the licensee implements the continuous surveillance requirements of 333-105-0580 and uses an alarming rate-meter. Test records for entrance controls and audible and visual alarms must be maintained in accordance with 333-105-0670.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0500
Labeling, Storage, and Transportation

(1) The licensee may not use a source changer or a container to store radioactive material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol conventional colors, i.e., magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording:

CAUTION RADIOACTIVE MATERIAL
NOTIFY CIVIL AUTHORITIES
or "DANGER"

(2) The licensee may not transport radioactive material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with rules set out in division 118.

(3) Radiographic exposure devices, source changers, storage containers, and radiation machines, must be physically secured to prevent tampering or removal by unauthorized personnel. The licensee must store radioactive material in a manner that will minimize danger from explosion or fire.

(4) The licensee must lock and physically secure the transport package containing radioactive material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal.

(5) The licensee's name and city or town where the main business office is located must be prominently displayed with a durable, clearly visible label(s) on both sides of all vehicles used to transport radioactive material or radiation machines for temporary job site use.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0510
Conducting Industrial Radiographic Operations

(1) Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has at a minimum met the requirements of 333-105-0530(3). The additional qualified individual must observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

(2) All radiographic operations must be conducted in a permanent radiographic installation unless otherwise specifically authorized by the Agency.

(3) Except when physically impossible, collimators must be used in industrial radiographic operations that use radiographic exposure devices that allow the source to be moved out of the device.

(4) A licensee may conduct lay-barge, offshore platform, or underwater radiography only if procedures have been approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0520
Radiation Safety Officer

The radiation safety officer must ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's program.

(1) The minimum qualifications, training, and experience for radiation safety officers for industrial radiography are as follows:

(a) Completion of the training and testing requirements of 333-105-0530(1);

(b) 2000 hours of hands-on experience as a qualified radiographer in industrial radiographic operations; and

(c) Formal training in the establishment and maintenance of a radiation protection program.

(2) The Agency will consider alternatives when the radiation safety officer has appropriate training and experience in the field of ionizing radiation, and in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program.

(3) The specific duties and authorities of the radiation safety officer include:

(a) Establishing and overseeing all operating, emergency, and ALARA procedures as required by division 120 of these rules and reviewing them regularly to ensure that they conform to Agency rules and to the license or registration conditions;

(b) Overseeing and approving the training program for radiographic personnel to ensure that appropriate and effective radiation protection practices are taught;

(c) Ensuring that required radiation surveys and leak tests are performed and documented in accordance with the rules, including any corrective measures when levels of radiation exceed established limits;

(d) Ensuring that personnel monitoring devices are calibrated, if applicable, and used properly; that records are kept of the monitoring results; and that timely notifications are made as required by division 120 of these rules; and

(e) Ensuring that operations are conducted safely and for implementing corrective actions including terminating operations.

(4) Licensees will have two years from the effective date of this rule to meet the requirements of section (1) and (2) of this rule.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0530
Training

(1) The licensee may not permit any individual to act as a radiographer until the individual:

(a) Has received training in the subjects outlined in section (7) of this rule, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer and is certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in Oregon Regulatory Guide - ORG-2 Industrial Radiography. The on the job training must include a minimum of two months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or one month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours); or

(b) The licensee may, until July 1, 2003, allow an individual who has not met the requirements of section (1)(a) of this rule, to act as a radiographer after the individual has received at least 40 hours of training in the subjects outlined in section (7) of this rule and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the Agency, the Nuclear Regulatory Commission, or another Agreement State, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer. The on the job training must include a minimum of two months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or one month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours).

(2) In addition, the licensee may not permit any individual to act as a radiographer until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this division, and applicable sections of divisions 120, 111, and 118 of these rules, in the license or registration under which the radiographer will perform industrial radiography, and the licensee's operating and emergency procedures;

(b) Has demonstrated an understanding of items in section (2)(a) of this rule by successful completion of a written or oral examination;

(c) Has received training in the use of the licensee's radiographic exposure devices, sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in section (2)(c) of this rule by successful completion of a practical examination.

(3) The licensee may not permit any individual to act as a radiographer's assistant until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this, and applicable sections of divisions 120, 111, and 118 of these regulation, in the license or registration under which the radiographer's assistant will perform industrial radiography, and the licensee's operating and emergency procedures;

(b) Has demonstrated an understanding of items in section (3)(a) of this rule by successful completion of a written or oral examination;

(c) Under the personal supervision of a radiographer, has received training in the use of the licensee's radiographic exposure devices and sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in section (3)(c) of this rule by successful completion of a practical examination.

(4) The licensee must provide annual refresher safety training, as defined in 333-105-0005, for each radiographer and radiographer's assistant at intervals not to exceed 12 months.

(5) Except as provided in section (5)(d) of this rule, the radiation safety officer or designee must conduct an inspection program of the job performance of each radiographer and radiographer's assistant to ensure that the Agency's rules, license requirements, and operating and emergency procedures are followed. The inspection program must:

(a) Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals not to exceed 6 months; and

(b) Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than 6 months since the last inspection, the radiographer must demonstrate knowledge of the training requirements of section (2)(c) of this rule and the radiographer's assistant must demonstrate knowledge of the training requirements of section (3)(c) of this rule by a practical examination before these individuals can next participate in a radiographic operation.

(c) The Agency may consider alternatives in those situations where the individual serves as both radiographer and radiation safety officer.

(d) In those operations where a single individual serves as both radiographer and radiation safety officer, and performs all radiography operations, an inspection program is not required.

(6) The licensee must maintain records of the above training to include certification documents, written, oral and practical examinations, refresher safety training and inspections of job performance in accordance with 333-105-0680.

(7) The licensee must include the following subjects required in section (1) of this rule:

(a) Fundamentals of radiation safety including:

(A) Characteristics of gamma and x-radiation;

(B) Units of radiation dose and quantity of radioactivity;

(C) Hazards of exposure to radiation;

(D) Levels of radiation from sources of radiation; and

(E) Methods of controlling radiation dose (time, distance, and shielding);

(b) Radiation detection instruments including:

(A) Use, operation, calibration, and limitations of radiation survey instruments;

(B) Survey techniques; and

(C) Use of personnel monitoring equipment;

(c) Equipment to be used including:

(A) Operation and control of radiographic exposure equipment, remote handling equipment, and storage containers, including pictures or models of source assemblies (pigtails);

(B) Operation and control of radiation machines;

(C) Storage, control, and disposal of sources of radiation; and

(D) Inspection and maintenance of equipment.

(d) The requirements of pertinent state and federal rules; and

(e) Case histories of accidents in radiography.

(8) Licensees will have one year from the effective date of this rule to comply with the additional training requirements specified in sections (2)(a) and (3)(a) of this rule.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0540
Operating and Emergency Procedures

(1) Operating and emergency procedures must include, as a minimum, instructions in the following:

(a) Appropriate handling and use of sources of radiation so that no person is likely to be exposed to radiation doses in excess of the limits established in division 120 of these rules;

(b) Methods and occasions for conducting radiation surveys;

(c) Methods for posting and controlling access to radiographic areas;

(d) Methods and occasions for locking and securing sources of radiation;

(e) Personnel monitoring and the use of personnel monitoring equipment;

(f) Transporting equipment to field locations, including packing of radiographic exposure devices and storage containers in the vehicles, placarding of vehicles when required, and control of the equipment during transportation as described in division 118 of these rules;

(g) The inspection, maintenance, and operability checks of radiographic exposure devices, radiation machines, survey instruments, alarming ratemeters, transport containers, and storage containers;

(h) Steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale or an alarming ratemeter alarms unexpectedly;

(i) The procedure(s) for identifying and reporting defects and noncompliance, as required by 333-105-0740;

(j) The procedure for notifying proper persons in the event of an accident or incident;

(k) Minimizing exposure of persons in the event of an accident or incident, including a source disconnect, a transport accident, or loss of a source of radiation;

(l) Source recovery procedure if licensee will perform source recoveries; and

(m) Maintenance of records.

(2) The licensee must maintain copies of current operating and emergency procedures in accordance with 333-105-0690 and 333-105-0730.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0550
Supervision of Radiographer's Assistants

The radiographer's assistant must be under the direct visual supervision of a radiographer when using radiographic exposure devices, associated equipment or sources of radiation, or when conducting radiation surveys required by 333-105-0570(2) to determine that the sealed source has returned to the shielded position or the radiation machine is off after an exposure. The personal supervision must include:

(1) The radiographer's physical presence at the site where the sources of radiation are being used;

(2) The availability of the radiographer to give immediate assistance if required; and

(3) The radiographer's direct observation of the assistant's performance of the operations referred to in this section.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0560
Personnel Monitoring

(1) The licensee may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a combination of direct reading dosimeter, an alarming ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiographic installations where other appropriate alarming or warning devices are in routine use, or during radiographic operations using radiation machines, the use of an alarming ratemeter is not required.

(a) Pocket dosimeters must have a range from zero to two millisieverts (200 mrem) and must be recharged at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(b) Each personnel dosimeter must be assigned to and worn by only one individual.

(c) Film badges must be exchanged and processed at periods not to exceed one month and other personnel dosimeters processed and evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.

(d) After replacement, each personnel dosimeter must be returned to the supplier for processing within 14 calendar days of the end of the monitoring period, or as soon as practicable. In circumstances that make it impossible to return each personnel dosimeter in 14 calendar days, such circumstances must be documented and available for review by the Agency.

(2) Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters, must be read and the exposures recorded at the beginning and end of each shift, and records must be maintained in accordance with 333-105-0700.

(3) Pocket dosimeters, or electronic personal dosimeters, must be checked at periods not to exceed 12 months for correct response to radiation, and records must be maintained in accordance with 333-105-0700(1). Acceptable dosimeters must read within plus or minus 20 percent of the true radiation exposure.

(4) If an individual's pocket dosimeter is found to be off-scale, or the electronic personal dosimeter reads greater than two millisieverts (200 mrem), the individual's personnel dosimeter must be sent for processing within 24 hours. In addition, the individual may not resume work associated with the use of sources of radiation until a determination of the individual's radiation exposure has been made. This determination must be made by the radiation safety officer or the radiation safety officer's designee. The results of this determination must be included in the records maintained in accordance with 333-105-0700.

(5) If a personnel dosimeter is lost or damaged, the worker must cease work immediately until a replacement personnel dosimeter is provided and the exposure is calculated for the time period from issuance to loss or damage of the personnel dosimeter. The results of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged must be included in the records maintained in accordance with 333-105-0700.

(6) Dosimetry reports received from the accredited NVLAP personnel dosimeter processor must be retained in accordance with 333-105-0700.

(7) Each alarming ratemeter must:

(a) Be checked to ensure that the alarm functions properly before using at the start of each shift;

(b) Be set to give an alarm signal at a preset dose rate of five millisieverts (500 mrem per hour) with an accuracy of plus or minus 20 percent of the true radiation dose rate;

(c) Require special means to change the preset alarm function; and

(d) Be calibrated at periods not to exceed 12 months for correct response to radiation. The licensee must maintain records of alarming ratemeter calibrations in accordance with 333-105-0700(2).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0570
Radiation Surveys

The licensee must:

(1) Conduct all surveys with a calibrated and operable radiation survey instrument that meets the requirements of 333-105-0450;

(2) Conduct a survey of the radiographic exposure device and the guide tube after each exposure when approaching the device or the guide tube. The survey must determine that the sealed source has returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment. Radiation machines must be surveyed after each exposure to determine that the machine is off;

(3) Conduct a survey of the radiographic exposure device whenever the source is exchanged and whenever a radiographic exposure device is placed in a storage area as defined in 333-105-0005, to ensure that the sealed source is in its shielded position; and

(4) Maintain records in accordance with 333-105-0710.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0580
Surveillance

During each radiographic operation, the radiographer must ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area or a high radiation area, as defined in division 100 of these rules, except at permanent radiographic installations where all entryways are locked and the requirements of 333-105-0490 are met.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0590
Posting

All areas in which industrial radiography is being performed must be conspicuously posted as required by OAR 333-120-0410. The exceptions listed in 333-120-0420 do not apply to industrial radiographic operations.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0600
Records for Industrial Radiography

Each licensee must maintain a copy of its license, documents incorporated by reference, and amendments to each of these items until superseded by new documents approved by the Agency, or until the Agency terminates the license.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0610
Records of Receipt and Transfer of Sources of Radiation

(1) Each licensee must maintain records showing the receipts and transfers of sealed sources, devices using Depleted Uranium (DU) for shielding, and radiation machines, and retain each record for three years after it is made.

(2) These records must include the date, the name of the individual making the record, radionuclide, number of Becquerel (Curies) or mass (for DU), and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0620
Records of Radiation Survey Instruments

Each licensee must maintain records of the calibrations of its radiation survey instruments that are required under 333-105-0450 and retain each record for three years after it is made.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0630
Records of Leak Testing of Sealed Sources and Devices Containing DU

Each licensee must maintain records of leak test results for sealed sources and for devices containing DU. The results must be stated in units of Becquerels (microcuries). The licensee must retain each record for three years after it is made or until the source in storage is removed.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0640
Records of Quarterly Inventory

(1) Each licensee must maintain records of the quarterly inventory of sources of radiation, including devices containing DU as required by 333-105-0470, and retain each record for three years.

(2) The record must include the date of the inventory, name of the individual conducting the inventory, radionuclide, number of Becquerel (curies) or mass (for DU) in each device, location of sources of radiation and/or devices, and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0650
Utilization Logs

(1) Each licensee must maintain utilization logs showing for each source of radiation the following information:

(a) A description, including the make, model, and serial number of the radiation machine or the radiographic exposure device, transport, or storage container in which the sealed source is located;

(b) The identity and signature of the radiographer to whom assigned;

(c) The location and dates of use, including the dates removed and returned to storage; and

(d) For permanent radiographic installations, the dates each radiation machine is energized.

(2) The licensee must retain the logs required by section (1) of this rule for three years.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0660
Records of Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) Each licensee must maintain records specified in 333-105-0480 of equipment problems found in daily checks and quarterly inspections of radiation machines, radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments; and retain each record for three years after it is made.

(2) The record must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was performed.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0670
Records of Alarm System and Entrance Control Checks at Permanent Radiographic Installations

Each licensee must maintain records of alarm system and entrance control device tests required by 333-105-0490 and retain each record for three years after it is made.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0680
Records Of Training and Certification

Each licensee must maintain the following records for three years after the individual terminates employment:

(1) Records of training of each radiographer and each radiographer's assistant. The record must include radiographer certification documents and verification of certification status, copies of written tests, dates of oral and practical examinations, the names of individuals conducting and receiving the oral and practical examinations, and a list of items tested and the results of the oral and practical examinations; and

(2) Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any non-compliance observed by the radiation safety officer or designee.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0690
Copies of Operating and Emergency Procedures

Each licensee must maintain a copy of current operating and emergency procedures until the Agency terminates the license or registration. Superseded material must be retained for three years after the change is made.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0700
Records of Personnel Monitoring

Each licensee must maintain the following exposure records specified in 333-105-0560:

(1) Direct reading dosimeter readings and yearly operability checks required by 333-105-0560(2) and 333-105-0560(3) for three years after the record is made;

(2) Records of alarming ratemeter calibrations for three years after the record is made;

(3) Reports received from the film badge or TLD processor until the Agency terminates the license or registration; and

(4) Records of estimates of exposures as a result of off-scale personal direct reading dosimeters, or lost or damaged film badges or TLD's, until the Agency terminates the license or registration.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0710
Records of Radiation Surveys

Each licensee must maintain a record of each exposure device survey conducted before the device is placed in storage as specified in 333-105-0570(3). Each record must be maintained for three years after it is made.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0720
Form of Records

Each record required by this division must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0730
Location Of Documents and Records

(1) Each licensee must maintain copies of records required by this division and other applicable divisions of these rules at the location specified in 333-105-0410(11).

(2) Each licensee must also maintain current copies of the following documents and records sufficient to demonstrate compliance at each applicable field station and each temporary job site:

(a) The license or registration authorizing the use of sources of radiation;

(b) A copy of divisions 100, 120, 105 & 111 of this chapter;

(c) Utilization logs for each source of radiation dispatched from that location as required by 333-105-0650.

(d) Records of equipment problems identified in daily checks of equipment as required by 333-105-0660(1);

(e) Records of alarm system and entrance control checks required by 333-105-0670, if applicable;

(f) Records of dosimeter readings as required by 333-105-0700;

(g) Operating and emergency procedures as required by 333-105-0690;

(h) Evidence of the latest calibration of the radiation survey instruments in use at the site, as required by 333-105-0620;

(i) Evidence of the latest calibrations of alarming ratemeters and operability checks of dosimeters as required by 333-105-0700;

(j) Survey records as required by 333-105-0710 and 333-120-0620 as applicable, for the period of operation at the site;

(k) The shipping papers for the transportation of radioactive materials required by division 118 of these rules; and

(l) When operating under reciprocity pursuant to OAR 333-102-0340, a copy of the applicable State license or registration, or Nuclear Regulatory Commission license authorizing the use of sources of radiation.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0740
Notifications

(1) In addition to the reporting requirements specified in 10 CFR 30.50 and in division 120 of these rules, each licensee must provide a written report to the Agency within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

(a) Unintentional disconnection of the source assembly from the control cable;

(b) Inability to retract the source assembly to its fully shielded position and secure it in this position;

(c) Failure of any component, which is critical to safe operation of the device, to properly perform its intended function; or

(d) An indicator on a radiation machine fails to show that radiation is being produced.

(2) The licensee must include the following information in each report submitted under section (1) of this rule, and in each report of overexposure submitted under OAR 333-120-0720 which involves failure of safety components of radiography equipment:

(a) Description of the equipment problem;

(b) Cause of each incident, if known;

(c) Name of the manufacturer and model number of equipment involved in the incident;

(d) Place, date, and time of the incident;

(e) Actions taken to establish normal operations;

(f) Corrective actions taken or planned to prevent recurrence; and

(g) Names and qualifications of personnel involved in the incident.

(3) Any licensee conducting radiographic operations or storing sources of radiation at any location not listed on the license or registration for a period in excess of 180 days in a calendar year, must notify the Agency prior to exceeding the 180 days.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0750
Reciprocity

(1) All reciprocal recognition of licenses and registrations by the Agency will be granted in accordance with OAR 333-102-0340.

(2) Reciprocal recognition by the Agency of an individual radiographer certification will be granted provided that:

(a) The individual holds a valid certification in the appropriate category issued by a certifying entity, as defined in 333-105-0005;

(b) The requirements and procedures of the certifying entity issuing the certification affords the same or comparable certification standards as those afforded by 333-105-0530(1);

(c) The applicant presents the certification to the Agency prior to entry into the state; and

(d) No escalated enforcement action is pending with the Nuclear Regulatory Commission or in any other state.

(3) Certified individuals who are granted reciprocity by the Agency must maintain the certification upon which the reciprocal recognition was granted, or prior to the expiration of such certification, must meet the requirements of 333-105-0530(1).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-105-0760
Specific Requirements for Radiographic Personnel Performing Industrial Radiography

(1) At a job site, the following must be supplied by the licensee:

(a) At least one operable, calibrated survey instrument for each exposure device or radiation machine in use;

(b) A current whole body personnel monitor (TLD or film badge) for each person performing radiographic operations;

(c) An operable, calibrated pocket dosimeter with a range of zero to 200 milliroentgens for each person performing radiographic operations;

(d) An operable, calibrated, alarming ratemeter for each person performing radiographic operations using a radiographic exposure device; and

(e) The appropriate barrier ropes and signs.

(2) Each radiographer at a job site must have on their person a valid certification ID card issued by a certifying entity.

(3) Industrial radiographic operations must not be performed if any of the items in section (1) and (2) of this rule are not available at the job site or are inoperable.

(4) During an inspection, the Agency may terminate an operation if any of the items in section (1) and (2) of this rule are not available or operable, or if the required number of radiographic personnel are not present. Operations must not be resumed until all required conditions are met.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0001
Purpose and Scope

(1) The rules in this division establish radiation safety requirements for persons using sources of radiation for well logging operations including mineral logging, radioactive markers and subsurface tracer studies. The requirements of this division are in addition to, and not in substitution for, the requirements of divisions 100, 102, 111 and 120 of these rules.

(2) The rules in this division apply to all licensees or registrants who use sources of radiation for well logging operations including mineral logging, radioactive markers or subsurface tracer studies.

(3) The requirements set out in this division do not apply to the issuance of a license authorizing the use of licensed material in tracer studies involving multiple wells, such as field flooding studies, or to the use of sealed sources auxiliary to well logging but not lowered into wells.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0005
Definitions

As used in this division, the following definitions apply:

(1) "Energy compensation source (ECS)" means a small sealed source, with an activity not exceeding 3.7 MBq (100 microcuries), used within a well logging tool, or other tool components, to provide a reference standard to maintain the tool's calibration when in use.

(2) "Field Station" means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary jobsites.

(3) "Fresh water aquifer," for the purpose of this part, means a geologic formation that is capable of yielding fresh water to a well or spring.

(4) "Injection Tool" means a device used for controlled subsurface injection of radioactive tracer material.

(5) "Irretrievable well logging source" means any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well and for which all reasonable effort at recovery has been expended.

(6) "Licensed material" means byproduct, source, or special nuclear material received, processed, used, or transferred under a license issued by the Agency under the rules in this chapter.

(7) "Logging assistant" means any individual who, under the personal supervision of a logging supervisor, handles sealed sources or tracers that are not in logging tools or shipping containers or who performs surveys required by 333-113-0401.

(8) "Logging Supervisor" means the individual who uses licensed material or provides personal supervision of the use of licensed sources of radiation at the well site and who is responsible to the licensee for assuring compliance with the requirements of Agency rules and the conditions of the license.

(9) "Logging Tool" means a device used subsurface to perform well-logging.

(10) "Mineral Logging" means any logging performed for the purpose of mineral exploration other than oil or gas.

(11) "Personal Supervision" means guidance and instruction by a logging supervisor who is physically present at the jobsite and watching the performance of the operation in such proximity that contact can be maintained and immediate assistance given as required.

(12) "Radioactive Marker" means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation. For purposes of these rules, this term includes radioactive collar markers and radioactive iron nails.

(13) "Safety review" means a periodic review provided by the licensee for its employees on radiation safety aspects of well logging. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, accidents or errors that have been observed, and opportunities for employees to ask safety questions.

(14) "Sealed source" means any licensed material that is encased in a capsule designed to prevent leakage or escape of the licensed material

(15) "Source Holder" means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

(16) "Subsurface Tracer Study" means the release of unsealed license material or a substance tagged with licensed radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

(17) "Surface casing for protecting fresh water aquifers" means a pipe or tube used as a lining in a well to isolate fresh water aquifers from the well.

(18) "Temporary Jobsite" means a location where radioactive materials are present for the purpose of performing well logging operations or subsurface tracer studies.

(19) "Tritium neutron generator target source" means a tritium source used within a neutron generator tube to produce neutrons for use in well logging applications.

(20) "Uranium Sinker Bar" means a weight containing depleted uranium used to pull a logging tool down toward the bottom of a well.

(21) "Well" means a drilled hole in which well logging operations and subsurface tracer studies are performed. As used in this division, "well" includes drilled holes for the purpose of oil, gas, mineral, groundwater or geological exploration.

(22) "Well-Logging" means all operations involving the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well or adjacent formations that are used in oil, gas, mineral, groundwater or geological exploration.

(23) "Wireline" means a cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0007
Specific Licenses For Well Logging.

(1) A person, as defined in 333-100-0005 must file an application for a specific license authorizing the use of radioactive materials for well logging in accordance with 333-102-0190.

(2) The Agency will approve an application for a specific license for the use of radioactive material in well logging if the applicant meets the following requirements:

(a) The applicant must satisfy the general requirements specified in 333-102-0200 for radioactive material and any special requirements contained in this division.

(b) The applicant must develop a program for training well logging supervisors and well logging assistants and submit to the Agency a description of this program which specifies the:

(A) Initial training;

(B) On-the-job training;

(C) Annual safety reviews provided by the licensee;

(D) Means the applicant will use to demonstrate the logging supervisor's knowledge and understanding of and ability to comply with the Agency's rules and licensing requirements and the applicant's operating and emergency procedures; and

(E) Means the applicant will use to demonstrate the logging assistant's knowledge and understanding of and ability to comply with the applicant's operating and emergency procedures.

(c) The applicant must submit to the Agency written operating and emergency procedures as described in 333-113-0205 or an outline or summary of the procedures that includes the important radiation safety aspects of the procedures.

(d) The applicant must establish and submit to the Agency its program for annual inspections of the job performance of each logging supervisor to ensure that the Agency's rules, license requirements, and the applicant's operating and emergency procedures are followed. Inspection records must be retained in accordance with 333-100-0057.

(e) The applicant must submit a description of its overall organizational structure as it applies to the radiation safety responsibilities in well logging, including specified delegations of authority and responsibility.

(f) If an applicant wants to perform leak testing of sealed sources, the applicant must identify the manufacturers and the model numbers of the leak test kits to be used. If the applicant wants to analyze its own wipe samples, the applicant must establish procedures to be followed and submit a description of these procedures to the Agency. The description must include the:

(A) Instruments to be used;

(B) Methods of performing the analysis; and

(C) Pertinent experience of the person who will analyze the wipe samples.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0010
Agreement With Well Owner of Operator

(1) No licensee must perform well logging operations with a sealed source(s) unless, prior to commencement of the operation, the licensee has a written agreement with the well operator, well owner, drilling contractor or landowner. This written agreement must identify who will meet the following requirements:

(a) In the event that a well to be logged, using radioactive material, penetrates a potable aquifer or contains potable water, that well must be cased from top to bottom prior to the well-logging;

(b) In the event a sealed source is lodged downhole, a reasonable effort at recovery will be made;

(c) No person shall attempt to recover a sealed source in a manner which, in the licensee's opinion, could result in its rupture; and

(d) In the event a decision is made to abandon the sealed source down hole, the requirements of OAR 333-113-0501(3) must be met within 30 days.

NOTE: A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner, or operator, are part of the same corporate structure or otherwise similarly affiliated.

(2) The licensee must retain a copy of the written agreement after the completion of the well logging operation in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0101
Limits on Levels of Radiation

Sources of radiation must be used, stored and transported in such a manner that the requirements of division 120 of this chapter are met.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0105
Storage Precautions

(1) Each source of radiation, except accelerators, must be provided with a storage and/or transport container. The container must be provided with a lock, or tamper seal for calibration sources, to prevent unauthorized removal of, or exposure to, the source of radiation.

(2) Sources of radiation must be stored in a manner which will minimize danger from explosion and/or fire.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0110
Transport Precautions

(1) The licensee may not transport licensed material unless the material is packaged, labeled, marked, and accompanied with appropriate shipping papers in accordance with rules set out in 49 CFR Parts 171 to 178.

(2) Security precautions during storage and transportation.

(a) The licensee must store each source containing licensed material in a storage container or transportation package. The container or package must be locked and physically secured to prevent tampering or removal of licensed material from storage by unauthorized personnel. The licensee must store licensed material in a manner which will minimize danger from explosion or fire.

(b) The licensee must lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0115
Radiation Survey Instruments

(1) The licensee or registrant must maintain sufficient calibrated and operable radiation survey instruments, capable of detecting beta and gamma radiation, at each field station and temporary jobsite to make physical radiation surveys as required by this division and by OAR 333-120-0200. Instrumentation must be capable of measuring 0.001 mSv (0.1 mrem) per hour through at least 0.5 mSv (50 mrem) per hour.

(2) Each radiation survey instrument must be calibrated:

(a) At intervals not to exceed six months and after each instrument servicing;

(b) For linear scale measurements, at least two points located approximately 1/3 and 2/3 of full-scale on each scale; for logarithmic scale instruments, at midrange of each decade and at two points of at least one decade; and for digital instruments, at appropriate points; and

(c) So that accuracy within 20 percent of the true radiation level can be demonstrated on each scale.

(3) Calibration records must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0120
Leak Testing of Sealed Sources

(1) Testing and Record Keeping Requirements. Each licensee using sealed sources of radioactive material must have the sources tested for leakage at intervals not to exceed six months. Records of leak test results must be kept in units of microcuries (Bq) and maintained in accordance with 333-100-0057.

(2) Method of Testing. Tests for leakage must be performed only by persons specifically authorized to perform such tests by the Agency, the U.S. Nuclear Regulatory Agency, an Agreement State or a Licensing State. The test sample must be taken from the surface of the source, source holder or from the surface of the device in which the source is stored or mounted and on which one might expect contamination to accumulate. The test sample must be analyzed for radioactive contamination and the analysis must be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

(3) Interval of Testing. Each sealed source of radioactive material must be tested at intervals not to exceed six months. In the absence of a certificate from a transferor indicating that a test has been made prior to the transfer, the sealed source must not be put into use until tested. If, for any reason, it is suspected that a sealed source may be leaking, it must be removed from service immediately and tested for leakage as soon as practical.

(4) Leaking or Contaminated Sources.

(a) If the test reveals the presence of 0.005 microcurie (185 Bq) or more of leakage or contamination, the licensee must immediately withdraw the source from use and have it decontaminated, repaired or disposed of in accordance with these rules.

(b) The licensee must check the equipment associated with the leaking source for radioactive contamination and, if contaminated, have it decontaminated or disposed of in accordance with these rules.

(c) A report describing the leaking source and equipment involved, the test results and the corrective action taken must be filed with the Agency within 30 days of discovery.

(5) Exemptions. The following sources are exempted from the periodic leak test requirements of sections (1) through (4) of this rule:

(a) Hydrogen-3 sources;

(b) Sources of radioactive material with a half-life of 30 days or less;

(c) Sealed sources of radioactive material in gaseous form;

(d) Sources of beta and/or gamma emitting radioactive material with an activity of 100 microcuries (3.7 MBq) or less;

(e) Sources of alpha emitting radioactive material with an activity of ten microcuries (0.370 MBq) or less;

(f) Each ECS that is not exempt from testing in accordance with section (5)(e) of this rule must be tested at intervals not to exceed three years. In the absence of a certificate from a transferor that a test has been made within the three years before the transfer, the ECS may not be used until tested; and

(g) Any source in storage and not being used need not be tested. When the source is removed from storage for use or transfer to another person, it must be tested before use or transfer unless it has been tested for leakage within six months before the date of use or transfer.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0125
Physical Inventory

Each licensee or registrant must conduct a semiannual physical inventory to account for all sources of radiation. Records of inventories must be maintained in accordance with 333-100-0057 and must include the quantities and kinds of sources of radiation, the location where sources of radiation are assigned, the date of the inventory and the name of the individual conducting the inventory. Physical inventory records may be combined with leak test records.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0130
Utilization Records

Each licensee or registrant must be maintained in accordance with 333-100-0057 showing the following information for each source of radiation:

(1) Make, model number and a serial number or a description of each source of radiation used. In the case of unsealed licensed material used for subsurface tracer studies, the radionuclide and quantity of activity used in a particular well and the disposition of any unused tracer materials;

(2) The identity of the well-logging supervisor or field unit to whom assigned;

(3) Locations where used and dates of use; and

(4) In the case of tracer material and radioactive markers, the utilization record must indicate the radionuclide and activity used in a particular well.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0135
Design, Performance and Certification Criteria for Sealed Sources

(1) Each sealed source, except those containing radioactive material in gaseous form, used in well logging operations and manufactured after May 1, 1983 must be certified by the manufacturer, or other testing organization acceptable to the Agency, to meet the following minimum criteria:

(a) Be of doubly encapsulated construction;

(b) Contain radioactive material whose chemical and physical forms are as insoluble and nondispersible as practical; and

(c) Has been individually pressure tested to at least 24,600 pounds per square inch absolute (1.695 x 107 pascals) without failure.

(2) For sealed sources, except those containing radioactive material in gaseous form, acquired after May 1, 1984 in the absence of a certificate from a transferor certifying that an individual sealed source meets the requirements of section (1) of this rule, the sealed source must not be put into use until such determinations and testing have been performed.

(3) Each sealed source, except those containing radioactive material in gaseous form, used in well logging operations after May 1, 1985 must be certified by the manufacturer, or other testing organization acceptable to the Agency, as meeting the sealed source performance requirements for oil well-logging as contained in the **American National Standard N43.6**, "Classification of Sealed Radioactive Sources," (formerly N542, ANSI/NBS 126).

(4) After source disposal certification documents must be maintained in accordance with 333-100-0057. If the source is abandoned downhole, the certification documents must be maintained until the Agency authorizes disposition.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0140
Labeling

(1) Each source, source holder or logging tool containing radioactive material must bear a durable, legible and clearly visible marking or label, which has, as a minimum, the standard radiation caution symbol specified in 333-120-0400, without the conventional color requirement, and the following wording:

DANGER
RADIOACTIVE
or
CAUTION
RADIOACTIVE

This labeling must be on the smallest component transported as a separate piece of equipment.

(2) Each container used to store or transport radioactive materials must have permanently attached to it a durable, legible and clearly visible label that has, as a minimum, the standard radiation caution symbol and the following wording:

DANGER
RADIOACTIVE
or
CAUTION
RADIOACTIVE
NOTIFY CIVIL AUTHORITIES OR
(NAME OF COMPANY)

(3) The licensee may use a uranium sinker bar in well logging applications only if it is legibly impressed with the words:

"CAUTION — RADIOACTIVE — DEPLETED URANIUM" and "NOTIFY CIVIL AUTHORITIES (or COMPANY NAME) IF FOUND."

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0145
Inspection and Maintenance

(1) Each licensee or registrant must conduct, at intervals not to exceed six months, a visual check of source holders, logging tools, source handling tools, storage containers, transport containers and injection tools to ensure proper labeling and physical condition. Records of inspection and maintenance must be maintained in accordance with 333-100-0057.

(2) If any inspection conducted pursuant to section (1) of this rule reveals defects or damage to labeling or components, the device must be removed from service until repairs have been made.

(3) If a sealed source is stuck in the source holder, the licensee must not perform any operation, such as drilling, cutting or chiseling, on the source holder unless the licensee is specifically approved by the U.S. Nuclear Regulatory Agency, an Agreement State or a Licensing State to perform this operation.

(4) The repair, opening or modification of any sealed source must be performed only by persons specifically authorized to do so by the Agency, the U.S. Nuclear Regulatory Agency, an Agreement State or a Licensing State.

(5) Removal of a sealed source from a source holder or logging tool, and maintenance on sealed sources or holders in which sealed sources are contained may not be performed by the licensee unless a written procedure has been developed and approved either by the Agency, the Nuclear Regulatory Agency or by an Agreement State or a Licensing State.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0150
Use of a Sealed Source in a Well without a Surface Casing

The licensee may use a sealed source in a well without a surface casing for protecting fresh water aquifers only if the licensee follows a procedure for reducing the probability of the source becoming lodged in the well. The procedure must be approved by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0201
Training Requirements

(1) No licensee or registrant shall permit any individual to act as a logging supervisor as defined in this division until such individual has:

(a) Received, in a course recognized by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, instruction in the subjects outlined in OAR 333-113-0203 and demonstrated an understanding thereof;

(b) Read and received instruction in the rules contained in this division and the applicable rules of divisions 100, 120 and 111 of these rules or their equivalent, conditions of appropriate license or certificate of registra-

tion, and the licensee's or registrant's operating and emergency procedures, and demonstrated an understanding thereof;

(c) Demonstrated competence to use sources of radiation, related handling tools and radiation survey instruments which will be used on the job by a field evaluation; and

(d) Has demonstrated understanding of the requirements in section (1)(a) and (1)(b) of this rule by successfully completing a written exam.

(2) No licensee or registrant shall permit any individual to assist in the handling of sources of radiation until such individual has:

(a) Read or received instruction in the licensee's or registrant's operating and emergency procedures and demonstrated an understanding thereof;

(b) Demonstrated competence to use, under the personal supervision of the logging supervisor, the sources of radiation, related handling tools and radiation survey instruments which will be used on the job; and

(c) The licensee must provide safety reviews for logging supervisors and logging assistants at least once during each calendar year.

(3) The licensee or registrant must maintain employees training records until inspection by the Agency following termination of the individual's employment.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0203
Subjects to be Included in Training Courses for Logging Supervisors

(1) Fundamentals of radiation safety:
(a) Characteristics of radiation;
(b) Units of radiation dose and quantity of radioactivity;
(c) Significance of radiation dose:
(A) Radiation protection standards;
(B) Biological effects of radiation dose.
(d) Levels of radiation from sources of radiation;
(e) Methods of minimizing radiation dose:
(A) Working time;
(B) Working distances;
(C) Shielding.
(f) Radiation safety practices including prevention of contamination and methods of decontamination.
(2) Radiation detection instrumentation to be used:
(a) Use of radiation survey instruments:
(A) Operation;
(B) Calibration;
(C) Limitations.
(b) Survey techniques;
(c) Use of personnel monitoring equipment.
(3) Equipment to be used:
(a) Handling equipment;
(b) Sources of radiation;
(c) Storage and control of equipment;
(d) Operation and control of equipment.
(4) The Requirements of pertinent federal and state regulations.
(5) The licensee's or registrant's written operating and emergency procedures.
(6) The licensee's or registrant's record keeping procedures.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0205
Operating and Emergency Procedures

The licensee's or registrant's operating and emergency procedures must include instructions in at least the following:

(1) Handling and use of sources of radiation to be employed so that:

(a) No individual is likely to be exposed to radiation doses in excess of the standards established in division 120 of these rules; and

(b) Use of sealed sources in wells without surface casing for protecting fresh water aquifers, if appropriate.

(2) Methods and occasions for conducting radiation and contamination surveys. (See 333-113-0401).

(3) Methods and occasions for locking and securing sources of radiation.

(4) Personnel monitoring and the use of personnel monitoring equipment.

(5) Transportation to temporary jobsites and field stations, including the packaging and placing of sources of radiation in vehicles, placarding of vehicles and securing sources of radiation during transportation to prevent accidental loss, tampering, or unauthorized removal;

(6) Minimizing exposure of individuals in the event of an accident. Including, but not limited to, unshielded sources and inhalation or ingestion of licensed tracer materials.

(7) Procedure for notifying proper personnel in the event of an accident.

(8) Maintenance of records.

(9) Use, inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers and injection tools.

(10) Procedures to be followed in the event a sealed source is lodged downhole.

(11) Procedures to be used for picking up, receiving and opening packages containing radioactive material.

(12) For the use of tracers, decontamination of the environment, equipment and personnel.

(13) Maintenance of records generated by logging personnel at temporary jobsites.

(14) Notifying proper persons in the event of an accident.

(15) Actions to be taken if a sealed source is ruptured, including actions to prevent the spread of contamination and minimize inhalation and ingestion of radioactive material and actions to obtain suitable radiation survey instruments as required by OAR 333-113-0115.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0210
Personnel Monitoring

(1) The licensee must not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be replaced at least monthly and other personnel dosimeters replaced at least quarterly. After replacement, each personnel dosimeter must be promptly processed.

(2) The licensee must provide bioassay services to individuals using licensed materials in subsurface tracer studies if required by the license.

(3) Personnel monitoring records must be maintained in accordance with 333-100-0057 and for inspection until the Agency authorizes disposition.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0301
Security

(1) A logging supervisor must be physically present at a temporary jobsite whenever licensed materials are being handled or are not stored and locked in a vehicle or storage place. The logging supervisor may leave the jobsite in order to obtain assistance if a source becomes lodged in a well.

(2) During well logging, except when radiation sources are below ground or in shipping or storage containers, the logging supervisor or other individual designated by the logging supervisor must maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in 333-100-0005.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0305
Handling Tools

The licensee must provide and require the use of tools that will assure remote handling of sealed sources other than low activity calibration sources.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0310
Subsurface Tracer Studies

(1) Protective gloves and other appropriate protective clothing and equipment must be used by all personnel handling radioactive tracer material. Precautions must be taken to avoid ingestion or inhalation of radioactive materials.

(2) No licensee shall cause the injection of radioactive material into potable aquifers without prior written authorization from the Agency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0315
Particle Accelerators

No licensee or registrant shall permit above-ground testing of particle accelerators, designed for use in well-logging, which results in the production of radiation, except in areas or facilities so controlled or shielded that the requirements of OAR 333-120-0100 and 333-105-0030 as applicable, are met.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0325
Energy Compensation Source

The licensee may use an Energy Compensation Source (ECS) which is contained within a logging tool, or other tool components, only if the ECS contains quantities of licensed material not exceeding 3.7 MBq (100 microcuries).

(1) For well logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of 333-113-0120, 333-113-0125 and 333-113-0130.

(2) For well logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of 333-113-0010, 333-113-0120, 333-113-0125, 333-113-0130, 333-113-0150 and 333-113-0501.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0335
Tritium Neutron Generator Target Source

(1) Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 GBq (30 curies) and in a well with a surface casing to protect fresh water aquifers, is subject to the requirements of this division except 333-113-0010, 333-113-0135 and 333-113-0501.

(2) Use of a tritium neutron generator target source, containing quantities exceeding 1,110 GBq (30 curies) or in a well without a surface casing to protect fresh water aquifers, is subject to the requirements of this division except 333-113-0135.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0401
Radiation Surveys

(1) Radiation surveys must be made and recorded for each area where radioactive materials are used and stored.

(2) Radiation surveys must be made and recorded before transport for the radiation levels in all occupied positions and on the exterior of each vehicle used to transport radioactive material. Such surveys must include each source of radiation or combination of sources to be transported in the vehicle.

(3) If the sealed source assembly is removed from the logging tool before departing the jobsites, the logging tool detector must be energized, or a survey meter used, to assure that the logging tool is free of contamination.

(4) Radiation surveys must be made and recorded at the jobsite or well-head for each tracer operation, except those using hydrogen-3, carbon-14 and sulfur-35. These surveys must include measurements of radiation levels before and after the operation.

(5) If the licensee has reason to believe that, as a result of any operation involving a sealed source, the encapsulation of the sealed source could be damaged by the operation, the licensee must conduct a radiation survey, including a contamination survey, during and after the operation.

(6) The licensee must make a radiation survey at the temporary jobsite before and after each subsurface tracer study to confirm the absence of contamination.

(7) Records required pursuant to sections (1) through (6) of this rule must include the dates, the identification of individual(s) making the survey, the identification of survey instruments(s) used and an exact description of the location of the survey. Records of these surveys must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0403
Radioactive Contamination Control.

(1) If the licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee must initiate immediately the emergency procedures required by 333-113-0205.

(2) If contamination results from the use of licensed material in well logging, the licensee must decontaminate all work areas, equipment, and unrestricted areas.

(3) During efforts to recover a sealed source lodged in the well, the licensee must continuously monitor, with an appropriate radiation detection instrument or a logging tool with a radiation detector, the circulating fluids from the well, if any, to check for contamination resulting from damage to the sealed source.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0405
Documents and Records Required at Field Stations

Each licensee or registrant must maintain, for inspection by the Agency, the following documents and records for the specific devices and sources used at the field station:

(1) Appropriate license, certificate of registration or equivalent document(s);

(2) Operating and emergency procedures;

(3) Applicable rules;

(4) Records of the latest survey instrument calibrations pursuant to OAR 333-113-0115;

(5) Records of the latest leak test results pursuant to OAR 333-113-0120;

(6) Records of quarterly inventories required pursuant to OAR 333-113-0125;

(7) Utilization records required pursuant to OAR 333-113-0130;

(8) Records of inspection and maintenance required pursuant to OAR 333-113-0145;

(9) Survey records required pursuant to OAR 333-113-0401; and

(10) Training records required pursuant to OAR 333-113-0201.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0410
Documents and Records Required at Temporary Jobsites

Each licensee or registrant conducting operations at a temporary jobsite must have the following documents and records available at that site for inspection by the Agency:

(1) Operating and emergency procedures;

(2) Survey records required pursuant to OAR 333-113-0401 for the period of operation at the site;

(3) Evidence of current calibration for the radiation survey instruments in use at the site;

(4) When operating in the state under reciprocity, a copy of the appropriate license, certificate of registration or equivalent document(s);

(5) Shipping papers for the transportation of radioactive material;

(6) Copy of the license;

(7) Current leak test; and

(8) Validation certificate.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-113-0501
Notification of Incidents, Abandonment and Lost Sources

(1) Notification of incidents and sources lost in other than well logging operations must be made in accordance with appropriate provisions of division 120 of these rules.

(2) Whenever a sealed source or device containing radioactive material is lodged downhole the licensee must:

(a) Monitor at the surface for the presence of radioactive contamination with a radiation survey instrument or logging tool during logging tool recovery operations;

(b) If the environment, any equipment, or personnel are contaminated with licensed material, they must be decontaminated before release from the site or release for unrestricted use; and

(c) Notify the Agency immediately by telephone and subsequently, within 30 days, by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured. This letter must identify the well or other location, describe the magnitude and extent of the escape of radioactive material, assess the consequences of the rupture and explain efforts planned or being taken to mitigate these consequences.

(3) When it becomes apparent that efforts to recover the radioactive source will not be successful, the licensee must:

(a) Notify the Agency by telephone of the circumstances that resulted in the inability to retrieve the source:

(A) Obtain Agency approval to implement abandonment procedures; or

(B) That the licensee implemented abandonment before receiving Agency approval because the licensee believed there was an immediate threat to public health and safety;

(b) Advise the well-operator of requirements specified in these rules regarding abandonment and an appropriate method of abandonment, that must include:

(A) The immobilization and sealing in place of the radioactive source with a cement plug;

(B) The setting of a whipstock or other deflection device unless the source is not accessible to any subsequent drilling operations; and

(C) The mounting of a permanent identification plaque at the surface of the well, containing the appropriate information required by section (4) of this rule.

(c) Notify the Agency by telephone, giving the circumstances of the loss and request approval of the proposed abandonment procedures; and

(d) File a written report with the Agency within 30 days of the abandonment. The report must contain the following information:

(A) Date of occurrence;

(B) A description of the well logging source involved, including the radionuclide and its quantity, and chemical and physical form;

(C) Surface location and identification of the well;

(D) Results of efforts to immobilize and seal the source in place;

(E) A brief description of the attempted recovery effort;

(F) Depth of the source;

(G) Depth of the top of the cement plug;

(H) Depth of the well;

(I) The immediate threat to public health and safety justification for implementing abandonment if prior Agency approval was not obtained in accordance with section (3)(a)(b) of this rule;

(J) Any other information, such as a warning statement, contained on the permanent identification plaque; and

(K) The names of state agencies receiving a copy of this report.

(4) Whenever a sealed source containing radioactive material is abandoned downhole, the licensee must provide a permanent plaque for posting the well or well-bore. This plaque must:

(a) Be constructed of long-lasting material, such as stainless steel or monel; and

(b) Contain the following information engraved on its face:

(A) The word CAUTION;

(B) The radiation symbol without the conventional color requirement;

(C) The date of abandonment;

(D) The name of the well-operator or well-owner;

(E) The well name and well identification number(s) or other designation;

(F) The sealed source(s) by radionuclide and activity;

(G) The source depth and the depth to the top of the plug;

(H) An appropriate warning, depending on the specific circumstances of each abandonment and approved by the Agency; and

(I) The size of the plaque should be convenient for use on active or inactive wells, e.g., a seven-inch square. Letter size of the word "CAUTION" should be approximately twice the letter size of the rest of the information, e.g., 1/2-inch and 1/4-inch letter size, respectively.

(5) The licensee must immediately notify the Agency by telephone and subsequently by confirming letter if the licensee knows or has reason to believe that radioactive material has been lost in or to an underground potable aquifer. Such notice must designate the well location and must describe the magnitude and extent of loss of radioactive material, assess the consequences of such loss and explain efforts planned or being taken to mitigate these consequences.

(6) The licensee may apply to the Agency for a variance to the requirements of this division for abandonment of an irretrievable well logging source. The request must include the reason these rules cannot be followed and the proposed acceptable alternative. The request must be signed by both the licensee and the well owner/operator.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0010
Purpose and Scope

This division contains the requirements and provisions for the production, preparation, compounding and use of radionuclides in the healing arts and for issuance of licenses authorizing the medical use of this material in Oregon. These requirements and provisions provide for the radiation safety of workers, the general public, patients, and human research subjects. The requirements and provisions of this division are in addition to, and not in substitution for, others in these rules. The requirements and provisions of these rules apply to applicants and licensees subject to this division unless specifically exempted.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0020
Definitions

As used in this division, the following definitions apply:

(1) "Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used, or stored.

(2) "Area of use" means a portion of an address of use that has been set aside for the purpose of receiving, using or storing radioactive material;

(3) "Authorized Medical Physicist" means an individual who:

(a) Meets the requirements in 333-116-0730, or 333-116-0905 and 333-116-0760; or

(b) Is identified as an authorized medical physicist or teletherapy physicist on:

(A) A specific medical use license issued by the Agency or an Agreement State or the US Nuclear Regulatory Commission;

(B) A medical use permit issued by a Commission master material licensee;

(C) A permit issued by a Commission or Agreement State broad scope medical use licensee; or

(D) A permit issued by a Commission master material license broad scope medical use permittee.

(4) "Authorized nuclear pharmacist" means a pharmacist who:

(a) Meets the requirements in OAR 333-116-0910 and 333-116-0915; or

(b) Is identified as an authorized nuclear pharmacist on an Agency, Agreement State, or U.S. Nuclear Regulatory Commission license that authorizes the use of radioactive material in the practice of nuclear pharmacy; or

(c) Is identified as an authorized nuclear pharmacist on a license issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission specific licensee of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy; or

(d) Is approved as an authorized nuclear pharmacist by a nuclear pharmacy licensed (authorized) by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State to approve authorized nuclear pharmacists.

(5) "Authorized user" means a practitioner of the healing arts who:

(a) Meets the requirements listed in OAR 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0690, 333-116-0700, 333-116-0710, 333-116-0720, and 333-116-0740; or

(b) Is identified as an authorized user on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(c) Is identified as an authorized user on a permit issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission licensee of broad scope that is authorized to permit the medical use of radioactive material.

(6) "Black Box" means the radiopharmaceutical production purification system used in a PET facility.

(7) "Brachytherapy" means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal, or interstitial application.

(8) "Brachytherapy source" means an individual sealed source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose of radiation within a few centimeters, by surface, intracavitary, or interstitial application that is not designed to be disassembled by the user.

(9) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. This source may also be used for other purposes.

(10) "Dental use" means the intentional external administration of the radiation from radioactive material to human beings in the practice of dentistry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(11) "Dentist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

(12) "Diagnostic clinical procedures manual" means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

(13) "High dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate in excess of two Gray (200 RADs) per hour, to the point or surface where the dose is prescribed.

(14) "Human Research Subject" means a living person that an authorized user, conducting research, obtains data resulting from the intentional internal or external administration of radioactive material, or the radiation from radioactive material, to the individual. For the purpose of these rules, unless otherwise noted, the term patient applies to a human research subject.

(15) "Low dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate of less than two Gray (200 RADs) per hour, to the point or surface where the dose is prescribed.

(16) "Management" means the chief executive officer or that individual's designee;

(17) "Manual Brachytherapy", as used in this part, means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed on, or in close proximity, to the treatment site or inserted directly into the tissue volume.

(18) "Medical Event or Medical Error" means an event where a patient or human research subject:

(a) Receives a dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; or

(b) Receives a dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site); or

(c) An event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician

(19) "Medical institution" means an organization in which more than one medical discipline is practiced;

(20) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation from radioactive material to patients or human research subjects under the supervision of an authorized user.

(21) "Ministerial change" means a change that is made, after ascertaining the applicable requirements, by persons in authority in conformance with the requirements and without making a discretionary judgment about whether those requirements should apply in the case at hand.

(22) "Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual or wrong radiopharmaceutical; or

(B) When both the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceed 1.11 megabecquerels (30 uCi).

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131;

(A) Involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(B) When the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:

(A) Involving the wrong individual or wrong treatment site; or

(B) When the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose.

(d) A teletherapy radiation dose:

(A) Involving the wrong individual, wrong mode of treatment, or wrong treatment site;

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than ten percent of the total prescribed dose;

(C) When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20 percent of the total prescribed dose.

(e) A brachytherapy radiation dose:

(A) Involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

(B) Involving a sealed source that is leaking;

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(D) When the calculated administered dose differs from the prescribed dose by more than 20 percent of the prescribed dose.

(f) A diagnostic radiopharmaceutical dosage, other than quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; or

(B) When the dose to the individual exceeds 50 millisieverts (5 rem) effective dose equivalent or 500 millisieverts (50 rem) dose equivalent to any individual organ.

(23) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

(24) "Nuclear Pharmacist" means an authorized nuclear pharmacist, as defined in OAR 333-116-0020, who has received additional training, pursuant to 333-116-0910 and 333-116-0915 in the management and handling of radioactive drugs and is authorized by license to receive, use, transfer, and dispose of such radioactive drugs.

(25) "Output" means the exposure rate, dose rate or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(26) "Patient Intervention" means actions taken by a patient or human research subject, whether intentional or unintentional, interrupt or terminate the administration of radioactive materials or radiation.

(27) "PET" means Positron Emission Tomography

(28) "PET Isotope Nuclear Pharmacy" means a licensed facility that compounds radiopharmaceuticals using positron emitting isotopes for use at licensed medical facilities.

(29) "PET cyclotron facility" means a facility that manufacturers short-lived radioisotopes for use in compounding radiopharmaceuticals at a PET Isotope Nuclear Pharmacy.

(30) "PET Medical Facility" means a clinical nuclear medicine facility that utilizes positron-emitting isotopes for diagnostic imaging.

(31) "Pharmacist" means an individual licensed by a State or Territory of the United States, The District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(32) "Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

(33) "Podiatric use" means the intentional external administration of the radiation from byproduct material to human beings in the practice of podiatry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(34) "Podiatrist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

(35) "Positron Emission Tomography (PET) facility" means a facility comprised of an accelerator that produces positron-emitting isotopes, a radiopharmacy that specializes in preparation of PET radiopharmaceuticals, and/or a clinic that uses PET isotopes for medical diagnostic purposes.

(36) "Preceptor" means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a Radiation Safety Officer. The preceptor must have previously met all of the applicable requirements and be so named on a radioactive materials license issued by the Agency, the Nuclear Regulatory Commission, an Agreement State or licensing state.

(37) "Prescribed dosage" means the specified activity or range of activity of a radiopharmaceutical or radioisotope as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(38) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(c) For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

(39) "Pulsed dose-rate remote afterloader" means a special type of remote afterloading device that uses a single source capable of delivering dose rates in the "high dose rate" range, but is used to simulate the radiobiology of a low dose rate treatment by inserting the source for a given fraction of each hour.

(40) "Radiation Safety Officer" means an individual that:

(a) Meets the requirements in 333-116-0640, 333-116-0650, 333-116-0740 and 333-116-0760; or

(b) Is identified as a Radiation Safety Officer on:

(A) A specific medical use license issued by the Commission or Agreement State; or

(B) A medical use permit issued by a Commission master material licensee.

(41) "Recordable Event" (See Medical Event and Misadministration)

(42) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(43) "Stereotactic Radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose to a tissue volume.

(44) "Structured educational program" means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

(45) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(46) "Teletherapy physicist" means the individual identified as the qualified teletherapy physicist on a Agency license.

(47) "Therapeutic Dosage" means a dosage of unsealed byproduct material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

(48) "Therapeutic Dose" means a radiation dose delivered from a source containing byproduct material to a patient or human research subject for palliative or curative treatment.

(49) "Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

(50) "Unit dosage" means a dosage intended for medical use in a single patient or human research subject that has been obtained from a manufacturer or preparer licensed by the Agency as a nuclear pharmacy.

(51) "Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

(52) "Written directive" means an order in writing for a specific patient, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in OAR 333-116-0125(1)(e), containing the following information:

(a) For any administration of quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: the radioisotope, number of sources, and source strengths; and

(B) After implantation but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0025
FDA, Other Federal, and State Requirements

Nothing in this part relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs or devices.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0027
Implementation

(1) A licensee must implement the provisions in division 333-116 no later June 15, 2006.

(2) When a requirement in division 333-116 differs from the requirement in an existing license condition, the more restrictive requirement must govern until there is a license amendment or license renewal.

(3) Any existing license condition, not affected by a requirement in division 333-116, remains in effect until the license is amended or renewed.

(4) If a license condition exempted a licensee from a provision of division 333-116 on June 15, 2006, it will continue to exempt a licensee from the corresponding provision in division 333-116.

(5) If a license condition cites provisions in division 333-116 that will be deleted on June 15, 2006, then the license condition remains in effect until the license is amended or renewed to modify or remove the condition.

(6) Licensees must continue to comply with any license condition that requires it to implement procedures required by 333-116-0525, 333-116-0580, 333-116-0583, and 333-116-0587 until there is a license amendment or renewal that modifies the license condition.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0030
License Required

(1) No person shall manufacture, produce, acquire, receive, possess, use or transfer radioactive material for medical use except in accordance with a specific or general license issued pursuant to this division or as otherwise provided in this division.

(2) Unless prohibited by license condition, a specific license is not needed for an individual to:

(a) Receive, possess, use or transfer radioactive material in accordance with the rules in this division under the supervision of an authorized user as provided in OAR 333-116-0100; or

(b) Prepare unsealed byproduct material for medical use in accordance with the rules in this division under the supervision of an authorized nuclear pharmacist or authorized user as provided in OAR 333-116-0100.

(3) Notwithstanding the above requirements, any licensee licensed pursuant to this rule also is authorized to use radioactive material under the general license in OAR 333-102-0130 for the specified *in vitro* uses without filing the form as required by OAR 333-102-0130(2); the licensee is subject to the other provisions of OAR 333-102-0130.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0035
Application for License, Amendment, or Renewal

(1) An application must be signed by the management of the facility.

(2) An application for a license for medical use of radioactive material as described in OAR 333-116-0200, 333-116-0300, 333-116-0320, 333-116-0360, 333-116-0400, and 333-116-0420 and for medical use of remote afterloaders in 333-116-0480, must be made by filing a "Radioactive Materials License Application: Medical." A request for a license amendment or renewal may be submitted in letter format.

(3) Except for medical use of remote afterloaders, a separate license application must be filed for each medical use of radioactive material as described in 333-116-0480 by filing a "Radioactive Materials License Application: Medical." A request for a license amendment or renewal may be submitted in letter format.

(4) An application for a license for medical use of radioactive material as described in 333-116-0800, Licensing and Registration of Positron Emission Tomography (PET) Facilities, must be made by filing a "Radioactive Materials License Application: Medical."

(a) In addition to the information required in the "Radioactive Materials License Application: Medical," the application must also include information regarding any radiation safety aspects of the medical use of the radioactive material that is not addressed in this division, as well as any specific information necessary for:

(A) Radiation safety precautions and instructions;

(B) Training and experience of proposed users;

(C) Methodology for measurement of dosages or doses to be administered to patients or human research subjects; and

(D) Calibration, maintenance, and repair of equipment necessary for radiation safety.

(b) The applicant of licensee must also provide any other information requested by the Agency in its review of the application.

NOTE: An applicant that satisfies the requirements specified in OAR 333-102-0900 may apply for a Broad Scope A specific license.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0040
License Amendments

A licensee must apply for and must receive a license amendment:

(1) Before receiving or using radioactive material for a method or type of medical use not permitted by the license issued under this division;

(2) Before permitting anyone, except a visiting authorized user described in OAR 333-116-0110, to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist under the license. A visiting authorized user is an individual who:

(a) Meets the requirements of 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0700, 333-116-0710 or 333-116-0720, 333-116-0740 and 333-116-0760 of these rules; or

(b) Is a nuclear pharmacist who meets the requirements in OAR 333-116-0910 and 333-116-0760; or

(c) Is a medical physicist, who meets the requirements in 333-116-0730, 333-116-0740, 333-116-0760 and 333-116-0905; or

(d) Is identified as an authorized user, or an authorized nuclear pharmacist, or an authorized medical physicist on a Nuclear Regulatory Commission or Agreement State license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively, or

(3) Before changing the Radiation Safety Officer or Teletherapy Physicist;

(4) Before receiving radioactive material in excess of the amount authorized on the license;

(5) Before adding to or changing the area of use or mailing address identified on the license; and

(6) Before changing statements, representations and procedures which are incorporated into the license.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0045
Provisions for Research Involving Human Subjects.

(1) A licensee may conduct research involving human research subjects only if authorized by the Agency. This applies whether or not the research is conducted, funded, supported, or regulated by a Federal agency that has implemented the Federal Policy for the Protection of Human Subjects (Federal Policy). In addition, the licensee must, before conducting research:

(a) Obtain review and approval of the research from an "Institutional Review Board," as defined and described in the Federal Policy; and

(b) Obtain "informed consent," as defined and described in the Federal Policy, from the human research subject.

(2) Nothing in this rule relieves a licensee from complying with the other requirements in this part.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0050
Notifications

(1) A licensee must provide to the Agency a copy of the board certification, the Nuclear Regulatory Commission or Agreement State license, or the permit issued by a licensee of Broad Scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, pursuant to OAR 333-116-0040(2)(a) through (d).

(2) A licensee must notify the Agency by letter no later than 30 days after:

(a) An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer or an authorized medical Physicist permanently discontinues performance of duties under the license or has a name change.

(b) The licensee's mailing address changes;

(c) The licensee's name changes, but the name does not constitute a transfer of control ot the license as described in OAR 333-102-0305 of these rules; or

(d) The licensee has added to or changed the areas where radioactive material is used in accordance with 333-116-0200 and 333-116-0300.

(3) The licensee must mail the documents required in this division to the Agency for review.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0055
Exemptions Regarding Type a Specific Licenses of Broad Scope

A licensee possessing a Type A specific license of broad scope for medical use is exempt from:

(1) The provisions of OAR 333-116-0040(2);

(2) The provisions of 333-116-0040(5) regarding additions to or changes in areas of use only at the addresses specified in the license;

(3) The provisions of 333-116-0050(1);

(4) The provisions of 333-116-0050(2)(a) for an authorized user, or authorized nuclear pharmacist, and

(5) The provisions of 333-116-0140(1).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0057
License Issuance

(1) The Agency must issue a license for the medical use of radioactive material if:

(a) The applicant has filed a "Radioactive Materials License Application: Medical" in accordance with the instructions in OAR 333-116-0035;

(b) The applicant has paid any applicable fee as provided in division 103 of these rules;

(c) The Agency finds the applicant equipped and committed to observe the safety standards established by the Agency in these rules for the protection of the public health and safety; and

(d) The applicant meets the requirements of division 102 of these rules.

(2) The Agency must issue a license for mobile services if the applicant:

(a) Meets the requirements in section (1) of this rule; and

(b) Assures that individuals or human research subjects to whom radiopharmaceuticals or radiation from implants will be administered may be released following treatment in accordance with 333-116-0460.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0059
Specific Exemptions

The Agency may, upon application of any interested person or upon its own initiative, grant such exemptions from the regulations in this division as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0090
Statement of Authorities and Responsibilities for the Radiation Protection Program

(1) In addition to the radiation protection program requirements of 333-120-0020, a licensee's management must approve in writing:

(a) Requests for a license application, renewal, or amendment before submittal to the Agency;

(b) Any individual before allowing that individual to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist; and

(c) Radiation protection program changes that do not require a license amendment and are permitted under 333-116-0123.

(2) A licensee's management must appoint a Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the Radiation Safety Officer, must ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements.

(3) For up to 60 days each year, a licensee may permit an authorized user or an individual qualified to be a Radiation Safety Officer, under 333-116-0650, 333-116-0740 and 333-116-0760, to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer, as provided in section (7) of this rule, if the licensee takes the actions required in sections (2), (5), (7) and (8) of this rule and notifies the Agency in accordance with 333-116-0050(2).

(4) A licensee may simultaneously appoint more than one temporary Radiation Safety Officer in accordance with section (3) of this rule, if needed to ensure that the licensee has a temporary Radiation Safety Officer that satisfies the requirements to be a Radiation Safety Officer for each of the different types of uses of byproduct material permitted by the license.

(5) A licensee must establish the authority, duties, and responsibilities of the Radiation Safety Officer in writing.

(6) A licensee must provide the Radiation Safety Officer sufficient authority, organizational freedom, time, resources, and management prerogative, to:

(a) Identify radiation safety problems;

(b) Initiate, recommend, or provide corrective actions;

(c) Stop unsafe operations; and

(d) Verify implementation of corrective actions.

(7) Licensees that are authorized for two or more different types of uses of radioactive material under division 333-116, must establish a Radiation Safety Committee to oversee all uses of radioactive material permitted by the license. The Committee must include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer. The Committee may include other members the licensee considers appropriate.

(8) A licensee's Radiation Safety Committee must meet at intervals not to exceed six months. The licensee must maintain minutes of each meeting in accordance with 333-100-0057.

(9) A licensee must retain a record of actions taken under sections (1), (2) and (5) of this rule in accordance with 333-100-0057. These records must be retained for the life of the license.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0100
Supervision

(1) A licensee who permits the receipt, possession, use or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by OAR 333-116-0030 must:

(a) In addition to the requirements in 333-111-0010, instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, the licensee's written quality management program, the Oregon Rules for the Control of Radiation and the license conditions appropriate to that individual's use of radioactive material; and

(b) Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures, written directive procedures, regulations of 333-116, and license conditions with respect to the medical use of radioactive material.

(2) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user, as allowed by OAR 333-116-0030(3) must:

(a) In addition to the requirements in 333-111-0010, instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's use of radioactive material; and

(b) Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, the written radiation protection procedures established by the licensee and division 333-116, and license conditions.

(3) A licensee that permits supervised activities under sections (1) and (2) of this rule is responsible for the acts and omissions of the supervised individual.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0105
Written Directives

(1) A written directive must be prepared, dated and signed by an authorized user prior to administration of I-131 sodium iodide greater than 1.11 Megabecquerels (MBq) (30 microcuries (uCi)), or any therapeutic dosage of a radiopharmaceutical, or any therapeutic dose of radiation from radioactive material.

(2) The written directive must contain the patient or human research subject's name and the following:

(a) For any administration of quantities greater than 1.11 MBq (30 uCi) of sodium iodide I-131; the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-131: the radiopharmaceutical dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates (including gamma angle), collimator size, plug pattern, total dose for the treatment, and the total treatment volume for each anatomically distinct treatment site;

(d) For teletherapy: the total dose, dose per fraction, number of fractions, treatment site, and overall treatment period;

(e) For remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: treatment site, the radionuclide, number of sources and source strengths or dose; and

(B) After implantation but prior to completion of the procedure: the radionuclide, treatment site, and total source strength and exposure time (or equivalently, the total dose).

(3) A written revision to an existing written directive may be made if the revision is dated and signed by an authorized user before the administration of the dosage of unsealed byproduct material, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next fractional dose.

(4) If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within 48 hours of the oral revision.

(5) The licensee must retain the written directive in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0107
Procedures for Administrations Requiring a Written Directive

(1) For any administration requiring a written directive, the licensee must develop, implement, and maintain written procedures to provide high confidence that:

(a) The patient's or human research subject's identity is verified before each administration; and

(b) Each administration is in accordance with the written directive.

(2) The procedures required by section (1) of this rule must, at a minimum, address the following items applicable to the licensee's use of radioactive material:

(a) Verifying the identity of the patient or human research subject;

(b) Verifying that the specific details of the administration are in accordance with the written directive and, if applicable, the treatment plan;

(c) Checking both manual and computer-generated dose calculations; and

(d) Verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical devices.

(3) The licensee must retain a copy of procedures in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0110
Visiting Authorized User

(1) A licensee may permit any visiting authorized user to use licensed material for medical use under the terms of the licensee's license for 60 days each year if:

(a) The visiting authorized user has the prior written permission of the licensee's management and, if the use occurs on behalf of an institution, the institution's Radiation Safety Committee;

(b) The licensee has a copy of the Agency license or a license issued by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, that identifies the visiting authorized user by name as an authorized user for medical use; and

(c) Only those procedures for which the visiting authorized user is specifically authorized by the Agency license are performed by that individual.

(2) A licensee need not apply for a license amendment in order to permit a visiting authorized user to use licensed material as described in section (1) of this rule.

(3) A licensee must retain copies of the records specified in this rule in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0120
Mobile Nuclear Medicine Service Administrative Requirements

(1) The Agency will only license mobile nuclear medicine services in accordance with OAR 333-116-0300, 333-116-0320, and 333-116-0400 of this division and OAR 333-102-0130.

(2) Mobile nuclear medicine service licensees must:

(a) Obtain a letter signed by the management of each client for which services are rendered that authorizes use of licensed radioactive material at the client's address of use. This letter must clearly delineate the authority and responsibility of both the client and the mobile medical service. If the client is licensed, the letter must document procedures for notification, receipt, storage and documentation of transfer of radioactive material delivered to the client's address for use by the mobile medical service. The mobile nuclear medicine service licensee must retain the letter for three years after the last provision of service.

(b) Check instruments used to measure the activity of unsealed byproduct material for proper function before use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function must include a constancy check;

(c) Check survey instruments for proper operation with a dedicated check source before use at each client's address; and

(d) Survey all areas of use to ensure compliance with the requirements in 333-120 before leaving a client's address.

(3) If a mobile nuclear medicine service provides services that the client also is authorized to provide, the client is responsible for assuring that services are conducted in accordance with the rules in this division while the mobile nuclear medicine service is under the client's direction.

(4) A mobile nuclear medicine service may not order radioactive material to be delivered directly from the manufacturer or the distributor to the client's address of use unless the client has a radioactive materials license. Radioactive material delivered to the client's address of use must be received and handled in conformance with the client's license.

(5) A mobile medical service licensee must, at a minimum, maintain the following documents onboard each mobile unit:

(a) Current operating and emergency procedures;

(b) Copy of the current license;

(c) Copies of the letter required by section (2) of this rule;

(d) Current calibration records for each survey instrument and diagnostic equipment or dose delivery device in use; and

(e) Survey records covering uses associated with the mobile unit during, at a minimum, the preceding 90 calendar days.

(6) A licensee must retain copies of the records specified in this rule in accordance with 333-100-0057. The records required for section (2)(b), (2)(c) and (2)(d) of this rule must include the date of the survey or test, the results of the survey or test, the instrument used to make the survey or source used to perform the test, and the name of the individual who performed the survey or test.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0123
Radiation Safety Program Changes

(1) A licensee may revise its radiation protection program without Agency approval if:

(a) The revision does not require a license amendment under 333-116-0040;

(b) The revision is in compliance with the regulations and the license;

(c) The revision has been reviewed and approved by the Radiation Safety Officer, licensee management and, if applicable, the Radiation Safety Committee; and

(d) The affected individuals are instructed on the revised program before the changes are implemented.

(2) A licensee must retain a record of each change in accordance with 333-100-0057. The record must include the effective date of the change, a copy of the old and new radiation safety procedures, the reason for the change, a summary of radiation safety matters that were considered before making the change, the signature of the Radiation Safety Officer, and the signatures of the affected authorized users and of management, or, in a medical institution, the Radiation Safety Committee's chairman and the management representative.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0125
Quality Management Program

(1) Each applicant or licensee under this division, as applicable, must establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The quality management program must include written policies and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive (see NOTE below) is prepared for:

(A) Any teletherapy radiation dose;

(B) Any gamma stereotactic radiosurgery radiation dose;

(C) Any brachytherapy radiation dose;

(D) Any administration of quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131; or

(E) Any therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That final plans of treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery are in accordance with the respective written directives;

(d) That each administration is in accordance with the written directive; and

(e) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

NOTE: If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision. Also, a written revision to an existing written directive may be made for any diagnostic or therapeutic procedure provided that the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next teletherapy fractional dose. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in the patient's record and a written directive is prepared within 24 hours of the oral directive.

(2) The licensee shall:

(a) Develop procedures for and conduct a review of the quality management program including, since the last review, an evaluation of:

(A) A representative sample of patient administrations,

(B) All recordable events, and

(C) All misadministrations to verify compliance with all aspects of the quality management program; these reviews shall be conducted at intervals no greater than 12 months;

(b) Evaluate each of these reviews to determine the effectiveness of the quality management program and, if required, make modifications to meet the objectives of section (2)(a) of this rule; and

(c) Retain records of each review, including the evaluations and findings of the review, in an auditable form for three years.

(3) The licensee shall evaluate and respond, within 30 days after discovery of the recordable event, to each recordable event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for five years or until inspected by the Agency, of the relevant facts and what corrective action, if any, was taken.

(4) The licensee shall retain:

(a) Each written directive; and

(b) A record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in section (1)(a) of this rule, in an auditable form, for five years, or until inspected by the Agency, after the date of administration.

(5) The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Agency Office within 30 days after the modification has been made.

(6) Each applicant for a new license, as applicable, shall submit to the Agency Office in accordance with OAR 333-102-0190 a quality management program as part of the application for a license and implement the program upon issuance of the license by the Agency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0130
Records and Reports of Misadministrations

(1) For a misadministration that meets the definition in 333-116-0020 a licensee must:

(a) Notify the Agency by telephone no later than the next calendar day after discovery of the misadministration.

NOTE: The 24-hour phone number of the Agency Office is (971) 673-0515.

(b) The licensee must submit a written report to the Agency Office within 15 days after the discovery of the misadministration. The written report must include:

(A) The licensee's name;

(B) The prescribing physician's name;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect on the patient;

(F) What improvements are needed to prevent recurrence;

(G) Actions taken to prevent recurrence; and

(H) Certification that the licensee notified the patient, or the patient's responsible relative or guardian (this person will be subsequently referred to as "the patient" in this section), and if not, why not, and if the patient was notified, what information was provided to the patient. The report must not include the patient's name or other information that could lead to identification of the patient.

(c) The licensee must notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician agrees to inform the patient or believes, based on medical judgment, that telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. These notifications must be made within 24 hours after the licensee discovers the misadministration. If the referring physician, patient or the patient's responsible relative or guardian cannot be reached within 24 hours, the licensee must notify them as soon as practicable. The licensee is not required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician; however, the licensee must not delay medical care for the patient because of this.

(d) If the patient was notified, the licensee also must furnish, within 15 days after discovery of the misadministration, a written report to the patient by sending either:

(A) A copy of the report that was submitted to the Agency; or

(B) A brief description of both the event and the consequences as they may affect the patient, provided a statement is included that the report submitted to the Agency can be obtained from the licensee.

(2) Each licensee must retain a record of each misadministration in accordance with 333-100-0057. The record must contain the names of all individuals involved in the event (including the physician, allied health personnel, the patient, and the patient's referring physician), the patient's social security number or identification number if one has been assigned, a brief description of the misadministration, why it occurred, the effect on the patient, what improvements are needed to prevent recurrence, and the actions taken to prevent recurrence.

(3) Aside from the notification requirement, nothing in this rule must affect any rights or duties of licensees and physicians in relation to each other, patients or responsible relatives or guardians.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0140
Suppliers

A licensee may use for medical use only:

(1) Radioactive material manufactured, produced, labeled, prepared, compounded, packaged and distributed in accordance with a license issued pursuant to these Rules or the equivalent Rules of another Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission; and

(2) Reagent kits, radiopharmaceuticals, and/or radiobiologics that have been manufactured, labeled, packaged and distributed in accordance with an approval issued by the U.S. Department of Health and Human Services, Food and Drug Administration.

(3) Radiopharmaceuticals compounded from a prescription in accordance with the regulations of the state Board of Pharmacy.

(4) Teletherapy and brachytherapy sources manufactured and distributed in accordance with a license issued pursuant to these regulations, or the equivalent regulations of another Agreement State, a Licensing State, or the Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0150
Quality Control of Imaging Equipment

(1) Each licensee must establish written quality control procedures for all diagnostic equipment used to obtain images from radionuclide studies. As a minimum the quality control procedures and frequencies must include quality control procedures recommended by equipment manufacturers or procedures which have been approved by the Agency. The licensee must conduct quality control procedures in accordance with written procedures.

(2) Copies of procedures and records generated from implementing these procedures must be maintained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0160
Possession, Use, Calibration and Check of Dose Calibrators

(1) A medical use licensee authorized to administer either radiopharmaceuticals or unsealed radioactive materials must possess a dose calibrator and use it to measure the amount of activity of radionuclides prior to administration to each patient or human research subject. The licensee must also develop, implement and maintain written procedures for proper calibration and operation of the dose calibrator.

(2) At a minimum, a licensee must:

(a) Check each dose calibrator for constancy and proper operation with a dedicated check source at the beginning of each day of use. To satisfy the requirement of this rule, the check must be done on a frequently used setting with a sealed source of not less than 1.85 megabecquerels (50 uCi) of any photon-emitting radionuclide with a half-life greater than 90 days. The results of this test must be within +ten percent of the sources stated activity. Sources used for the daily constancy test must be determined by the manufacturer to be within +five percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology.

(b) Test each dose calibrator for accuracy upon installation and at intervals not to exceed 12 months thereafter by assaying at least two sealed sources containing different photon-emitting radionuclides 1.85 megabecquerels (50 uCi) each, at least one of which has a principal photon energy between 100 keV and 500 keV. All sources used to satisfy the accuracy test must be determined by the manufacturer to be within +five percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology;

(c) Test each dose calibrator for linearity upon installation and at intervals not to exceed three months thereafter over the range of use between 1.1 megabecquerels (30 microcuries) and the highest dosage that will be administered; and

(d) Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee must keep a record of this test for the duration of the use of the dose calibrator.

(3) A licensee must mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 1.1 megabecquerels (30 microcuries) and must repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.

(4) A licensee must also perform checks and tests required by section (2) of this rule following adjustment or repair of the dose calibrator and prior to use.

(5) A licensee must retain a record of each check and test required by section (2) of this rule in accordance with 333-100-0057. The records required by section (2) of this rule must include:

(a) For constancy, the model and serial number of the dose calibrator, the identity and calibrated activity of the radionuclide contained in the check source, the date of the check, the activity measured, the instrument settings and the initials of the individual who performed the check;

(b) For accuracy, the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, the instrument settings and the signature of the Radiation Safety Officer;

(c) For linearity, the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test and the signature of the Radiation Safety Officer; and

(d) For geometry dependence, the model and serial number of the dose calibrator, the configuration and calibrated activity of the source measured, the activity of the source, the activity measured and the instrument setting for each volume measured, the date of the test and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0165
Possession, Use Calibration, and Check of Instruments to Measure Dosages of Alpha- or Beta-emitting Radionuclides

(1) For other than unit dosages, a licensee must possess and use instrumentation to measure the radioactivity of alpha- or beta-emitting radionuclides. A licensee must measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha- or beta-emitting radionuclides prior to administration to each patient or human research subject.

(2) A licensee must develop, implement, and maintain written procedures for use of the instrumentation. At a minimum, a licensee must:

(a) Perform tests before initial use, and following repair, on each instrument for accuracy, linearity, and geometry dependence, unless it is not appropriate for the use of the instrument; and make adjustments when necessary;

(b) Perform accuracy annually;

(c) Perform linearity tests annually over the range of medical use; and

(d) Check each instrument for constancy and proper operation at the beginning of each day of use.

(3) Accuracy tests must be performed with source(s) that are traceable to National Institute of Standards and Technology (NIST) or by a supplier who has compared the source to a source that was calibrated by NIST.

(4) A licensee must retain a record of each check and test required by this rule in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0170
Calibration and Check of Survey Instrument

(1) A licensee must ensure that the survey instruments used to show compliance with divisions 333-0116 and 333-120 have been calibrated before first use, annually and following repair.

(2) To satisfy the requirements of section (1) of this rule the licensee must:

(a) Calibrate all required scale readings up to ten millisieverts (1000 mrem) per hour with a radiation source;

(b) For each scale that must be calibrated, calibrate two readings separated by at least 50 percent of scale reading; and

(c) Conspicuously note on the instrument the date of calibration.

(3) To satisfy the requirements of section (2) of this rule, the licensee must:

(a) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than ten percent; and

(b) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent if a correction chart or graph is conspicuously attached to the instrument.

(4) A licensee must check each survey instrument for proper operation with the dedicated check source before each use. The licensee is not required to keep records of these checks.

(5) The licensee must retain a record of each calibration required in section (1) of this rule in accordance with 333-100-0057. The record must include:

(a) A description of the calibration procedure; and

(b) A description of the source used and the certified exposure rates from the source and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration and the date of calibration.

(6) To meet the requirements of sections (1), (2) and (3) of this rule, the licensee may obtain the services of individuals licensed by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform calibrations of survey instruments. Records of calibrations which contain information required by section (5) of this rule, must be maintained by the licensee calibration in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0180
Determination of Dosages of Unsealed Radioactive Material for Medical Use

A licensee must:

(1) Assay, within 30 minutes before medical use, the activity of each radiopharmaceutical dosage that contains more than 370 kilobecquerels (10 uCi) of a alpha-, beta-, or photon-emitting radionuclide;

(2) For a dosage of a alpha- or beta-emitting radionuclide prepared by the licensee, this determination must be made by direct measurement or by a combination of measurements and calculations.

(3) A licensee must not use a dosage if the dosage differs from the prescribed dosage by more than 20 percent, unless authorized in writing by an authorized user.

(4) Retain a record of the assays required by this rule in accordance with 333-100-0057. The record must contain the:

(a) Generic name, trade name or abbreviation of the radiopharmaceutical, its lot number and expiration dates and the radionuclide;

(b) Patient's name and identification number if one has been assigned;

(c) Prescribed dosage and activity of the dosage at the time of assay or a notation that the total activity is less than 370 kilobecquerels (10 uCi);

(d) Date and time of the assay;

(e) Date and time of administration; and

(f) Initials of the individual who performed the assay.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0190
Authorization for Calibration and Reference Source

Any person authorized by OAR 333-116-0030 for medical use of radioactive material may receive, possess and use the following radioactive material for check, calibration and reference use:

(1) Sealed sources manufactured and distributed by persons specifically licensed pursuant to OAR 333-102-0290 or equivalent provisions of the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State and that do not exceed 1.11GBq (30 mCi) each;

(2) Any radioactive material listed in OAR 333-116-0300, 333-116-0320 or 333-116-0360 with a half-life of 100 days or less in individual amounts not to exceed 1.11GBq (30 mCi), except Y-90 sources not to exceed 2.8 GBq (75 mCi);

(3) Any radioactive material listed in 333-116-0300, 333-116-0320 or 333-116-0360 with a half life greater than 100 days in individual amounts not to exceed 7.4 MBq (200 milliCi) each; and

(4) Technetium-99m in individual amounts to exceed 1.85 GBq (50 mCi).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0200
Requirements for Possession of Sealed Sources and Brachytherapy Sources

(1) A licensee in possession of any sealed source or brachytherapy source must follow the radiation safety and handling instructions supplied by the manufacturer or equivalent instructions approved by the Agency, and must maintain the instructions for the duration of source use in a legible form convenient to users.

(2) A licensee in possession of a sealed source must assure that:

(a) The source is tested for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

(b) The source is tested for leakage at intervals not to exceed six months or at intervals approved by the Agency, another Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission in the Sealed Source and Device Registry (SS&D).

(3) To satisfy the leak test requirements of this division, the licensee must assure that:

(a) Leak tests are capable of detecting the presence of 185 Bq (0.005 uCi) of radioactive material on the test sample, or in the case of radium, the escape of radon at the rate of 37 Bq (0.001 uCi) per 24 hours;

(b) Test samples are taken from the source or from the surfaces of the device in which the source is mounted or stored on which radioactive contamination might be expected to accumulate; and

(c) For teletherapy units, test samples are taken when the source is in the "off" position.

(4) A licensee must retain leak test records in accordance with 333-100-0057. The records must contain the model number and serial number if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in microcuries (Bq), a description of the method used to measure each test sample, the date of the test and the signature of the Radiation Safety Officer.

(5) If the leak test reveals the presence of 185 Bq (0.005 uCi) or more of removable contamination, the licensee must:

(a) Immediately withdraw the sealed source from use and store it in accordance with the requirements of these rules; and

(b) File a report within five days of receiving the leakage test results with the Agency describing the equipment involved, the test results and the action taken.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than 30 days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 3.7 MBq (100 uCi) or less of beta or photon-emitting material or 370 kBq (10 uCi) or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. The licensee must, however, test each such source for leakage before any use or transfer unless it has been tested for leakage within six months before the date of use or transfer.

(7) A licensee in possession of a sealed source or brachytherapy source must conduct a semi-annual physical inventory of all such sources in its possession. The licensee must retain each inventory record in accordance with 333-100-0057. The inventory records must contain the model number of each source and serial number if one has been assigned, the identity of each source radionuclide and its estimated activity, the location of each source, date of the inventory and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0220
Labeling of Vials and Syringes

Each syringe and vial that contains unsealed byproduct material must be labeled to identify the radioactive drug. Each syringe shield and vial shield must also be labeled unless the label on the syringe or vial is visible when shielded. The label must include the radiopharmaceutical name or abbreviation, the type of diagnostic study or therapy procedure to be performed and the patient's name.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0250
Surveys for Contamination and Ambient Radiation Dose Rate

(1) A licensee must survey with an appropriate radiation detection survey instrument, at the end of each day of use, all areas where radiopharmaceuticals are routinely prepared for use or administered. Radiation surveys are not required in areas where patients or human research subjects are confined when they cannot be released under 333-116-0260. Radiation surveys are required when patients receive a therapeutic dose or brachytherapy implant and prior to release.

(2) A licensee must survey with an appropriate radiation detection survey instrument at least once each week all areas where radiopharmaceuticals or radioactive wastes are stored.

(3) A licensee must conduct the surveys required by section (1) and (2) of this rule so as to be able to measure dose rates as low as one Sv (0.1 mrem) per hour.

(4) A licensee must establish dose rate action levels for the surveys required by section (1) and (2) of this rule and must require that the individual performing the survey immediately notify the Radiation Safety Officer if a dose rate exceeds an action level.

(5) A licensee must survey for removable contamination each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered and each week where radioactive materials are stored.

(6) A licensee must conduct the surveys required by section (5) of this rule so as to be able to detect contamination on each wipe sample of 33.3 Bq (2000 dpm).

(7) A licensee must establish removable contamination action levels for the surveys required by section (5) of this rule and must require that the individual performing the survey immediately notify the Radiation Safety Officer if contamination exceeds action levels.

(8) A licensee must retain a record of each survey required by this rule in accordance with 333-100-0057. The record must include the date of the survey, a sketch of each area surveyed, action levels established for each area, the measured dose rate at several points in each area expressed in Sv mrem per hour or the removable contamination in each area expressed in Bq (dpm) per 100 square centimeters, the serial number and the model number of the instrument used to make the survey or analyze the samples and the initials of the individual who performed the survey.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0255
Surveys Of Patients And Human Research Subjects Treated With A Remote Afterloader Unit

(1) Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that the source(s) has been removed from the patient or human research subject and returned to the safe shielded position.

(2) A licensee shall retain a record of these surveys in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0260
Release of Patients Containing Therapeutic Quantities of Radiopharmaceuticals or Permanent Implants

(1) The licensee may authorize the release from its control of any individual who has been administered radiopharmaceuticals or permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed five millisieverts (0.5 rem).

(2) The licensee must provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain radiation exposures to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed one millisievert (0.1 rem). If the dose to a breast-feeding infant or child could exceed one millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions must also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the potential consequences, if any, of failure to follow the guidance.

(3) The licensee must maintain a record of the basis for authorizing the release of an individual, for a minimum of five years after the date of release in accordance with 333-100-0057.

(4) The licensee must maintain a record, for a minimum of five years after the date of release, in accordance with 333-100-0057, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding five millisieverts (0.5 rem).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0280
Storage of Volatiles and Gases

(1) A licensee must store volatile radiopharmaceuticals and radioactive gases in the shippers radiation shield and container.

(2) A licensee must store and use a multidose container in a properly functioning fume hood.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0290
Decay-In-Storage

(1) A licensee may hold radioactive material with a physical half-life of less than 65 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of OAR 333-120-0500 of these rules if the licensee:

(a) Holds radioactive material for decay a minimum of ten half-lives;

(b) Monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey instrument for the radiation being monitored, set on its most sensitive scale and with no interposed shielding;

(c) Removes or obliterates all radiation labels; and

(d) Separates and monitors each generator column individually with all radiation shielding removed to ensure that its contents have decayed to background radiation level before disposal.

(2) For radioactive material disposed in accordance with these rules the licensee must retain a record of each disposal until inspection by the Agency. The record must include the date of the disposal, the date on which the radioactive material was placed in storage, the model and serial number of the survey instrument used, the background dose rate, the radiation dose rate measured at the surface of each waste container and the name of the individual who performed the survey.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0300
Use of Unsealed Radioactive Material for Uptake, Dilution or Excretion Studies for Which a Written Directive Is Not Required

(1) A licensee may use any unsealed radioactive material for a diagnostic use involving measurements of uptake, dilution or excretion that:

(a) The Food and Drug Administration (FDA) has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); and

(b) Is obtained from a manufacturer or preparer licensed under 333-102-0285 or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(c) Is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100; or

(d) Is prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

(2) A licensee using a radiopharmaceutical specified in section (1) of this rule for a clinical procedure other than one specified in the product label or package insert instructions for use must comply with the product label or package insert instructions regarding physical form, route of administration and dosage range.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0310
Possession of Survey Instrument

A licensee authorized to use radioactive material for uptake, dilution and excretion studies must have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range one Sv (0.1 mrem) per hour to one mSv (100 mrem) per hour. The instrument must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0320
Use of Radiopharmaceuticals, Generators and Reagents Kits for Imaging and Localization Studies for Which a Written Directive Is Not Required

(1) A licensee may use any radioactive material in a diagnostic radiopharmaceutical, except aerosol or gaseous form, or any generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material for:

(a) Which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); or

(b) Which is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100; or

(c) Obtained from a manufacturer or preparer licensed under 333-102 and 333-116 or equivalent Nuclear Regulatory Commission or Agreement State requirements.

(2) A licensee using radiopharmaceuticals specified in section (1) of this rule for clinical procedures other than one specified in the product label or package insert instructions must comply with the product label or package insert regarding physical form and dosage range.

(3) A licensee must elute generators in compliance with OAR 333-116-0330 and prepare radiopharmaceuticals from kits in accordance with the manufacturer's instructions.

(4) Technetium-99m pentetate as an aerosol for lung function studies is not subject to the restrictions in section (1) of this rule. Provided the conditions of OAR 333-116-0340 are met, a licensee must use radioactive aerosols or gases only if specific application is made to and approved by the Agency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0330
Permissible Molybdenum-99 Concentration

(1) A licensee must not administer to humans a radiopharmaceutical containing more than 0.15 kBq (0.15 uCi) of molybdenum-99 per MBq (mCi) of technetium-99m.

(2) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators must measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with section (1) of this rule.

(3) A licensee who must measure molybdenum concentration must retain a record of each measurement in accordance with 333-100-0057. The record must include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in MBq (mCi), the measured activity of the molybdenum expressed in kBq (uCi), the ratio of the measures expressed as kBq (uCi) of molybdenum per MBq (mCi) of technetium, the date of the test and the initials of the individual who performed the test.

(4) A licensee must report immediately to the Agency each occurrence of molybdenum-99 concentration exceeding the limits specified in section (1) of this rule.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0340
Control of Aerosols and Gases

(1) A licensee who administers radioactive aerosols or gases must do so with a system that will keep airborne concentrations within the limits prescribed by OAR 333-120-0130 and 333-120-0180.

(2) The system must either be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(3) A licensee must only administer radioactive gases in rooms that are at negative pressure compared to surrounding rooms.

(4) Before receiving, using or storing a radioactive gas, the licensee must calculate the amount of time needed after a release to reduce the concentration in the area of use to the occupational limit listed in 10 CFR Part 20 Appendix B to 20.1001 to 20.2401. The calculation must be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(5) A licensee must post the time calculated in accordance with section (4) of this rule at the area of use and require that, in case of a gas spill, individuals evacuate the room until the posted time has elapsed.

(6) A licensee must check the operation of collection systems before each use and measure the ventilation rates in areas of use at intervals not to exceed six months. Records of these checks and measurements must be maintained for five years or until inspected by the Agency.

(7) A copy of the calculations required in section (4) of this rule must be recorded and retained for the duration of the license.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0350
Possession of Survey Instruments

A licensee authorized to use radioactive material for imaging and localization studies must have in its possession a portable, radiation detection survey instrument capable of detecting dose rates over the range of one Sv (0.1 mrem) per hour to one mSv (100 mrem) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten Sv (1 mrem) per hour to ten millisieverts (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0360
Use of Unsealed Radioactive Materials or Radiopharmaceuticals for Which a Written Directive is Required

A licensee may use for therapeutic administration any unsealed radioactive material or radiopharmaceutical prepared for medical use that:

(1) Has been granted acceptance or approval by the Food and Drug Administration; and

(2) Has been prepared by an authorized nuclear pharmacist, a physician who is an authorized user on a license from the Agency, other Agreement State, or the U.S. Nuclear Regulatory Commission; or

(3) Has been manufactured and distributed under a license from the Agency, other Agreement State, or the U.S. Nuclear Regulatory Commission; or

(4) Obtained from and prepared by an Agency or Nuclear Regulatory Commission or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or

(5) Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0370
Safety Instruction

(1) A licensee must provide oral and written radiation safety instruction for all personnel caring for patients or human research subjects undergoing radiopharmaceutical therapy who cannot be released under 333-116-0260. Refresher training must be provided at intervals not to exceed one year.

(2) To satisfy section (1) of this rule, the instruction must describe the licensee's procedures for:

(a) Patient or human research subject control;

(b) Visitor control; including

(A) Routine visitation to hospitalized individuals in accordance with 333-120-0180(1)(a); and

(B) Visitation authorized in accordance with 333-120-0180(3).

(c) Contamination control;

(d) Waste control; and

(e) Notification of the Radiation Safety Officer or authorized user in case of the patient's death or medical emergency.

(3) A licensee must maintain, in accordance with 333-100-0057, a list of individuals receiving instruction required by section (1) of this rule, a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0380
Safety Precautions

(1) For each patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with OAR 333-116-0260 or 333-116-0190, a licensee must:

(a) Provide a private room with a private sanitary facility;

(b) Post the door with a "Caution: Radioactive Material" sign and note on the door or on the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after administration of the dosage, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of OAR 333-120-0180 of these rules and retain until inspection by the Agency a record of each survey that includes the time and date of the survey, a plan of the area or list of points surveyed, the measured dose rate at several points expressed in mrem per hour, the instrument used to make the survey and the initials of the individual who made the survey;

(e) Either monitor material and items removed from the room to determine that any contamination cannot be distinguished from the natural background radiation level with an appropriate radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle materials and items as radioactive waste;

(f) Instruct the patient or human research subject and, where appropriate, the individual's family, orally and in writing concerning radiation safety precautions that will help to keep radiation dose to household members and the public as low as reasonably achievable before authorizing release of the individual;

(g) Survey the room and private sanitary facility for removable contamination with an appropriate radiation detection survey instrument before assigning another patient to the room. The room must not be reassigned until removable contamination is less than 33.3 Bq (2000 dpm) per 100 square centimeters; and

(h) Measure the thyroid burden of each individual who helped prepare or administer a liquid dosage of iodine-131 within three days after administering the dosage. A record of each thyroid burden measurement must be retained in accordance with OAR 333-120-0650 of these rules. Each record must contain the date of measurement, the name of the individual whose thyroid burden was measured, the calculated thyroid burden, the effective dose equivalent, the name of the individual who made the measurements and the signature of the Radiation Safety Officer. Other procedures acceptable to the Agency may be used for individuals who only prepare, but do not administer, doses of stabilized I-131.

(2) A licensee must notify the Radiation Safety Officer or the authorized user immediately if the patient or human research subject dies or has a medical emergency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0390
Possession of Survey Instruments

A licensee authorized to use radioactive material for radiopharmaceutical therapy must have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range one Sv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten Sv (1 mrem) per hour to ten mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0400
Use of Sealed Sources for Diagnosis

A licensee must only use sealed sources for diagnostic medical use as approved in the Sealed Source and Device Registry.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0405
Training for Use of Sealed Sources for Diagnosis.

Except as provided in 333-116-0710, the licensee must require the authorized user of a diagnostic sealed source for use in a device authorized under 333-116-0400 to be a physician, dentist, or podiatrist who:

(1) Is certified by a specialty board whose certification process includes all of the requirements in section (2) and (3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2) Has completed eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device. The training must include:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology; and

(e) Has completed training in the use of the device for the uses requested.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0410
Availability of Survey Instrument

A licensee authorized to use radioactive material as a sealed source for diagnostic purposes must have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range one uSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten uSv (1 mrem) per hour to ten mSv (1000 mrem) per hour. The instrument must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0420
Use of Sources for Manual Brachytherapy

A licensee must use only brachytherapy sources for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research with an active Investigational Device Exemption (IDE) application accepted by the Food and Drug Administration and are manufactured, labeled, packaged and distributed under a specific license issued by the Nuclear Regulatory Commission or an Agreement State.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0425
Surveys After Source Implant and Removal

(1) Immediately after implanting sources in a patient or a human research subject, the licensee must make a survey to locate and account for all sources that have not been implanted.

(2) Immediately after removing the last temporary implant source from a patient or a human research subject, the licensee must make a survey of the room and the patient or the human research subject with an appropriate radiation detection survey instrument to confirm that all sources have been removed.

(3) A licensee must retain a record of the surveys required by sections (1) and (2) of this rule in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0430
Safety Instructions

(1) The licensee must provide oral and written radiation safety instruction to all personnel caring for a patient receiving implant therapy. Refresher training must be provided at intervals not to exceed one year.

(2) To satisfy section (1) of this rule, the instruction must describe:

(a) Size and appearance of the brachytherapy sources;

(b) Safe handling and shielding instructions in case of a dislodged source;

(c) Procedures for patient control;

(d) Procedures for visitor control including both:

(A) Routine visitation to hospitalized individuals in accordance with 333-120-0180(1)(a); and

(B) Visitation authorized in accordance with 333-120-0180(3); and

(e) Procedures for notification of the Radiation Safety Officer or authorized user if the patient dies or has a medical emergency.

(3) A licensee must retain a record of individuals receiving instruction required by section (1) of this rule in accordance with 333-100-0057. The

record must contain a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0440
Safety Precaution

(1) A licensee must, for each patient or human research subject receiving implant therapy:

(a) Not place the patient or human research subject in the same room with a patient or human research subject who is not receiving radiation therapy;

(b) Post the patient's or human research subject's door with a "Caution: Radioactive Materials" sign and note on the door or in the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with OAR 333-120-0180 of these rules. Retain a record of each survey in accordance with 333-116-0057. Each record must include the time and date of the survey, a sketch of the area or list of points surveyed, the measured dose rate at several points expressed in microsieverts (mrem) per hour, the instrument used to make the survey and the initials of the individual who made the survey; and

(e) Instruct the patient or human research subject and, where appropriate, the patient's or human research subject's family, orally and in writing concerning radiation safety precautions that will help to keep the radiation dose to household members and the public as low as reasonably achievable before releasing the patient if the patient was administered a permanent implant.

(2) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Dislodged from the patient; and

(b) Lodged within the patient following removal of the source applicators.

(3) A licensee must notify the Radiation Safety Officer or authorized user immediately if the patient or human research subject dies or has a medical emergency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0445
Calibration Measurements of Brachytherapy Sources

(1) Before the first medical use of a brachytherapy source on or after July 1, 2006, a licensee must have:

(a) Determined the source output or activity using a dosimetry system that meets the requirements of 333-116-0560(1);

(b) Determined source positioning accuracy within applicators; and

(c) Used published protocols currently accepted by nationally recognized bodies to meet the requirements of section (1) of this rule.

(2) Instead of a licensee making its own measurements as required in this rule, the licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with section (1) of this rule.

(3) A licensee must mathematically correct the outputs or activities determined in section (1) of this rule for physical decay at intervals consistent with one percent physical decay.

(4) Only an authorized medical physicist must calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under section (1) of this rule.

(5) A licensee must retain a record of each calibration in accordance with 333-100-0057. Each record must include:

(a) The date of the calibration;

(b) The manufacturer's name, model number, and serial number for the source and the instruments used to calibrate the source;

(c) The source output or activity;

(d) The source positioning accuracy within the applicators; and

(e) The name of the individual, the source manufacturer, or the calibration laboratory that performed the calibration.

(6) Records of decay of strontium-90 sources for ophthalmic treatments must maintain a record of the activity of a strontium-90 source for the life of the source. The record must include:

(a) The date and initial activity of the source; and

(b) For each decay calculation, the date and the source activity.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0447
Decay of Strontium-90 Sources for Ophthalmic Treatments

(1) Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under 333-116-0445.

(2) A licensee shall retain a record of the activity of each strontium-90 source in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0450
Brachytherapy Sources Inventory

(1) A licensee must maintain accountability at all times for all brachytherapy sources in storage or use.

(2) As soon as possible after removing sources from a patient or human research subject, the licensee must return brachytherapy sources to a secure storage area.

(3) A licensee must retain the records required in section (1) and (2) of this rule in accordance with 333-100-0057.

(a) For temporary implants, the record must include:

(A) The number and activity of sources removed from storage, the time and date they were removed from storage, the name of the individual who removed them from storage, and the location of use; and

(B) The number and activity of sources returned to storage, the time and date they were returned to storage, and the name of the individual who returned them to storage.

(b) For permanent implants, the record must include:

(A) The number and activity of sources removed from storage, the date they were removed from storage, and the name of the individual who removed them from storage;

(B) The number and activity of sources not implanted, the date they were returned to storage, and the name of the individual who returned them to storage; and

(C) The number and activity of sources permanently implanted in the patient or human research subject.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0460
Release of Patients Treated with Temporary Implant

(1) Immediately after removing the last temporary implant source from a patient or human research subject, the licensee must make a radiation survey of the patient or human research subject with an appropriate radiation detection survey instrument to confirm that all sources have been removed. The licensee must not release from confinement for medical care a patient or human research subject treated by temporary implant until all sources have been removed.

(2) A licensee must retain a record of patient surveys which demonstrate compliance with OAR section (1) of this rule in accordance with 333-100-0057. Each record must include the date of the survey, the name of the patient, the dose rate from the patient expressed as Sv (mrem) per hour and measured within one meter from the patient and the initials of the individual who made the survey.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0470
Possession of Survey Instruments

A licensee authorized to use radioactive material for implant therapy must have in its possession a portable radiation detection survey instrument

capable of detecting dose rates over the range one Sv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten Sv (1 mrem) per hour to ten mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0475
Therapy Related Computer Systems

(1) The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(a) The source-specific input parameters required by the dose calculation algorithm;

(b) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(c) The accuracy of isodose plots and graphic displays; and

(d) The accuracy of the software used to determine sealed source positions from radiographic images.

(2) Acceptance testing must be performed when new software is installed, for each software revision and when new computer hardware or treatment planning system hardware is installed or repaired.

(3) Records of acceptance testing must be retained in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0480
Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

A licensee must use sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA and are manufactured, labeled, packaged and distributed under a specific license issued by the Nuclear Regulatory Commission or an Agreement State.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0490
Installation, Maintenance, Adjustment and Repair

(1) Only a person specifically licensed by the Nuclear Regulatory Commission or an Agreement State must install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source(s), reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(2) Except for low dose-rate remote afterloader units, only a person specifically licensed by the Nuclear Regulatory Commission or an Agreement State must install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.

(3) For a low dose-rate remote afterloader unit, only a person specifically licensed by the Nuclear Regulatory Commission or an Agreement State or an authorized medical physicist must install, replace, relocate, or remove a sealed source(s) contained in the unit.

(4) A licensee must retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units in accordance with OAR 333-100-0057. For each installation, maintenance, adjustment and repair, the record must include the date, description of the service, and name(s) of the individual(s) who performed the work.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0495
Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee must:

(a) Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;

(b) Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with the source(s);

(c) Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and

(d) Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the source(s) in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures must include:

(A) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

(B) The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

(C) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(2) A copy of the procedures required by section (1)(d) of this rule must be physically located at the unit console.

(3) A licensee must post instructions at the unit console to inform the operator of:

(a) The location of the procedures required by section (1)(d) of this rule; and

(b) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(4) A licensee must provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties in:

(a) The procedures identified in section (1)(d) of this rule; and

(b) The operating procedures for the unit.

(5) A licensee must ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

(6) A licensee must retain a record of individuals receiving instruction required by section (4) of this rule in accordance with 333-100-0057.

(7) A licensee must retain a copy of the procedures required by sections (1)(d) and (4)(b) of this rule until the licensee no longer possesses the remote afterloader, teletherapy unit, or gamma stereotactic radiosurgery unit.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0500
Amendment

In addition to the requirements specified in OAR 333-116-0040, a licensee must apply for and must receive a license amendment before:

(1) Making any change in the treatment room shielding;

(2) Making any change in the location of the teletherapy unit within the treatment room;

(3) Using the teletherapy unit in a manner that could result in increased radiation levels in areas outside the teletherapy treatment room;

(4) Relocating the teletherapy unit; or

(5) Allowing an individual not listed on the licensee's license to perform the duties of the teletherapy physicist.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0525
Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee must control access to the treatment room by a door at each entrance.

(2) A licensee must equip each entrance to the treatment room with an electrical interlock system that will:

(a) Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

(b) Cause the source(s) to be shielded when an entrance door is opened; and

(c) Prevent the source(s) from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source(s) on-off control is reset at the console.

(3) A licensee must require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

(4) Except for low-dose remote afterloader units, a licensee must construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

(5) For licensed activities where sources are placed within the patient's or human research subject's body, a licensee must only conduct treatments which allow for expeditious removal of a decoupled or jammed source.

(6) In addition to the requirements specified in sections (1) through (5) of this rule, a licensee must:

(a) For medium dose-rate and pulsed dose-rate remote afterloader units, require:

(A) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove the source applicator(s) in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.

(b) For high dose-rate remote afterloader units, require:

(A) An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.

(c) For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit.

(d) Notify the Radiation Safety Officer, or his/her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

(7) A licensee must have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Remaining in the unshielded position; or

(b) Lodged within the patient following completion of the treatment.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0530

Possession of Survey Instrument

A licensee authorized to use radioactive material in a teletherapy therapy unit must have in its possession either both a portable radiation detection survey instrument capable of detecting dose rates over the range one Sv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range ten Sv (1 mrem) per hour to ten mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0540

Radiation Monitoring Device

(1) A licensee must have in each teletherapy room a permanent radiation monitor capable of continuously monitoring beam status.

(2) Each radiation monitor must be capable of providing visible evidence of a teletherapy unit malfunction that results in an exposed or partially exposed source. The visible indicator of high radiation levels must be observable by an individual prior to entering the teletherapy room.

(3) Each radiation monitor must be equipped with a backup power supply separate from the power supply to the teletherapy unit. This backup power supply may be a battery system or other type of uninterruptible power supply (UPS).

(4) Each radiation monitor must be checked with a dedicated check source for proper operation each day before the teletherapy unit is used for treatment of patients.

(5) A licensee must maintain a record of the check required by section (4) of this rule until inspection by the Agency. The record must include the date of the check, notation that the monitor indicates when the source is exposed and the initials of the individual who performed the check.

(6) If a radiation monitor is inoperable, the licensee must require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism that may result in an exposed or partially exposed source. The instrument or dosimeter must be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee must keep a record as described in section (4) of this rule.

(7) If a radiation monitor is inoperable, the licensee must require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism. The instrument or dosimeter must be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee must keep a record as described in section (5) of this rule.

(8) A licensee must promptly repair or replace the radiation monitor if it is inoperable.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0550

Viewing System

A licensee must construct or equip each teletherapy room to permit continuous observation of the patient from the teletherapy unit console during irradiation.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0560

Dosimetry Equipment

(1) Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee must have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions must be met.

(a) The system must have been calibrated using a system or source traceable to the National Institute of Standards and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration must have been performed within the previous two years and after any servicing that may have affected system calibration; or

(b) The system must have been calibrated within the previous four years; 18 to 30 months after that calibration, the system must have been intercompared at an intercomparison meeting with another dosimetry system that was calibrated within the past 24 months by the National Institute of Standards and Technology or by a calibration laboratory accredited by the AAPM. The intercomparison meeting must be sanctioned by a calibration laboratory or radiologic physics center accredited by the AAPM. The results of the intercomparison meeting must show that the calibration factor of the licensee's system had not changed by more than two percent. The licensee must not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee must use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.

(2) The licensee must have available for use a dosimetry system for spot-check output measurements, if applicable. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with section (1) of this rule. This comparison must have been performed within the previous year and after each servicing that may have

affected system calibration. The spot-check system may be the same system used to meet the requirement in section (1) of this rule.

(3) The licensee must retain a record of each calibration, intercomparison and comparison for the duration of the license. For each calibration, intercomparison or comparison, the record must include the date, the model numbers and serial numbers of the instruments that were calibrated, intercompared or compared as required by sections (1) and (2) of this rule, the correction factors that were deduced, the names and credentials of the individuals who performed the calibration, intercomparison or comparison, and evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics center accredited by AAPM.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0570
Full Calibration Measurement

(1) A licensee authorized to use a teletherapy unit for medical use must perform full calibration measurements on each teletherapy unit:

(a) Before the first medical use of the unit; and

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the radioactive source or following reinstallation of the teletherapy unit in a new location;

(C) Following any repair of the teletherapy unit that includes removal of the radioactive source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one year.

(2) To satisfy the requirement of section (1) of this rule, full calibration measurements must include determination of:

(a) The output within three percent for the range of field sizes and for the distance or range of distances used for medical use;

(b) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(c) The uniformity of the radiation field and its dependence on the orientation of the useful beam;

(d) Timer accuracy, constancy, and linearity;

(e) On-off error; and

(f) The accuracy of all distance measuring and localization devices in medical use.

(3) A licensee must use the dosimetry system described in OAR 333-116-0560(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in section (2)(a) of this rule may then be made using a dosimetry system that indicates relative dose rates.

(4) A licensee must make full calibration measurements required by section (1) of this rule in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee must correct mathematically the outputs determined in section (2)(a) of this rule for physical decay for intervals not exceeding one month for cobalt-60 and intervals not exceeding six months for cesium-137, or at intervals consistent with one percent decay for all other nuclides.

(6) Full calibration measurements required by section (1) of this rule and physical decay corrections required by section (5) of this rule must be performed by a teletherapy or medical physicist certified to perform such measurements and named on the licensee's license or authorized by a license issued by the Nuclear Regulatory Commission or an Agreement State to perform such services.

(7) A licensee must retain a record of each calibration in accordance with 333-100-0057. The record must include the date of the calibration, the manufacturer's name, model number, and serial number for both the teletherapy unit and the source, the model numbers and serial numbers of the instruments used to calibrate the teletherapy unit, tables that describe the output of the unit over the range of field sizes and for the range of distances used in radiation therapy, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device and the signature of the teletherapy physicist.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0573
Full Calibration Measurements on Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use must perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and

(B) Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding three months for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and

(d) At intervals not exceeding one year for low dose-rate remote afterloader units.

(2) To satisfy the requirement of section (1) of this rule, full calibration measurements must include, as applicable, determination of:

(a) The output within five percent;

(b) Source positioning accuracy to within one millimeter;

(c) Source retraction with backup battery upon power failure;

(d) Length of the source transfer tubes;

(e) Timer accuracy and linearity over the typical range of use;

(f) Length of the applicators; and

(g) Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

(3) A licensee must use the dosimetry system described in 333-116-0560(1) to measure the output.

(4) A licensee must make full calibration measurements required by section (1) of this rule in accordance with published protocols accepted by nationally recognized bodies.

(5) In addition to the requirements for full calibrations for low dose-rate remote afterloader units in section (2) of this rule, a licensee must perform an autoradiograph of the source(s) to verify inventory and source(s) arrangement at intervals not exceeding one quarter.

(6) For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with sections (1) through (5) of this rule.

(7) A licensee must mathematically correct the outputs determined in section (2)(a) of this rule for physical decay at intervals consistent with one percent physical decay.

(8) Full calibration measurements required by section (2)(a) of this rule and physical decay corrections required by section (2)(g) of this rule must be performed by the authorized medical physicist.

(9) A licensee must retain a record of each calibration in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0577
Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use must perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

(C) Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

(c) At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

(2) To satisfy the requirement of section (1)(a) of this rule, full calibration measurements must include determination of:

(a) The output within +/-three percent;

(b) Relative helmet factors;

(c) Isocenter coincidence;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error;

(f) Trunnion centricity;

(g) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(h) Helmet microswitches;

(i) Emergency timing circuits; and

(j) Stereotactic frames and localizing devices (trunnions).

(3) A licensee must use the dosimetry system described in 333-116-0560(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in section (2)(a) of this rule may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee must make full calibration measurements required by section (1) of this rule must be performed in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee must mathematically correct the outputs determined in section (2)(a) of this rule at intervals not exceeding one month for cobalt-60 and at intervals consistent with one percent physical decay for all other radionuclides.

(6) Full calibration measurements required by section (1) of this rule and physical decay corrections required by section (5) of this rule must be performed by the authorized medical physicist.

(7) A licensee must retain a record of each calibration in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0580
Periodic Spot-Checks for Teletherapy Units

(1) A licensee authorized to use teletherapy units for medical use must perform output spot-checks on each teletherapy unit at intervals not to exceed one month that include the determination of:

(a) Timer constancy, accuracy, and linearity over the range of use;

(b) On-off error;

(c) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(d) The accuracy of all distance measuring and localization devices used for medical use;

(e) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560; and

(f) The difference between the measurement made in section (1) of this rule and the anticipated output, expressed as a percentage of the anticipated value obtained at last full calibration corrected mathematically for physical decay.

(2) A licensee must use the dosimetry system described in OAR 333-116-0560 to make the measurement required in section (1) of this rule.

(3) A licensee must perform measurements required by section (1) of this rule in accordance with procedures established by the teletherapy or medical physicist. That individual is not required to actually perform the output spot-check measurements.

(4) A licensee must have the teletherapy or medical physicist review the results of each output spot-check within 15 days of each measurement. The teletherapy or medical physicist must promptly notify the licensee in writing of the results of each output spot-check. The licensee must keep a copy of each written notification in accordance with 333-100-0057.

(5) A licensee authorized to use a teletherapy unit for medical use must perform safety spot-checks of each teletherapy facility at intervals not to exceed one month and after each source installation to assure proper operation of:

(a) Electrical interlocks at each teletherapy room entrance;

(b) Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism;

(c) Beam condition indicator lights on the teletherapy unit, on the control console and in the facility;

(d) Viewing systems;

(e) Treatment room doors from inside and outside the treatment room; and

(f) Electrically assisted treatment room doors with the teletherapy unit electrical power turned "off".

(6) A licensee must lock the control console in the "off" position if any door interlock malfunctions. No licensee must use the unit until the interlock system is repaired unless specifically authorized by the Agency.

(7) A licensee must promptly repair any system identified in section (5) of this rule that is not operating properly.

(8) A licensee must retain a record of each spot-check required by sections (1) and (5) of this rule in accordance with 333-100-0057. The record must include, the date of the spot-check, the manufacturer's name, model number and serial number for both the teletherapy unit and source, the manufacturer's name, model number and serial number of the instrument used to measure the output of the teletherapy unit, the measured timer accuracy, the calculated on-off error, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device, the difference between the anticipated output and the measured output, notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the individual who performed the periodic spot-check.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0583
Periodic Spot-checks for Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use must perform spot-checks of each remote afterloader facility and on each unit:

(a) Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

(b) Before each patient treatment with a low dose-rate remote afterloader unit; and

(c) After each source installation.

(2) A licensee must perform the measurements required by section (1) of this rule in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(3) A licensee must have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist must notify the licensee as soon as possible in writing of the results of each spot-check.

(4) To satisfy the requirements of section (1) of this rule, spot-checks must, at a minimum, assure proper operation of:

(a) Electrical interlocks at each remote afterloader unit room entrance;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

(d) Emergency response equipment;

(e) Radiation monitors used to indicate the source position;

(f) Timer accuracy;

(g) Clock (date and time) in the unit's computer; and

(h) Decayed source(s) activity in the unit's computer.

(5) If the results of the checks required in section (4) of this rule indicate the malfunction of any system, a licensee must lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee must retain a record of each check required by section (4) of this rule in accordance with 333-100-0057. The record must include, as applicable:

(a) The date of the spot-check;

(b) The manufacturers name, model number for the remote afterloader and source;

(c) An assessment of timer accuracy;

(d) Notations indicating the operability of each entrance door electrical interlock, radiation monitors, source exposure indicator lights, viewing and intercom systems, and clock and decayed source activity in the unit's computer; and

(e) The name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

(7) A licensee must retain a copy of the procedures required by section (4) of this rule until the licensee no longer possesses the remote afterloader unit.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0585
Additional Technical Requirements for Mobile Remote Afterloader Units

(1) A licensee providing mobile remote afterloader service must:

(a) Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

(b) Account for all sources before departure from a client's address of use.

(2) In addition to the periodic spot-checks required by 333-116-0583, a licensee authorized to use mobile afterloaders for medical use must perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks must be made to verify the operation of:

(a) Electrical interlocks on treatment area access points;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Applicators, source transfer tubes, and transfer tube-applicator interfaces;

(e) Radiation monitors used to indicate room exposures;

(f) Source positioning (accuracy); and

(g) Radiation monitors used to indicate whether the source has returned to a safe shielded position.

(3) In addition to the requirements for checks in section (2) of this rule, a licensee must ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

(4) If the results of the checks required in section (2) of this rule indicate the malfunction of any system, a licensee must lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(5) A licensee must retain a record of each check required by section (2) of this rule in accordance with 333-116-0057. The record must include:

(a) The date of the check;

(b) The manufacturer's name, model number, and serial number of the remote afterloader unit;

(c) Notations accounting for all sources before the licensee departs from a facility;

(d) Notations indicating the operability of each entrance door electrical interlock, radiation monitors, source exposure indicator lights, viewing and intercom system, applicators, source transfer tubes, and transfer tube applicator interfaces, and source positioning accuracy; and

(e) The signature of the individual who performed the check.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0587
Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use must perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

(a) Monthly;

(b) Before the first use of the unit on a given day; and

(c) After each source installation.

(2) A licensee must:

(a) Perform the measurements required by section (1) of this rule in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(b) Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist must notify the licensee as soon as possible in writing of the results of each spot-check.

(3) To satisfy the requirements of section (1)(a) of this rule, spot-checks must, at a minimum:

(a) Assure proper operation of:

(A) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(B) Helmet microswitches;

(C) Emergency timing circuits; and

(D) Stereotactic frames and localizing devices (trunnions).

(b) Determine:

(A) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560;

(B) The difference between the measurement made in section (3)(b)(A) of this rule and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay);

(C) Source output against computer calculation;

(D) Timer accuracy and linearity over the range of use;

(E) On-off error; and

(F) Trunnion centricity.

(4) To satisfy the requirements of sections (1)(b) and (1)(c) of this rule, spot-checks must assure proper operation of:

(a) Electrical interlocks at each gamma stereotactic radiosurgery room entrance;

(b) Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Timer termination;

(e) Radiation monitors used to indicate room exposures; and

(f) Emergency off buttons.

(5) A licensee must arrange for the repair of any system identified in section (3) of this rule that is not operating properly as soon as possible.

(6) If the results of the checks required in section (4) of this rule indicate the malfunction of any system, a licensee must lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(7) A licensee must retain a record of each check required by sections (3) and (4) of this rule in accordance with 333-100-0057. The record must include:

(a) The date of the spot-check;

(b) The manufacturer's name, model number, and serial number for the gamma stereotactic radiosurgery unit and the instrument used to measure the output of the unit;

(c) An assessment of timer linearity and accuracy;

(d) The calculated on-off error;

(e) A determination of trunnion centricity;

(f) The difference between the anticipated output and the measured output;

(g) An assessment of source output against computer calculations;

(h) Notations indicating the operability of radiation monitors, helmet microswitches, emergency timing circuits, emergency off buttons, electrical interlocks, source exposure indicator lights, viewing and intercom systems, timer termination, treatment table retraction mechanism, and stereotactic frames and localizing devices (trunnions); and

(i) The name of the individual who performed the periodic spot-check and the signature of the authorized medical physicist who reviewed the record of the spot-check.

(8) A licensee must retain a copy of the procedures required by section (2) until the licensee no longer possesses the gamma stereotactic radiosurgery unit.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0590
Radiation Surveys Therapeutic Treatment Units

(1) In addition to the survey requirement in 333-120-0200, a person licensed under this rule must make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with the source(s) in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.

(2) The licensee must make the survey required by section (1) of this rule at installation of a new source and following repairs to the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(3) A licensee must retain a record of the radiation surveys required by section (1) of this rule for the duration of use of the unit. The record must include:

(a) The date of the measurements;

(b) The manufacturer's name, model number and serial number of the treatment unit, source, and instrument used to measure radiation levels;

(c) Each dose rate measured around the source while the unit is in the off position and the average of all measurements; and

(d) The signature of the individual who performed the test.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0600
Safety Checks and Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

(1) A licensee must have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(2) This inspection and servicing may only be performed by persons specifically licensed to do so by the Nuclear Regulatory Commission or an Agreement State.

(3) If the results of the checks required in section (1) of this rule indicate the malfunction of any system, the licensee must lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace or check the malfunctioning system.

(4) A licensee must retain, in accordance with 333-100-0057, a record of the facility checks following installation of a source. The record must include notations indicating the operability of each entrance door interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the Radiation Safety Officer. In addition each record must contain:

(a) The inspector's radioactive materials license number;

(b) The date of inspection;

(c) The manufacturer's name and model number and serial number of both the treatment unit and source;

(d) A list of components inspected and serviced, and the type of service; and

(e) The signature of the inspector.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0605
Therapy-Related Computer Systems

The licensee must perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(1) The source-specific input parameters required by the dose calculation algorithm;

(2) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(3) The accuracy of isodose plots and graphic displays;

(4) The accuracy of the software used to determine sealed source positions from radiographic images; and

(5) The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0610
Modification of Teletherapy Unit or Room Before Beginning a Treatment Program

(1) If the survey required by 333-116-0590 indicates that any individual member of the public is likely to receive a dose in excess of the limits specified in 333-120-0180, before beginning the treatment program the licensee must:

(a) Either equip the unit with stops or add additional radiation shielding to ensure compliance with 333-120-0180.

(b) Perform the survey required by 333-116-0590 again; and

(c) Include in the report required by 333-116-0620 the results of the initial survey, a description of the modification made to comply with section (1)(a) of this rule, and the results of the second survey.

(2) As an alternative to the requirements set out in section (1)(a) of this rule a licensee may request a license amendment under 333-120-0180(3) that authorizes radiation levels in unrestricted areas greater than those permitted by 333-120-0180(1). A licensee may not begin the treatment program until the license amendment has been issued.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0620
Reports of Teletherapy Surveys, Checks, Tests and Measurements

A licensee must furnish a copy of the records required in OAR 333-116-0590, 333-116-0600, 333-116-0610 and the output from the teletherapy source expressed as rem (Sv) per hour at one meter from the source and determined during the full calibration required in OAR 333-116-0570 to the Agency within 30 days following completion of the action that initiated the record requirement.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0640
Radiation Safety Officer Training and Experience Requirements

Except as provided in OAR 333-116-0650, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in 333-116-0090 to be an individual that:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in sections (4) and (5) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State will be posted on the NRC's Web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a)(A) Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;

(B) Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and

(C) Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or

(b)(A) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(B) Have two years of full-time practical training and/or supervised experience in medical physics:

(i) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(ii) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users in 333-116-0670 and 333-116-0680;

(C) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety; or

(2) Has completed a structured educational program consisting of 200 hours of classroom and laboratory training as follows:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry;

(f) Radiation dosimetry; and

(g) One year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes similar type(s) of medical use of radioactive material involving the following:

(A) Shipping, receiving, and performing related radiation surveys;

(B) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;

(C) Securing and controlling byproduct material;

(D) Using administrative controls to avoid mistakes in the administration of byproduct material;

(E) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;

(F) Using emergency procedures to control byproduct material; and

(G) Disposing of radioactive material; or

(3)(a) Is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under 333-116-0905(1) and has experience in radiation safety for similar types of use of byproduct material for which the licensee is seeking the approval of the individual as Radiation Safety Officer and who meets the requirements in sections (4) and (5) of this rule; or

(b) Is an authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of byproduct material for which the individual has Radiation Safety Officer responsibilities; and

(4) Has obtained written attestation, signed by a preceptor Radiation Safety Officer, that the individual has satisfactorily completed the requirements in sections (5) and in sections (1)(a)(A) and (B) or sections (1)(b)(A) and (B) or sections (2) or sections (3)(a) or sections (3)(b) of this rule, and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer for a medical use licensee; and

(5) Has training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which a licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0650

Training for Experienced Radiation Safety Officer

An individual identified as a Radiation Safety Officer on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license on July 1, 2006 who oversees only the use of radioactive material for which the licensee was authorized on that date need not comply with the training requirements of OAR 333-116-0640.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0660

Training for Uptake, Dilution or Excretion Studies

Except as provided in OAR 333-116-0740 and 333-116-0750, the licensee must require the authorized user of a radiopharmaceutical listed in OAR 333-116-0300 to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (3) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0670 and 333-116-0680 or equivalent Nuclear Regulator Commission or Agreement State requirements; or

(3) Has completed 60 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience must include:

(a) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in this rule, 333-116-0670 and 333-116-0680 or Nuclear Regulatory Commission or equivalent Agreement State requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(4) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in this rule, 333-116-0670 and 333-116-0680 or Nuclear Regulatory Commission or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in section (3) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under 333-116-0300.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0670

Training for Imaging and Localization Studies

Except as provided in OAR 333-116-0740 or 333-116-0750, the licensee shall require an authorized user of unsealed byproduct material for the uses authorized under OAR 333-116-0320 to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0680 or equivalent Agreement State requirements; or

(3)(a) Has completed 700 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for imaging and localization studies. The training and experience must include, at a minimum:

(A) Classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use;

(v) Radiation biology; and

(B) Work experience, under the supervision of an authorized user, who meets the requirements in this rule or 333-116-0680 or equivalent Nuclear Regulatory commission or Agreement State requirements, involving:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(v) Using procedures to safely contain spilled radioactive material and using proper decontamination procedures;

(vi) Administering dosages of radioactive drugs to patients or human research subjects; and

(vii) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(b) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in this rule or 333-116-0680 or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in section (3)(a) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under this rule or 333-116-0680.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0680
Training for Therapeutic Use of Radiopharmaceuticals

Except as provided in 333-116-0740, the licensee must require an authorized user of unsealed byproduct material for the uses authorized under 333-116-0360 to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (2) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

(2)(a) Has completed 700 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience must include:

(A) Classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use; and

(v) Radiation biology; and

(B) Work experience, under the supervision of an authorized user who meets the requirements in sections (1) and (2) of this rule, or Nuclear Regulatory Commission or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories (i.e., 333-116-0680(2)(a)(B)(vii)(I), (II), (III), (IV)) as the individual requesting authorized user status. The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Calibrating instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(v) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures;

(vi) Eluting generator systems, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; and

(vii) Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

(I) Oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

(II) Oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131 2;

NOTE: Experience with at least three cases in Category (vii)(2) also satisfies the requirement in Category (vii)(A).

(III) Parenteral administration of any beta emitter or a photon-emitting radionuclide with a photon energy less than 150 keV; and/or

(IV) Parenteral administration of any other radionuclide; and

(b) Has obtained written certification that the individual has satisfactorily completed the requirements in section (2)(a) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under 333-116-0360. The written certification must be signed by a preceptor authorized user who meets the requirements in sections (1), (2), of this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements. The preceptor authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories (i.e., 333-116-0680(2)(a)(B)(vii)(I), (II), (III), or (IV) as the individual requesting authorized user status.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0683
Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Less Than or Equal to 1.22 Gigabecquerels (33 millicuries)

Except as provided in 333-116-0740, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive and the total treatment quantity is less than or equal to 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0680(1) and (2) for uses listed in 333-116-0680(2)(a)(B)(vii)(I) or (II), 333-116-0687, or equivalent Agreement State requirements; or

(3)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in 333-116-0680(1) and (2), this rule, 333-116-0687 or Nuclear Regulatory Commission or equivalent Agreement State requirements. A supervising authorized user who meets the requirements in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(I) or (II). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written certification that the individual has satisfactorily completed the requirements in sections (3)(a) and (3)(b) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under 333-116-0360. The written certification must be signed by a preceptor authorized user who meets the requirements in 333-116-0680(1) and (2), this rule, 333-116-0687, or equivalent Nuclear Regulatory Commission or Agreement State requirements. A preceptor authorized user, who meets the requirement in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(I) or (II).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0687
Qualifications for Authorized User for Oral Administration When a Written Directive is Required

Except as provided in 333-116-0740, the licensee must require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in (3)(c) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

(2) Is an authorized user under 333-116-0680(1) and (2) for uses listed in 333-116-0680(2)(a)(B)(vii)(II), or equivalent Nuclear Regulatory commission or Agreement State requirements; or

(3)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in 333-116-0680(1) and (2), this rule, or equivalent Nuclear Regulatory Commission or Agreement State requirements. A supervising authorized user, who meets the requirements in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(II). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written certification that the individual has satisfactorily completed the requirements in sections (3)(a) and (3)(b) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under 333-116-0360. The written certification must be signed by a preceptor authorized user who meets the requirements in 333-116-0680(1) and (2), this rule, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in 333-116-0680(2), must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii)(II).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0690
Training for Therapeutic Use of Brachytherapy Source

Except as provided in OAR 333-116-0740, the licensee must require the authorized user using manual brachytherapy sources specified in OAR 333-116-0420 for therapy to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (2) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2)(a) Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(B) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements at a medical institution, involving:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Checking survey meters for proper operation;

(iii) Preparing, implanting, and removing brachytherapy sources;

(iv) Maintaining running inventories of material on hand;

(v) Using administrative controls to prevent a medical event involving the use of byproduct material;

(vi) Using emergency procedures to control byproduct material; and

(b) Has obtained three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in this rule or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by section (2)(a)(B) of this rule; and

(c) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in sections (2)(a) and (2)(b) of this rule and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized under 333-116-0420.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0700
Training for Ophthalmic Use of Strontium-90

Except as provided in OAR 333-116-0740, the licensee must require the authorized user using only strontium-90 for ophthalmic radiotherapy to be a physician who:

(1) Is an authorized user under 333-116-0690 or equivalent Nuclear Regulatory commission or Agreement State requirements; or

(2)(a) Has completed 24 hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology; and

(b) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This supervised clinical training must involve:

(A) Examination of each individual to be treated;

(B) Calculation of the dose to be administered;

(C) Administration of the dose; and

(D) Follow up and review of each individual's case history; and

(E) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in 333-116-0690, this rule, or equivalent Nuclear Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in sections (1) and (2) of this rule and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0710
Training for Use of Sealed Sources for Diagnosis

Except as provided in OAR 333-116-0740 the licensee must require the authorized user using a sealed source in a device specified in OAR 333-116-0400 to be a physician, dentist or podiatrist who:

(1) Is certified in:

(a) Radiology, diagnostic radiology with special competence in nuclear radiology, radiation oncology or therapeutic radiology by the American Board of Radiology; or

(b) Nuclear medicine by the American Board of Nuclear Medicine; or

(c) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology.

(2) Has completed eight hours of instruction in basic radioisotope handling techniques specifically applicable to the use of the device. To satisfy the requirement for instruction, the training must include:

(a) Radiation physics, mathematics pertaining to the use and measurement of radioactivity and instrumentation;

(b) Radiation biology;

(c) Radiation protection and training in the use of the device for the purposes authorized by the license; and

(d) Training in the use of the device for the uses requested.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0715

Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive

Except as provided in 333-116-0740, the licensee shall require an authorized user for the parenteral administration requiring a written directive, to be a physician who:

(1) Is an authorized user under 333-116-0360 for uses listed in 333-116-0680(2)(a)(B)(vii), or equivalent Agreement State requirements; or

(2) Is an authorized user under 333-116-0690 or 333-116-0720, or equivalent Agreement State or Nuclear Regulatory Commission requirements and who meets the requirements in section (4) of this rule; or

(3) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under 333-116-0690 or 333-116-0720, and who meets the requirements in section (4) of this rule.

(4)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in 333-116-0680 or this rule, or equivalent Nuclear Regulatory Commission or Agreement State requirements, in the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in 333-116-0680 must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely, and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely, and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that include at least three cases involving the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV and/or at least three cases involving the parenteral administration of any other radionuclide, for which a written directive is required; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in section (4)(b) or (4)(c) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation must be signed by a preceptor authorized user who meets the requirements in 333-116-0680 or this rule, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in 333-116-0680, must have experience in administering dosages as specified in 333-116-0680(2)(a)(B)(vii).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0720

Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Except as provided in OAR 333-116-0740, the licensee must require the authorized user of a sealed source specified in OAR 333-116-0480 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission (NRC) or an Agreement State and who meets the requirements in sections (2)(c) and (3) of this rule. (The names of board certifications which have been recognized by the Commission or an Agreement State will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or

(2)(a) Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity; and

(iv) Radiation biology; and

(B) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements at a medical institution, involving:

(i) Reviewing full calibration measurements and periodic spot-checks;

(ii) Preparing treatment plans and calculating treatment doses and times;

(iii) Using administrative controls to prevent a medical event involving the use of byproduct material;

(iv) Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;

(v) Checking and using survey meters; and

(vi) Selecting the proper dose and how it is to be administered; and

(b) Has completed three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by section (2)(a)(B) of this rule; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in sections (1)(a) or (2)(a) and (2)(b), and (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

(3) Has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0730

Training for Teletherapy or Brachytherapy Physicist

The licensee must require the teletherapy physicist to:

(1) Be certified by the American Board of Radiology in:

(a) Therapeutic radiological physics; or

(b) Roentgen ray and gamma ray physics; or

(c) X-ray and radium physics; or

(d) Radiological physics; or

(2) Be certified by the American Board of Medical Physics in radiation oncology physics; or

(3) Hold a master's or doctor's degree in physics, biophysics, radiological physics or health physics and have completed one year of full time training in therapeutic radiological physics and also one year of full time work experience under the supervision of a teletherapy or brachytherapy physicist at a medical institution. To meet this requirement, the individual must have performed the tasks listed in OAR 333-116-0200, 333-116-0570, 333-116-0580 and 333-116-0590 under the supervision of a teletherapy or brachytherapy physicist during the year of work experience.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0740
Training for Experienced Authorized User, Radiation Safety Officer, Teletherapy or Medical Physicist, Authorized Medical Physicist, Nuclear Pharmacist or Authorized Nuclear Pharmacist

(1) An individual identified as a Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist on a Nuclear Regulatory Commission or Agreement State license before July 1, 2006 who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of OAR 333-116-0640 through 333-116-0760 and 333-116-0905 through 333-116-0915.

(2) Practitioners of the healing arts identified as authorized users for the human use of radioactive material on an Agency, Nuclear Regulatory Commission or Agreement State or Licensing State license before July 1, 2006 who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of OAR 333-116-0640 through 333-116-0760.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0750
Physician Training in a Three Month Program

A physician who, before July 1, 1984, began a three month nuclear medicine training program approved by the Accreditation Council for Graduate Medical Education and has successfully completed the program is exempted from the requirements of OAR 333-116-0660 or 333-116-0670.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0760
Recentness of Training

The training and experience specified in OAR 333-116-0640 through 333-116-0730 and 333-116-0905 through 333-116-0915 must have been obtained within the seven years preceding the date of application or the individual must have had continuing education and experience since the required training and experience was completed.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0800
Licensing and Registration of Positron Emission Tomography (PET) Facilities

(1) Each component of a PET facility (accelerator, radiopharmacy, and clinic) must be separately licensed pursuant to OAR 333-101-0005, 333-102-0200, 333-103-0005 or 333-103-0010.

(2) The licensee or registrant must receive applicable Agency authorization at least 30 days prior to the production of any accelerator-produced radioactive material or any change in accelerator configuration, shielding, location, room shielding or configuration, nuclide production method, ventilation systems, rabbit or other delivery systems, operating or emergency procedures, radiation safety personnel, authorized users or operators, or other applicable provisions authorized pursuant to these rules.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0810
Supervision of PET Facilities

(1) Management must ensure that there is a qualified Radiation Safety Officer (RSO) who must oversee the radiation safety aspects of the PET facility and be responsible for radiation safety of the accelerator facility, pharmacy, and PET clinic:

(a) In the case of separate licenses for different components in a PET facility, there must be a cooperative consortium of management and radiation safety personnel that acts as directors for the facility;

(b) Management, whether singular or in consortium, must write a statement of authority and responsibility for all staff handling or controlling the production and use of PET isotopes.

(2) The RSO must be assisted by personnel specifically trained and designated for the area of concern, whether accelerator operation, pharmaceutical production, or PET clinic.

(3) There must be a Radiation Safety Committee (RSC) for a PET facility. The RSC can be a subcommittee of an institutional RSC or a conjoint committee of individual licenses where several licensees are cooperating in the PET facility.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0820
Other Applicable Requirements

(1) The licensee must ensure that any radiopharmaceutical for which an Investigational New Drug (IND) status does not exist, or which must be used for research purposes in humans, is reviewed by an Institutional Review Board (IRB) or Human Subjects Review Board or Committee. The licensee must establish procedures, reviews, quality assurance, and emergency procedures for all procedures reviewed by the IRB. The IRB, the PET Radiation Safety Committee or subcommittee, and the PET or facility Radiation Safety Officer must review and approve any and all PET procedures, unless otherwise authorized in a radioactive materials license pursuant to OAR 333-102-0200.

(2) Transfers of radioisotopes must be in accordance with requirements in OAR 333-102-0330.

(3) PET facility radiation protection programs, occupational dose limits, radiation dose limits for the public, surveys and monitoring, restricted area control, storage of radioactive materials, internal exposure control, precautionary procedures, waste disposal, records, and reports must meet all applicable requirements of division 333-120.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0830
Accelerator Facility Requirements

(1) Accelerators must be meet all requirements of division 333-109. Shielded-room accelerators must be equipped with interlocks and personnel control; self-shielded accelerators must be shielded such that personnel access is prevented during operation.

(2) Non-ionizing radiation must meet requirements of division 333-112.

(3) Target maintenance and repair, contamination control, and emergency actions must be conducted pursuant to division 333-120.

(4) There must be an Understanding of Transfer (UOT) when isotopes are transferred from one licensee or entity to another for processing, specifying at what point control is transferred to personnel handling radiochemical production or radiopharmacy operation.

(5) Radiation surveys must be made prior to any accelerator operation or isotope production with a radiation survey instrument calibrated in accordance with requirements in OAR 333-116-0390. Periodic surveys must be done throughout times of operation to ensure that radiation levels meet all applicable requirements in division 333-120 (Radiation Protection Standards).

(6) Ventilation controls must be implemented to ensure compliance with all applicable local, state, and federal requirements. Controls must include monitoring of stacks and computer modeling of air emissions to confirm compliance with standards.

(7) Real-time (integrating) monitors must be used to confirm requirements in OAR 333-120-0100, 333-120-0160, 333-120-0170, and 333-120-0180.

(8) Contamination wipes for radioactive material must be made pursuant to requirements in OAR 333-116-0250;

(9) Dosimetry must address both gamma and beta doses in all areas of the facility. Licensees and registrants must monitor extremities to ensure compliance with OAR 333-120-0100. Bioassays, as defined in OAR 333-100-0005, are not required, but there must be evaluation of internal exposures, pursuant to OAR 333-120-0130, based on calculated releases and monitoring.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0840
Safety Considerations and Quality Management for PET Facilities

(1) The licensee must establish and implement a Quality Management program pursuant to OAR 333-116-0125 for PET products, as well as other production and calibration products.

(2) PET instrumentation and other equipment unique to the PET process must meet all applicable radiation protection standards pursuant to division 120 of these rules.

(3) Area monitors must be visible and audible to accelerator operators. Monitors must be checked for proper operation daily.

(4) Wasted targets must be treated as radioactive waste and must be properly dismantled, shielded, stored, and disposed.

(5) Accelerator shielding design and safety must meet requirements of OAR 333-109-0025.

(6) Shielding around guide-bends, targets, hot-cells, purification manifolds, etc. must ensure that limits in 333-120-0180 and OAR 333-120-0190 have been met in all areas of beam and nuclide production.

(7) Security provisions for unauthorized access, janitorial services, maintenance, visitors, tours, and personnel-in-training must conform to requirements in OAR 333-120-0180, 333-120-0250 and 333-120-0260.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0850
Radiopharmacy and Radiochemical Production

(1) All preparations used in humans must meet the Oregon State Board of Pharmacy standards, as well as applicable federal Food and Drug Administration (FDA) requirements.

(a) All research products to be used in humans must be reviewed and approved by the licensee's or consortium Institutional Review Board (IRB).

(b) No research radiopharmaceutical must be used in a human being until its pyrogenicity and purity have been shown to meet applicable standards.

(2) Pharmacy or chemistry personnel must work directly under the supervision of a physician who meets the training criteria in OAR 333-116-0670.

(3) There must be no transfers between or among licensees unless there is a signed Memorandum or Understanding of Transfer. Such memorandum must preclude any transfers from one licensee entity to another if there is incomplete information, purity questions, or non-approval from the IRB.

(4) There must be a detailed description of the shielding and operation of the "black box" (hot cell).

(5) There must be operating and emergency, training, and survey procedures for ease of movement of the product within the pharmacy production area. Emergency procedures must address potential high dose rate emergencies such as stuck rabbit (transport container), pneumatic tube contamination, manifold leak or spill, hot cell emergency, or other incident.

(6) Equipment and procedures must include:

(a) Hood with continuous stack monitoring system and procedures to confirm air emission standards compliance;

(b) Remote handling equipment for very high dose rates (all handling must be done remotely);

(c) Dose calibration, system validation, and calibration standards, for all individual doses;

(d) Ba-133 must not be used as a calibration source;

(e) Dose calibrator linearity check using a positron emitter (beta shield must be evaluated to prevent interference with annihilation measurement);

(f) Product delivery system design, shielding, carrier, and emergency procedures;

(g) Leak tests (hermeticity) of delivery container;

(h) Labeling requirements, transportation manifests, and packaging for outside deliveries;

(i) Transportation requirements pursuant to division 333-118;

(j) Inventory control, "cradle to grave" tracking, and communication with PET clinic;

(k) Waste disposal procedures.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0870
Rubidium-82 Generator

Rubidium-82 generators require quality assurance procedures for equipment, patient injection, waiting area, imaging, and post-imaging care. There also must be a procedure for spills, and a handling procedure for liquid quality assurance sources for early model PET cameras. Dose calibration procedures are the same as in 333-116-0850(6).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0880
Training and Experience for PET, PET/CT and SPECT/CT Personnel

(1) Pharmacy or chemistry personnel must have 40 extra hours above Nuclear Pharmacy requirements and 40 hours specific to PET. The 40 hours should be divided equally between didactic and practical applications.

(2) Authorized users who meet training requirements for human use in OAR 333-116-0670 must complete an additional 40 hours at an accepted PET training center.

(3) Technical personnel working under an authorized user must have basic radiation safety training, plus 40 additional hours specific to PET.

(4) Positron Emission-Computed Tomography (PET/CT) or Single Photon Emission-Computed Tomography (SPECT/CT) systems must be operated by:

(a) Any registered radiographer with the credential R.T. (R); or

(b) Registered radiation therapist with the credential R.T. (T); and

(c) Who are currently licensed by the Oregon Board of Radiologic Technology; or

(d) Registered certified nuclear medicine technologist with the credentials R.T. (N); or

(e) Certified Nuclear Medicine Technologist (CNMT) by the Nuclear Medicine Technologist Certification Board (NMTCB).

(5) The individuals mentioned in section (4) of this rule must also have successfully completed appropriate additional education and training and demonstrated competency in the use and operation of PET/CT or SPECT/CT systems.

(6)(a) Appropriate additional training is considered training that covers the topic areas outlined in the PET/CT curriculum developed by the Multi-Organizational Curriculum Project Group sponsored by the American Society of Radiologic Technologists and the Society of Nuclear Medicine Technologists, or equivalent training approved by the Agency; and

(b) Includes the content specified in the PET/CT curriculum for the area(s) that the individual is not already trained or certified in; or

(c) Individuals meeting the requirements of section (4) of this rule and who have successfully completed training that the Agency has evaluated and judged to be substantially equivalent to that specified in section (6)(a) of this rule.

(7) R.T.(N)'s or CNMT's who have become certified in Computed Tomography through the American Registry of Radiologic Technologists are considered to have met the training requirements in section (4) of this rule.

(8) Technologists operating PET/CT or SPECT/CT systems must do so under the direction of an authorized user licensed to perform imaging and localization studies in accordance with OAR 333-116-0320.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0905
Training for Authorized Medical Physicist

Except as provided in 333-116-0740, the licensee shall require the authorized medical physicist to be an individual that:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in sections (2)(b) and (3) of this rule. To have its certifi-

cation process recognized, a specialty board shall require all candidates for certification to:

(a) Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;

(b) Have two years of full-time practical training and/or supervised experience in medical physics:

(A) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Commission or an Agreement State; or

(B) In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in 333-116-0720 or 333-116-0730; and

(c) Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or

(2)(a) Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services and must include:

(A) Performing sealed source leak tests and inventories;

(B) Performing decay corrections;

(C) Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(D) Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and

(b) Has obtained written attestation that the individual has satisfactorily completed the requirements in sections (1)(a) and (1)(b) and (3) of this rule, or sections (2)(a) and (3) of this rule, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this rule, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

(3) Has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0910
Training for an Authorized Nuclear Pharmacist

Except as provided in 333-116-0740, the licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Is certified by a specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in section (2)(b) of this rule. To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

(b) Hold a current, active license to practice pharmacy;

(c) Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and

(d) Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or

(2)(a) Has completed 700 hours in a structured educational program consisting of both:

(A) 200 hours of classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use; and

(v) Radiation biology; and

(B) Supervised practical experience in a nuclear pharmacy involving:

(i) Shipping, receiving, and performing related radiation surveys;

(ii) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;

(iii) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(iv) Using administrative controls to avoid medical events in the administration of byproduct material; and

(v) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

(b) Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in sections (1)(a), (1)(b), and (1)(c) or (2)(a) of this rule and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-0915
Training for Experienced Nuclear Pharmacists

A licensee may apply for and must receive a license amendment identifying an experienced nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program as specified in OAR 333-116-0910(2)(a) before December 2, 1994, and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements on preceptor statement in 333-116-0910(2)(b) and recentness of training in 333-116-0760 to qualify as an authorized nuclear pharmacist.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-1000
Report and Notification of a Medical Event

(1) A licensee must report any medical event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

(a) A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and

(A) The total dose delivered differs from the prescribed dose by 20 percent or more;

(B) The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or

(C) The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.

(b) A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:

(A) An administration of a wrong radioactive drug containing radioactive material;

(B) An administration of a radioactive drug containing radioactive material by the wrong route of administration;

(C) An administration of a dose or dosage to the wrong individual or human research subject;

(D) An administration of a dose or dosage delivered by the wrong mode of treatment; or

(E) A leaking sealed source.

(c) A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(2) A licensee must report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

(3) The licensee must notify by telephone the Agency no later than the next calendar day after discovery of the medical event.

(4) The licensee must submit a written report to the Agency within 15 days after discovery of the medical event.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the individual(s) who received the administration;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

(5) The licensee must provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee must notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this rule, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee must inform the individual, or appropriate responsible relative or guardian that a written description of the event can be obtained from the licensee upon request. The licensee must provide such a written description if requested.

(6) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-1010
Report and Notification of a Misadministration

(1) A licensee must report any misadministration that involves:

(a) A diagnostic radiopharmaceutical dosage greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-123, I-125 or I-131:

(A) Involving the wrong individual or wrong radiopharmaceutical; or

(B) When the administered dosage exceeds the prescribed dosage by more than 20 percent of the prescribed dosage.

(b) A diagnostic radiopharmaceutical dosage less than 1.11 megabecquerels (30 uCi) of either sodium iodide I-123, I-125 or I-131 involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage exceeds 1.33 megabecquerels (36 uCi)

(c) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131;

(A) Involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(B) When the administered dosage exceeds the prescribed dosage by more than 20 percent of the prescribed dosage.

(d) A gamma stereotactic radiosurgery radiation dose:

(A) Involving the wrong individual or wrong treatment site; or

(B) When the calculated total administered exceeds the total prescribed dose by more than 10 percent of the total prescribed dose.

(e) A teletherapy radiation dose:

(A) Involving the wrong individual, wrong mode of treatment, or wrong treatment site;

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose exceeds total prescribed dose by more than ten percent of the total prescribed dose;

(C) When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or

(D) When the calculated total administered dose exceeds the total prescribed dose by more than 20 percent of the total prescribed dose.

(f) A brachytherapy radiation dose:

(A) Involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site); or

(B) Involving a sealed source that is leaking;

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(D) When the calculated administered dose exceeds the prescribed dose by more than 20 percent of the prescribed dose.

(2) The licensee must notify by telephone the Agency no later than the next calendar day after discovery of the medical event.

(3) The licensee must submit a written report to the Agency within 15 days after discovery of the misadministration.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the individual(s) who received the administration;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-1015
Report and Notification of a Dose to an Embryo/Fetus or a Nursing Child

(1) A licensee must report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of byproduct material or radiation from byproduct material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.

(2) A licensee must report any dose to a nursing child that is a result of an administration of radioactivet material to a breast-feeding individual that:

(a) Is greater than 50 mSv (5 rem) total effective dose equivalent; or

(b) Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

(3) The licensee must notify the Agency by telephone no later than the next calendar day after discovery of a dose to the embryo/fetus or nursing child that requires a report in sections (1) or (2) of this rule.

(4) The licensee must submit a written report to the Agency within 15 days after discovery of a dose to the embryo/fetus or nursing child that requires a report in sections (1) or (2) of this rule.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the embryo/fetus or the nursing child;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.

(b) The report must not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

(5) The licensee must provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under sections (1) or (2) of this rule, unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee must make the appropriate notifications as soon as possible thereafter. The licensee may not delay any appropriate medical care for the embryo/fetus or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this rule, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee must inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee must provide such a written description if requested.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-116-1030
Report Of A Leaking Source

A licensee must file a report with the Agency within five days if a leak test required by 333-116-0200 reveals the presence of 185 Bq (0.005 uCi) or more of removable contamination. The written report must include:

(1) The model number and serial number of the leaking source, if assigned;

(2) The radionuclide and its estimated activity;

(3) The results of the test;

(4) The date of the test; and

(5) The action taken.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0010
Purpose and Scope

The rules in this division establish requirements for packaging, preparation for shipment, and transportation of radioactive material and apply to any person who transports radioactive material or delivers radioactive material to a carrier for transport.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0020
Definitions

As used in this division, the following definitions apply:

(1) "A1" means the maximum activity of special form radioactive material permitted in a Type A package. This value is either listed in **Appendix A** to10 CFR Part 71, Table A-1, or may be derived in accordance with the procedures prescribed in Appendix A to10 CFR Part 71.

(2) "A2" means the maximum activity of radioactive material, other than special form material, LSA, and SCO material, permitted in a Type A package. This value is either listed in Appendix A to10 CFR Part 71, Table A-1, or may be derived in accordance with the procedures prescribed in Appendix A to10 CFR Part 71.

(3) "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

(4) "Closed transport vehicle" means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top, sides, and ends. In the case of packaged materials, it may be of the "see-through" type.

(5) "Exclusive use" means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

NOTE: The term "exclusive use" is used interchangeably with the terms "sole use" or "full load" in other regulations, such as Title 49 of the Code of Federal Regulations.

(6) "Fissile material" means any special nuclear material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235, or any combination of these radionuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only, are not included in this definition. Neither natural nor depleted uranium is fissile material.

NOTE: Agency jurisdiction is limited to special nuclear material in quantities not sufficient to form a critical mass as defined in division 100 of these rules.

(7) "Fissile material package" means a fissile material packaging together with its fissile material contents.

(8) "Licensed material " means a quantity of source, radioactive or special nuclear material required to be in U.S. Department of Transportation approved specification packaging while transported to, through or across a state boundary to a disposal site, or to a collection point for transport to a disposal site.

NOTE: The definition of licensed material in this division is used in the same way as in 49 CFR 173.403.

(9) "Low specific activity (LSA) material" means radioactive material that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(a) LSA-I.

(A) Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or

(B) Solid unirradiated natural uranium, depleted uranium, natural thorium, or their solid or liquid compounds or mixtures; or

(C) Radioactive material, other than fissile material, for which the A2 value is unlimited; or

(D) Mill tailings, contaminated earth, concrete, rubble, other bulk debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10-6 A2/g.

(b) LSA-II.

(A) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(B) Material in which the radioactive material is distributed throughout, and the average specific activity does not exceed 10-4 A2/g for solids and gases, and 10-5 A2/g for liquids.

(c) LSA-III. Solids (e.g., consolidated wastes, activated materials) in which:

(A) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.); and

(B) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for seven days, would not exceed 1E-1 A2; and

(C) The average specific activity of the solid does not exceed 2E-3 A2 per gram.

(10) "Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates; or alpha emitters with a half-life of less than ten days.

(11) "Normal form radioactive material" means radioactive material which has not been demonstrated to qualify as special form radioactive material.

(12) Package means the packaging together with its radioactive contents as presented for transport.

(a) Fissile material package or Type AF package, Type BF package, Type B(U)F package, or Type B(M)F package means a fissile material packaging together with its fissile material contents.

(b) Type A package means a Type A packaging together with its radioactive contents. A Type A package is defined and must comply with the DOT regulations in 49 CFR part 173.

(c) Type B package means a Type B packaging together with its radioactive contents. On approval, a Type B package design is designated by NRC as B(U) unless the package has a maximum normal operating pres-

sure of more than 700 kPa (100 lbs/in2) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in 10 CFR 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, see DOT regulations in 49 CFR Part 173. A Type B package approved before September 6, 1983, was designated only as Type B. Limitations on its use are specified in 10 CFR 71.19.

(13) "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 49 CFR Part 173 Subpart I. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

(14) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(15) "Regulations of the U.S. Nuclear Regulatory Commission" means the regulations in 10 CFR 71.

(16) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch.); and

(c) It satisfies the test requirements specified by the Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31, 1996, and constructed prior to April 1, 1998, may continue to be used. A special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(17) "Specific activity" of a radionuclide means the radioactivity of a radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(18) "Surface contaminated object" (SCO) means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

(a) SCO-I: a solid object on which:

(A) The non-fixed contamination on the accessible surface averaged over 300 cm2 (or the area of the surface if less than 300 cm2) does not exceed 4 Bq/cm2 (10-4 microcurie/cm2) for beta, gamma and low toxicity alpha emitters, or 0.4 Bq/cm2 (10-5 microcurie/cm2) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 cm2 (or the area of the surface if less than 300 cm2) does not exceed 4x104 Bq/cm2 (1.0 microcurie/cm2) for beta, gamma and low toxicity alpha emitters, or 4x103 Bq/cm2 (0.1 microcurie/cm2) for all other alpha emitters; and

(C) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm2 (or the area of the surface if less than 300 cm2) does not exceed 4x104 Bq/cm2 (1 microcurie/cm2) for beta, gamma and low toxicity alpha emitters, or 4x103 Bq/cm2 (0.1 microcurie/cm2) for all other alpha emitters.

(b) SCO-II: a solid object on which the limits for SCO-I are exceeded and on which:

(A) The non-fixed contamination on the accessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 400 bequerel per square centimeter (Bq/cm2) (1E-2 microcurie per square centimeter) for beta, gamma and low toxicity alpha emitters or 40 bequerel per square centimeter (Bq/cm2) (1E-3 microcurie per square centimeter) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 8E5 bequerel per square centimeter (Bq/cm2) (20 microcuries square centimeter) for beta, gamma and low toxicity alpha emitters, or 8E4 bequerel per square centimeter (Bq/cm2) (2 microcuries per square centimeter) for all other alpha emitters; and

(C) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 8E5 bequerel per square centimeter (Bq/cm2) (20 microcuries per square centimeter) for beta, gamma and low toxicity alpha emitters, or 8x104 Bq/cm2 (2 microcuries/cm2) for all other alpha emitters.

(19) "Transport index (TI)" means the dimensionless number, rounded up to the first decimal place, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at one meter (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at one meter (3.3 ft)).

(20) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material or A2 for normal form radioactive material, where A1 and A2 are given in 10 CFR Part 71 Appendix A or may be determined by procedures described in 10 CFR Part 71 Appendix A.

(21) "Type A package" means a packaging that, together with its radioactive contents limited to A1 or A2 as appropriate, meets the requirements of 49 CFR 173.410 and 173.412 and is designed to retain the integrity of containment and shielding under normal conditions of transport as demonstrated by the tests set forth in 173.465 or 173.466, as appropriate.

(22) "Type B package" means a Type B packaging together with its radioactive contents.

NOTE: A type B package design is designated as B(U) or B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in OAR 333-118-0035.

(23) "Type B packaging" means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR Part 71.

(24) "Type B quantity" means a quantity of radioactive material greater than Type A quantity.

NOTE: 10 CFR Part 71 Appendix A referred to or incorporated by reference in this rule is attached to this division or available from the Agency.

(25) "Uranium — natural, depleted, enriched"

(a) "Natural uranium" means uranium isotopes with the naturally occurring distribution of uranium, isotopes (which is approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

(b) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(c) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0030
Requirement for License

No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the Agency or as exempted in OAR 333-118-0040.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0040
Exemptions

(1) Common and contract carriers, freight forwarders, and warehouse workers that are subject to the requirements of the U.S. Department of Transportation in 49 CFR 170 through 189 or the U.S. Postal Service in the U.S. Postal Service Manual Domestic Mail Manual, (DMM), section C-023.9.0 are exempt from the rules in chapter 333, divisions 102, 105, 113, 115, 116, 117, and 121 and the requirements for a license to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service are subject to OAR 333-118-0030 and other applicable requirements of these rules.

(2) Any licensee is exempt from the requirements of this division to the extent that the licensee delivers to a carrier for transport a package con-

taining radioactive material having a specific activity not greater than (0.002 microcurie per gram 70 Becquerels per gram (Bq/g).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0050
Transportation of Licensed Material

(1) Each licensee who transports licensed material outside the site of usage, as specified in the Agency license, or where transport is on public highways, or who delivers licensed material to a carrier for transport shall:

(a) Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the U.S. Department of Transportation in 49 CFR 170-189, particularly the regulations of U.S. Department of transportation in the following areas:

(A) Packaging — 49 CFR Part 173: Subparts A and B and I.

(B) Marking and labeling — 49 CFR Part 172: Subpart D, 172.400 through 172.407, 172.436 through 172.440, and Subpart E.

(C) Placarding — 49 CFR Part 172: Subpart F, especially 172.500 through 172.519, 172.556, and Appendices B and C.

(D) Accident reporting — 49 CFR Part 171: 171.15 and 171.16.

(E) Shipping papers and emergency information — 49 CFR Part 172: Subparts C and G.

(F) Hazardous material employee training — 49 CFR Part 172: Subpart H.

(H) Hazardous material shipper/carrier registration — 49 CFR Part 107: Subpart G.

(b) The licensee also shall comply with applicable U.S. Department of Transportation regulations pertaining to the following modes of transportation:

(A) Rail — 49 CFR Part 174: Subparts A through D and K.

(B) Air — 49 CFR Part 175.

(C) Vessel — 49 CFR Part 176: Subparts A through F and M.

(D) Public highway — 49 CFR Part 177 and Parts 390 through 397.

(c) Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee.

(2) If, for any reason, the regulations of the U.S. Department of Transportation are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 170 through 189 appropriate to the mode of transport and to the same extent as if the shipment were subject to the regulations.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0060
General Licenses for Carriers

(1) A general license is hereby issued to any common or contract carrier not exempt under OAR 333-118-0040 to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

NOTE: Notification of an incident shall be filed with, or made to, the Department as prescribed in 49 CFR, regardless of and in addition to the notification made to the U.S. Department of Transportation or other agencies.

(2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

(3) Persons who transport radioactive material pursuant to the general licenses in sections (1) or (2) of this rule are exempt from the requirements of divisions 111 and 120 of these rules to the extent that they transport radioactive material.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0070
General License: Nuclear Regulatory Commission-Approved Packages

(1) A general license is hereby issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the U.S. Nuclear Regulatory Commission.

(2) This general license applies only to a licensee who:

(a) Has a copy of the specific license, certificate of compliance, or other approval by the Nuclear Regulatory Commission of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the license, certificate, or other approval by the Nuclear Regulatory Commission, as applicable, and the applicable requirements of division 118;

(c) Prior to the licensee's first use of the package, has registered with the U.S. Nuclear Regulatory Commission; and

(d) Has a quality assurance program required by OAR 333-118-0200 and approved by the Agency.

(3) The general license in section (1) of this rule applies only when the package approval authorizes use of the package under this general license.

(4) For previously approved Type B packages which are not designated as either B(U) or B(M) in the Certificate of Compliance, this general license is subject to additional restrictions in OAR 333-118-0080. For a Type B or fissile material package, the design of which was approved by Nuclear Regulatory Commission before April 1, 1996, the general license is subject to additional restrictions of OAR 333-118-0080.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0080
General License: Previously Approved Packages

(1) A Type B package previously approved by the U.S. Nuclear Regulatory Commission, but not designated as B(U) or B(M) in the Certificate of Compliance, may be used under the general license of OAR 333-118-0070 with the following additional limitations:

(a) Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with U.S. Nuclear Regulatory Commission regulations at 10 CFR 71.85(c); and

(b) The package may not be used for a shipment to a location outside the United States except when approved under special arrangement in accordance with 49 CFR 173.471. A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in U.S. Department of Transportation regulations at 49 CFR 173.403; and

(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

(2) A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the Nuclear Regulatory Commission but without the designation "-85" in the identification number of the Nuclear Regulatory Commission certificate of compliance, may be used under the general license of 333-118-0070 with the following additional conditions:

(a) Fabrication of the package is satisfactorily completed by April 1, 1999, as demonstrated by application of its model number in accordance with Nuclear Regulatory Commission regulations at 10 CFR 71.85(c);

(b) A package used for a shipment to a location outside the United States is subject to multilateral approval except approved under special arrangement in accordance with U.S. Department of Transportation regulations at 49 CFR 173.403; and

(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0090
General License: U.S. Department of Transportation Specification Container

(1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a specification container containing a fissile material or a Type B quantity of radioactive material as specified in 49 CFR Parts 173 and 178.

(2) This general license applies only to a licensee who has a quality assurance program required by OAR 333-118-0200 and approved by the Agency.

(a) Has a copy of the specification;

(b) Complies with the terms and conditions of the specification and the applicable requirements of division 118; and

(c) Has a quality assurance program required by OAR 333-118-0200.

(3) The general license in this rule is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States except by multilateral approval as defined in 49 CFR 173.403.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0100
General License: Use of Foreign Approved Package

(1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the U.S. Department of Transportation as meeting the applicable requirements of 49 CFR 171.12.

(2) This general license applies only to international shipments.

(3) This general license applies only to a licensee who:

(a) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this division.

(c) Has a quality assurance program approved by the Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0110
General License: Fissile Material, Limited Quantity per Package

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with division 333-0118.

(2) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

(a) Up to 40 grams of uranium-235; or

(b) Up to 30 grams of uranium-233; or

(c) Up to 25 grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A1 quantity of plutonium may be present; or

(d) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in sections (2)(a), (2)(b), and (2)(c) of this rule does not exceed unity.

(3) Except as specified in section (3)(b) of this rule, this general license applies only when all of the following requirements are met:

(a) A package containing fissile radionuclides is labeled with a transport index not less than the number given by the following equation:

Minimum Transport Index = (0.25x + 0.33y + 0.4z) where the package contains x grams of uranium-235, y grams of uranium-233, and z grams of the fissile radionuclides of plutonium;

(b) For a package in which the only fissile material is encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.025 times the number of grams of the fissile radionuclides of plutonium.

(c) In all cases, the transport index must be rounded up to one decimal place and shall not exceed 10.0.

(d) Except for the beryllium contained within the special form plutonium-beryllium sources authorized in section (2) of this rule, beryllium, graphite, or hydrogenous material enriched in deuterium is not present in quantities exceeding 0.1% of the fissile material mass.

(e) The licensee has a quality assurance program approved by the nuclear regulatory commission.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0120
General License: Fissile Material, Limited Moderator per Package

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with division 333-118.

(2) This general license applies only when all of the following requirements are met.

(a) The package contains no more than a Type A quantity of radioactive material.

(b) Neither beryllium nor hydrogenous material enriched in deuterium is present.

(c) The total mass of graphite present does not exceed 7.7 times the total mass of uranium-235 plus plutonium.

(d) Substances having higher hydrogen density than water, for example certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping.

(e) Uranium-233 is not present, and the amount of plutonium does not exceed one percent of the amount of uranium-235.

(f) The amount of uranium-235 is limited as follows:

(A) If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in the following Table 1.

(B) If the fissile radionuclides are distributed uniformly, for example, they cannot form a lattice arrangement within the packaging, and the maximum amount of uranium-235 per package may not exceed the value given in Table 2.

(g) The transport index of each package based on criticality considerations is taken as ten times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table 1 or 2 of this rule as applicable. [Tables not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0130
Fissile Material: Assumptions as to Unknown Properties of Fissile Material

When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum neutron multiplication.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0140
Preliminary Determinations

Prior to the first use of any packaging for the shipment of radioactive material:

(1) The licensee shall show that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce the effectiveness of the packaging;

(2) Where the maximum normal operating pressure will exceed 35 kilopascals (five pounds per square inch (psi) gauge, the licensee shall test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure to show that the system will maintain its structural integrity at that pressure;

(3) The licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. Nuclear Regulatory Commission; and

(4) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number as assigned by the U.S. Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0150
Routine Determinations

Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this division and of the license. The licensee shall determine that:

(1) The package is proper for the contents to be shipped;

(2) The package is in unimpaired physical condition except superficial defects such as marks or dents;

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(5) Any pressure relief device is operable and set in accordance with written procedures;

(6) The package has been loaded and closed in accordance with written procedures;

(7) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in 10 CFR 71.45;

(8) For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;

(9) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable.

(a) The level of non-fixed (removable) radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the removable contamination levels. Except as provided in section (8)(b) of this rule, the amount of radioactivity measured on any single wiping material, when averaged over the surface wiped, must not exceed the limits given in Table 3 below at any time during transport. Other methods of assessment of equal or greater efficiency may be used. When other methods are used, the detection efficiency of the method used must be taken into account and in no case may the removable contamination on the external surfaces of the package exceed ten times the limits listed in Table 3.

(b) In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed (removable) radioactive contamination at any time during transport must not exceed ten times the levels prescribed in section (8)(a) of this rule. The levels at the beginning of transport must not exceed the levels in section (8)(a) of this rule;

(10) External radiation levels around the package and around the vehicle, if applicable, will not exceed two mSv/hr (200 millirem per hour) at any point on the external surface of the package at any time during the transportation. The transport index shall not exceed ten; [Table not included. See ED. NOTE.]

(11) For a package transported in exclusive use by rail, highway, or water, radiation levels external to the package may exceed the limits specified in section (10) of this rule but shall not exceed any of the following:

(a) Two milliSieverts per hour (mSv/h) (200 millirem per hour) on the accessible external surface of the package unless the following conditions are met, in which case the limit is ten milliSieverts per hour (mSv/h) (1000 millirem per hour);

(A) The shipment is made in a closed transport vehicle,

(B) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation, and

(C) There are no loading or unloading operations between the beginning and end of the transportation.

(b) Two milliSieverts per hour (mSv/h) (200 millirem per hour) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier*, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle;

***NOTE:** A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier, the package cannot exceed two milliSieverts per hour (mSv/h) (200 millirem per hour) at the surface.

(c) 0.1 milliSieverts per hour (mSv/h) (10 millirems per hour) at any point two meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point two meters from the vertical planes projected from the outer edges of the vehicle; and

(d) 0.02 milliSieverts per hour (mSv/h) (2 millirem per hour) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with OAR 333-111-0005; and

(12) A package must be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 122 degrees Fahrenheit (50 degrees Celsius) in a nonexclusive use shipment or 185 degrees Fahrenheit (85 degrees Celsius) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

(13) A package may not incorporate a feature intended to allow continuous venting during transport.

(14) Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee.

(15) For shipments made under the provisions of section (11) of this rule, the shipper shall provide specific written instructions to the carrier for maintenance of the exclusive use shipment controls. The instructions must be included with the shipping paper information.

(16) The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will unnecessarily delay delivery or unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.

NOTE: A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier is in place, the package cannot exceed two mSv/h (200 millirems per hour) at any accessible surface.
[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0160
Air Transport of Plutonium

Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this division or included indirectly by citation of the U.S. Department of Transportation regulations, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

(1) The plutonium is contained in a medical device designed for individual human application; or

(2) The plutonium is contained in a material in which the specific activity is not greater than 70 Bq/g (0.002 microcuries per gram) of material and in which the radioactivity is essentially uniformly distributed; or

(3) The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form and is shipped in accordance with OAR 333-118-0050; or

(4) The plutonium is shipped in a package specifically authorized (in the certificate of compliance issued by the Nuclear Regulatory Commission for that package) for the shipment of plutonium by air. and the licensee requires, through special arrangement with the carrier, compliance with 49 CFR 175.704, the U.S. Department of Transportation regulations applicable to the air transport of plutonium.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0170
Shipment Records

Each licensee shall maintain for a period of three years after shipment, or until inspected by the Agency, a record of each shipment of

licensed material not exempt under OAR 333-118-0040, showing, where applicable:

(1) Identification of the packaging by model and serial number;

(2) Verification that the packaging, as shipped, had no significant defects;

(3) Volume and identification of coolant;

(4) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(5) Date of the shipment;

(6) Name and address of the transferee;

(7) Address to which the shipment was made; and

(8) Results of the determinations required by OAR 333-118-0150.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0180
Reports

The licensee shall report to the Agency within 30 days:

(1) Any instance in which there is significant reduction in the effectiveness of any approved Type B or fissile packaging during use; and

(2) Details of any defects with safety significance in the Type B or fissile packaging after first use, with the means employed to repair the defects and prevent their recurrence or

(3) Instances in which the conditions of approval in the certificate of compliance were not observed in making a shipment.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0190
Advance Notification of Transport of Nuclear Waste

(1) Prior to the transport of any licensed material outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any licensed material to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state within or through which the waste will be transported.

NOTE: A list of the mailing addresses of the governors and governors' designees is available upon request from the Director, Office of State, Local, and Indian Tribe Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Advance notification is required only when:

(a) The licensed material is required to be in Type B packaging for transportation;

(b) The licensed material is being transported into, within, or through, a state en route to a disposal facility or to a collection point for transport to a disposal facility; and

(c) The quantity of licensed material in a single package exceeds any one of the following:

(A) 3000 times the A1 value of the radionuclides as specified in **Appendix A**, Table A-1 for special form radioactive material;

(B) 3000 times the A2 value of the radionuclides as specified in **Appendix A**, Table A-1 for normal form radioactive material;

(C) 1000 TBq (27,000 Ci).

(3) Each advance notification required by section (1) of this rule shall contain the following information:

(a) The name, address, and telephone number of the shipper, carrier and receiver of the shipment;

(b) A description of the licensed material contained in the shipment as required by 49 CFR 172.202 and 172.203(d);

(c) The point of origin of the shipment and the seven-day period during which departure of the shipment is estimated to occur;

(d) The seven-day period during which arrival of the shipment at state boundaries is estimated to occur;

(e) The destination of the shipment, and the seven-day period during which arrival of the shipment is estimated to occur; and

(f) A point of contact with a telephone number for current shipment information.

(4) The notification required by section (1) of this rule shall be made in writing to the office of each appropriate governor, or governor's designee, and to the Agency. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A notification delivered by the messenger must reach the office of the governor, or governor's designee, at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for three years or until inspected by the Agency.

(5) The licensee shall notify each appropriate governor, or governor's designee, and the Agency of any changes to schedule information provided pursuant to section (1) of this rule. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for three years a record of the name of the individual contacted.

(6) Each licensee who cancels a licensed material shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Agency. A copy of the notice shall be retained by the licensee for three years.

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

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0200
Quality Assurance Requirements

(1) Unless otherwise authorized by the Agency, each licensee shall establish, maintain, and execute a quality assurance program to verify by procedures such as checking, auditing, and inspection, that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive material are promptly identified and corrected.

(2) The licensee shall identify the material and components to be covered by the quality assurance program.

(3) Each licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used.

(4) Prior to the use of any package for the shipment of radioactive material, each licensee shall obtain approval by the Agency of its quality assurance program.

(5) The licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a package for shipment of radioactive material shall be maintained for a period of three years after shipment or until inspected by the Agency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-118-0800
Referenced Materials

(1) This division of chapter 333 of the Oregon Administrative Rules incorporates by reference material originally published elsewhere. Certified copies of the complete text of incorporated materials referenced are available for public inspection during regular business hours at the Radiation Protection Services Office. Copies of referenced material will be provided at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from Radioactive Materials Program, Radiation Protection Services, 800 NE Oregon Street, Portland, Oregon 97232.

(2) Material referenced in this division does not include amendments to or revised editions of the material published later than the effective date of the relevant section.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0000
Purpose

(1) This division establishes standards for protection against ionizing radiation resulting from activities conducted under licenses and registrations issued by the Agency. These rules are issued under ORS 453.605 to 453.807, and the State of Oregon's agreement with the U.S. Nuclear Regulatory Commission.

(2) It is the purpose of the rules in this division to control the receipt, possession, use, transfer, and disposal of licensed radioactive material and sources of radiation by any licensee or registrant in such a manner that the

total dose to an individual (including doses resulting from licensed and unlicensed radioactive material and from radiation sources other than background radiation) does not exceed the standards for protection against radiation prescribed in this division. However, nothing in this division shall be construed as limiting actions that may be necessary to protect health and safety.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0010
Scope

The rules in this division apply to persons licensed or registered by the Agency to receive, possess, use, transfer, or dispose of licensed radioactive material or registered devices. The limits in this division do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, or to voluntary participation in medical research programs.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0015
Definitions

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Activity" is the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the becquerel (Bq) and the Curie (Ci). The becquerel is equal to one disintegration per second (dps) and the Curie is equal to 3.7x1010 dps.

(3) "Adult" means an individual 18 or more years of age.

(4) "Airborne radioactive material" means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(5) "Airborne radioactivity area" means a room, enclosure, or area in which the airborne radioactive materials, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in 10 CFR 20 Appendix B; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours present in a week, and intake of 0.6 percent of the annual limit of intake (ALI) or 12 DAC hours.

(6) "Air-purifying respirator" means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

(7) "ALARA" (acronym for "as low as is reasonably achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this division as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the use of licensed materials in the public interest.

(8) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of **Appendix B**.

(9) "Assigned protection factor (APF)" means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

(10) "Atmosphere supplying respirator" means a respirator that supplies the respirator 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.

(11) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include radiation from radioactive or special nuclear materials regulated by the Agency.

(12) "Bioassay" (radiobioassay) means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

(13) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days; for Class W, Weeks, from 10 to 100 days; and for Class Y, Years, of greater than 100 days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms.

(14) "Collective dose" is the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(15) "Committed dose equivalent" (HT,50)means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50- year period following the intake.

(16) "Committed effective dose equivalent" (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues (HE,50) = The Sum of WTHT,50.

(17) "Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason.

(18) Constraint (dose constraint) means a value above which specified licensee actions are required.

(19) "Critical Group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(20) "Declared pregnant woman" means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(21) "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of the license; or

(b) Release of the property under restricted conditions and termination of the license.

(22) "Deep-dose equivalent" (Hd), which applies to external whole-body exposure, is the dose equivalent at a tissue depth of 1 cm (1000 mg/cm2).

(23) "Demand respirator" means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

(24) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of 10 CFR 20 Appendix B.

(25) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(26) "Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

(27) "Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(28) "Dose or radiation dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent, as defined in this rule.

(29) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(30) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(31) "Effective Dose Equivalent" (HE) is the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factor (WT) applicable to each of the body organs or tissues that are irradiated (HE = The Sum of WTHT).

(32) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(33) "Entrance or access point" means any location through which an individual could gain access to radiation areas or to radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(34) "Exposure" means being exposed to ionizing radiation or to radioactive material.

(35) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.

(36) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(37) "Eye dose equivalent" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm 2). (See "lens dose equivalent").

(38) "Filtering facepiece (dust mask)" means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

(39) "Fit factor" means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

(40) "Fit test" means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

(41) "Generally applicable environmental radiation standards" means standards issued by the Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(42) "Helmet" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

(43) "High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of one mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

(44) "Hood" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

(45) "Individual" means any human being.

(46) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, i.e DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(47) "Individual monitoring devices" (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(48) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(49) "Lens dose equivalent (LDE)" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm 2).

(50) "Loosefitting facepiece" means a respiratory inlet covering that is designed to form a partial seal with the face.

(51) "Member of the public" means any individual except when that individual is receiving an occupational dose.

(52) "Minor" means an individual less than 18 years of age.

(53) "Monitoring (radiation monitoring, radiation protection monitoring)" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

(54) "Negative pressure respirator (tight fitting)" means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

(55) "Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these regulations, "deterministic effect" is an equivalent term.

(56) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released under 333-116-0260, from voluntary participation in medical research programs, or as a member of the public.

(57) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(58) "Positive pressure respirator" means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

(59) "Pressure demand respirator" means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

(60) "Public dose" means the dose received by a member of the public from exposure to radiation or radioactive material released by a licensee, or to any other source of radiation under the control of a licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released under 333-116-0260, or from voluntary participation in medical research programs.

(61) "Qualitative fit test (OLFT)" means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

(62) "Quantitative fit test (QNFT)" means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

(63) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(64) "Radiation" (ionizing radiation) means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. Radiation, as used in this part, does not include non-ionizing radiation, such as radio- or microwaves, or visible, infrared, or ultraviolet light.

(65) "Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(66) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of the reference man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(67) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result

of routine or accidental releases of radioactive material at the site and previous burials at the site.

(68) "Restricted area" means an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(69) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(70) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(71) "Self-contained breathing apparatus (SCBA)" means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

(72) "Shallow-dose equivalent" (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm2) averaged over an area of one square centimeter.

(73) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(74) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, "probabilistic effect" is an equivalent term.

(75) "Supplied-air respirator (SAR)" or airline respirator means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

(76) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

(77) "Tight-fitting facepiece" means a respiratory inlet covering that forms a complete seal with the face.

(78) "Total Effective Dose Equivalent" (TEDE) means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(79) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee.

(80) "User seal check" means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

(81) "Very high radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of five Gray (500 rad) in one hour at one meter from a source of radiation or from any surface that the radiation penetrates. At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equvalent, sievert and rem.

(82) "Weighting factor" (WT) for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of WT are:

Organ Dose Weighting Factors
Organ or Tissue — WT
Gonads — 0.25
Breast — 0.15
Red bone marrow — 0.12
Lung — 0.12
Thyroid — 0.03
Bone surfaces — 0.03
Remainder — 0.30(a)
Whole Body — 1.00(b)

(a) 0.30 results from 0.06 for each of five "remainder" organs, excluding the skin and the lens of the eye that receives the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, WT = 1.0, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(83) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

(84) "Working level" (WL) is any combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in one liter of air that will result in the ultimate emission of 1.3x105 MeV of potential alpha particle energy.

(85) "Working level month" (WLM) means an exposure to one working level for 170 hours (2,000 working hours per year/12 months per year equals approximately 170 hours per month).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0017
Implementation.

(1) Any existing license or registration condition that is more restrictive than OAR 333-120 remains in force until there is an amendment or renewal of the license or registration.

(2) If a license or registration condition exempts a licensee or registrant from a provision of OAR 333-120 in effect on or before July 1, 2006, it also exempts the licensee or registrant from the corresponding provision of OAR 333-120.

(3) If a license or registration condition cites provisions of OAR 333-120 in effect prior to July 1, 2006, which do not correspond to any provisions of OAR 333-120, the license or registration condition remains in force until there is an amendment or renewal of the license or registration that modifies or removes this condition.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0020
Radiation Protection Programs

(1) Each licensee or registrant must develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed or registered activities and sufficient to ensure compliance with the provisions of this division. (See OAR 333-120-0610 for record keeping requirements relating to these programs.)

(2) Each licensee or registrant must use, to the extent practicable, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that are as low as is reasonably achievable (ALARA).

(3) Each licensee or registrant must periodically (at least annually) review the radiation protection program content and implementation.

(4) To implement the ALARA requirements of section (2) of this rule, and notwithstanding the requirements in 333-120-0180, a constraint on air emissions of radioactive material to the environment, excluding Radon-222 and its daughters, must be established by licensees such that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent in excess of ten mrem (0.1 mSv) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee must report the excess as provided in 333-120-0720 and promptly take appropriate corrective action to ensure against recurrence.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0100
Occupational Dose Limits For Adults

(1) Each licensee or registrant must control the occupational dose to individual adults, except for planned special exposures under OAR 333-120-0150, to the following dose limits:

(a) An annual limit, which is the more limiting of:

(A) The total effective dose equivalent being equal to 0.05 Sv (5 rem); or

(B) The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).

(b) The annual limits to the lens of the eye, to the skin, and to the extremities which are:

(A) A lens dose equivalent of 0.15 Sv (15 rem); and

(B) A shallow-dose equivalent of 0.50 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, must be subtracted from the limits for planned special exposures, as defined in OAR 333-100-0005, that the individual may receive during the current year OAR 333-120-0150(5)(a) and during the individual's lifetime OAR 333-120-0150(5)(b).

NOTE: A licensee or registrant may permit a radiation worker to receive more than 0.05 Sv (5 rem) per year TEDE or 0.5 Sv (50 rem) to the skin, extremities, or organ, or 0.15 Sv (15 rem) to the lens of the eye during a planned special exposure (PSE) only if: (a) there are no other alternatives available or practical; (b) the PSE is authorized in writing before it occurs; (c) the individuals who will be exposed are told the reason for the PSE, the dose they are expected to receive, the risks from that dose and the conditions under which they will be working (e.g radiation or contamination levels), and how to keep their doses ALARA; (d) the licensee or registrant determines the worker's prior doses (lifetime history); (e) the total dose expected from the PSE plus any previous doses over the annual limit do not exceed the standard annual dose limits, or five times the standard limits in the worker's lifetime; (f) the licensee or registrant maintains the appropriate records and files the appropriate reports; and (g) after the PSE, the licensee or registrant records the dose received and notifies the worker in writing of the dose received within 30 days after the PSE. The dose received from the PSE does not affect the worker's ability to receive the standard annual doses but is included in the worker's lifetime history and added to any future PSEs.

(3) The assigned deep-dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow-dose equivalent must be the dose averaged over the contiguous ten square centimeters of skin receiving the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable:

(a) The deep-dose equivalent, lens dose equivalent and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable; or

(b) When a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in 333-120-0210(1)(e) the effective dose equivalent for external radiation must be determined as follows:

(A) When only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent must be the effective dose equivalent for external radiation; or

(B) When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in section (1) of this rule the reported deep dose equivalent value multiplied by 0.3 must be the effective dose equivalent for external radiation; or

(C) When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation must be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in 10 CFR Part 20 Table 1 of **Appendix B** to 20.1001 to 20.2401 and may be used to determine the individual's dose (OAR 333-120-0650) and to demonstrate compliance with the occupational dose limits.

(5) In addition to the annual dose limits, the licensee must limit the soluble uranium intake by an individual to ten milligrams in a week in consideration of chemical toxicity (see 10 CFR Part 20 footnote 3 of **Appendix B** to 20.1001 to 20.2401).

(6) When monitoring is required by OAR 333-120-0210 each licensee or registrant must reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person (OAR 333-120-0630(5)).

(7) The licensee must reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0110

Compliance with Requirements for Summation of External and Internal Doses

(1) If the licensee is required to monitor under OAR 333-120-0210(1) and (2), the licensee must demonstrate compliance with the dose limits by summing external and internal doses. If the licensee is required to monitor only under OAR 333-120-0210(1) or only under 333-120-0210(2), then summation is not required to demonstrate compliance with the dose limits. The licensee may demonstrate compliance with the requirements for summation of external and internal doses by meeting one of the conditions specified in section (2) of this rule and the conditions in sections (3) and (4) of this rule.

NOTE: The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation, but are subject to separate limits.

(2) Intake by Inhalation. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity:

(a) The sum of the fractions of the inhalation ALI for each radionuclide; or

(b) The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000; or

(c) The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit.

NOTE: An organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, WT, and the committed dose equivalent, HT,50, per unit intake is greater than ten percent of the maximum weighted value of HT50 (i.e WTHT50) per unit intake for any organ or tissue.

(3) Intake by Oral Ingestion. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than ten percent of the applicable oral ALI, the licensee must account for this intake and include it in demonstrating compliance with the limits.

(4) Intake Through Wounds or Absorption Through Skin. The licensee must evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and does not need to be further evaluated.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0120

Determination of External Dose from Airborne Radioactive Material

Licensees must, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent from external exposure to the radioactive cloud (10 CFR, Part 20, Appendix B, Footnotes 1 and 2 to 20.1001 to 20.2401).

NOTE: Airborne radioactivity measurements and DAC values should not be used as the primary means to assess the deep-dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent to an individual should be based upon measurements using instruments or individual monitoring devices.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0130

Determination of Internal Exposure

(1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee must, when required under OAR 333-120-0210, take suitable and timely measurements of:

(a) Concentrations of radioactive materials in air in work areas; or

(b) Quantities of radionuclides in the body; or

(c) Quantities of radionuclides excreted from the body; or

(d) Combinations of these measurements.

(2) Unless respiratory protective equipment is used, as provided in OAR 333-120-0320 or the assessment of intake is based in bioassays, the licensee must assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

(3) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior or the material in an individual is known, the licensee may:

(a) Use that information to calculate the committed effective dose equivalent, and, if used, the licensee must document that information in the individual's record; and

(b) Upon prior approval of the Agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material (e.g aerosol size distribution or density); and

(c) Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of given radionuclide (see 10 CFR Part 20 Appendix B to 20.1001 to 20.2401) to the committed effective dose equivalent.

(4) If the licensee chooses to assess intakes of Class Y material using the measurements given in sections (1), (2) or (3) of this rule, the licensee may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by OAR 333-120-0710 or 333-120-0720, in order to permit the licensee to make additional measurements basic to the assessments.

(5) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours must be either:

(a) The sum of the ratios of the concentration to the appropriate DAC value (e.g D, W, Y) from 10 CFR Part 20 Appendix B to 20.1001 to 20.2401 for each radionuclide in the mixture; or

(b) The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

(6) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture must be the most restrictive DAC of any radionuclide in the mixture.

(7) When a mixture of radionuclides in air exists, licensees may disregard certain radionuclides in the mixture if:

(a) The licensee uses the total activity of the mixture in demonstrating compliance with the dose limits in OAR 333-120-0100 and in complying with the monitoring requirements in OAR 333-120-0210(2); and

(b) The concentration of any radionuclide disregarded is less than ten percent of its DAC; and

(c) The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

(8) When determining the committed effective dose equivalent, the following information may be considered:

(a) In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of one ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

(b) When the ALI (and the associated DAC) is determined by the nonstochastic organ dose limit of 0.50 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) (the stochastic ALI) is listed in parentheses in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401. In this case, the licensee may, as a simplifying assumption, use the stochastic ALIs to determine committed effective dose equivalent. However, if the licensee uses the stochastic ALIs, the licensee also must demonstrate that the limit in OAR 333-120-0100(1)(a)(B) is met.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0150

Planned Special Exposures

A licensee or registrant may authorize an adult worker to receive doses in addition to and accounted for separately from the doses received under the limits specified in OAR 333-120-0100 provided that each of the following conditions is satisfied:

(1) The licensee or registrant authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the higher exposure are unavailable or impractical.

(2) The licensee or registrant (and employer if the employer is not the licensee or registrant) specifically authorizes the planned special exposure, in writing, before the exposure occurs.

(3) Before a planned special exposure, the licensee or registrant ensures that the individuals involved are:

(a) Informed of the purpose of the planned operation;

(b) Informed of the estimated doses and associated potential risks and specific radiation levels or other conditions that might be involved in performing the task; and

(c) Instructed in the measures to be taken to keep the dose ALARA considering other risks that may be present.

(4) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant ascertains prior doses, as required by OAR 333-120-0630(2), during the lifetime of the individual for each individual involved.

(5) Subject to OAR 333-120-0100(2), the licensee or registrant does not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses in excess of the limits to exceed:

(a) The numerical values of any of the dose limits in OAR 333-120-0100(1) in any year; and

(b) Five times the annual dose limits in OAR 333-120-0100(1) during the individual's lifetime.

(6) The licensee or registrant maintains records of the conduct of a planned special exposure in accordance with OAR 333-120-0640 and submits a written report in accordance with OAR 333-120-0730.

(7) The licensee or registrant records the best estimate of the dose resulting from the planned special exposure in the individual's record and informs the individual, in writing, of the dose within 30 days from the date of the planned special exposure. The dose from planned special exposures is not to be considered in controlling future occupational dose of the individual under OAR 333-120-0100(1) but is to be included in evaluations required by OAR 333-120-0100(4) and (5).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0160

Occupational Dose Limits for Minors

The annual occupational dose limits for minors are ten percent of the annual dose limits specified for adult workers in OAR 333-120-0100.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0170

Dose to an Embryo/Fetus

(1) The licensee or registrant must ensure that the dose equivalent to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman does not exceed five mSv (0.5 rem). Records must be kept in accordance with OAR 333-120-0650.

NOTE: A woman is not a declared pregnant woman unless she says so in writing without being coerced. Unless a woman, who also is a radiation worker, has declared her pregnancy as required, she is to be treated as any other radiation worker. Pursuant to Title VII of the Civil Rights Act of 1964, as amended, no employer may restrict a fertile female's job because of concern for the health of the fetus that a woman might conceive. The court held that sex-specific fetal-protection policies are forbidden. Additionally, a female worker legally can declare pregnancy if she does not yet have documented medical proof. The document, "Instruction Concerning Prenatal Radiation Exposure," discusses declared pregnancy. It is available from Public Health Services, Radiation Protection Services Suite 640, 800 N.E. Oregon St., Portland, OR 97232, phone (971) 673-0490.

(2) The licensee or registrant must make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in section (1) of this rule.

(3) The dose equivalent to an embryo/fetus must be taken as the sum of:

(a) The deep-dose equivalent to the declared pregnant woman; and

(b) The dose equivalent to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman, If the dose equivalent to the embryo/fetus is found to have exceeded 0.5 rem (5 mSv), or is within 0.05 rem (0.5 mSv) of this dose, by the time the woman declares the pregnancy to the licensee, the licensee shall be deemed to be in compliance with section (3)(a) of this rule if the additional dose equivalent to the embryo/fetus does not exceed 0.05 rem (0.5 mSv) during the remainder of the pregnancy.

(4) If the dose equivalent to the embryo/fetus is found to have exceeded five mSv (0.5 rem), or is within 0.5 mSv (0.05 rem), by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with section (1) of this rule if the additional dose to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

NOTE: If a pregnant radiation worker declares in writing to the licensee that she is pregnant, the dose limit to the embryo/fetus is five mSv (0.5 rem) during the entire pregnancy. The dose that is controlled is the dose to the embryo/fetus, not the dose to the woman, although for external penetrating radiation, the two are virtually synonymous.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0180
Dose Limits for Individual Members of the Public

(1) Each licensee or registrant must conduct operations so that:

(a) The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed one mSv (0.1 rem) in a year, exclusive of the dose contributions from background, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with 333-116-0260, from voluntary participation in medical research programs, and the licensee's disposal of radioactive material into sanitary sewerage in accordance with OAR 333-120-0520; and

(b) The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released in accordance with 333-116-0260, does not exceed 0.02 mSv (0.002 rem) in any one hour.

(2) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

(3) Notwithstanding section (1)(a) of this rule, a licensee may permit visitors to an individual who cannot be released, under 333-116-0260, to receive a radiation dose greater than 0.1 rem (1 mSv) if:

(a) The radiation dose received does not exceed 0.5 rem (5 mSv); and

(b) The authorized user, as defined in 333-116-0020, has determined prior to the visit that it is appropriate.

(4) A licensee, registrant or applicant may apply for prior Agency authorization to operate up to an annual dose limit for an individual member of the public of five mSv (0.5 rem). The licensee, registrant or applicant must include the following information in this application:

(a) Demonstration of the need for and the expected duration of operations in excess of the limit in section (1) of this rule; and

(b) The licensee's or registrant's program to assess and control dose within the five mSv (0.5 rem) annual limit; and

(c) The procedures to be followed to maintain the dose as low as is reasonably achievable.

(5) In addition to the requirements of this division, a licensee or registrant subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190 must comply with those standards.

(6) The Agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0190
Compliance with Dose Limits for Individual Members of the Public

(1) The licensee or registrant must make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas and radioactive materials in effluents released to unrestricted and controlled areas to demonstrate compliance with the dose limits for individual members of the public in OAR 333-120-0180.

(2) A licensee or registrant must show compliance with the annual dose limit in OAR 333-120-0180 by:

(a) Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

(b) Demonstrating that:

(A) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in 10 CFR Part 20 Table 2 of **Appendix B** to 20.1001 to 20.2401; and

(B) If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.

(3) Upon approval from the Agency, the licensee or registrant may adjust the effluent concentration values in 10 CFR Part 20 Table 2 of **Appendix B** to 20.1001 to 20.2401 for members of the public, to take into account the actual physical and chemical characteristics of the effluents (e.g aerosol size distribution, solubility, density, radioactive decay equilibrium, chemical form).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0200
General

(1) Each licensee or registrant must make or cause to be made, surveys that:

(a) Are necessary for the licensee or registrant to comply with the rules in this division; and

(b) Are reasonable under the circumstances to evaluate:

(A) The magnitude and extent of radiation levels; and

(B) The concentrations or quantities of radioactive material; and

(C) The potential radiological hazards that could be present.

(2) The licensee or registrant must ensure that instruments and equipment used for quantitative radiation measurements (e.g dose rate and effluent monitoring) are calibrated at intervals not to exceed 12 months for the radiation measured, except when a more frequent interval is specified in another applicable division or a license condition.

(3) All personnel dosimeters (except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to the extremities) that require processing to determine the radiation dose and that are used by licensees or registrants to comply with OAR 333-120-0100, with other applicable provisions of this division or with conditions specified in a license must be processed and evaluated by a dosimetry processor:

(a) Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and

(b) Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

(4) The licensee or registrant must ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0210
Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

Each licensee or registrant must monitor exposures to radiation and radioactive material at levels sufficient to demonstrate compliance with the occupational dose limits of this division. As a minimum:

(1) Each licensee or registrant must monitor occupational exposure to radiation and must supply and require the use of individual monitoring devices by:

(a) Adults likely to receive, in one year from sources external to the body, a dose in excess of ten percent of the limits in OAR 333-120-0100(1); and

(b) Minors likely to receive, in one year from sources external to the body, a dose in excess of ten percent of any of the applicable limits in OAR 333-120-0160 or 333-120-0170; and

(c) Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of one mSv (0.1 rem); and

(d) Individuals entering a high or very high radiation area.

(e) Individuals working with medical fluoroscopic equipment.

(A) An individual monitoring device used for the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), must be located under the protective apron at the waist.

(B) An individual monitoring device used for lens dose equivalent must be located at the neck, or an unshielded location closer to the lens, outside the protective apron.

(C) When only one individual monitoring device is used to determine the effective dose equivalent for external radiation pursuant to 333-120-0100(3)(b) it must be located at the neck outside the protective apron. When a second individual monitoring device is used, for the same purpose,

it must be located under the protective apron at the waist. The second individual monitoring device is required for a declared pregnant woman.

(2) Each licensee or registrant must monitor (OAR 333-120-0130) the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

(a) Adults likely to receive, in one year, an intake in excess of ten percent of the applicable ALI(s) in 10 CFR Part 20 Table 1, Columns 1 and 2, of Appendix B to 20.1001 to 20.2401; and

(b) Minors likely to receive, in one year, from radiation sources external to the body, a deep dose equivalent in excess of one mSv (0.1 rem), a lens dose equivalent in excess of 0.15 rem (1.5 mSv), or a shallow dose equivalent to the skin or to the extremities in excess of 0.5 rem (5 mSv).

(c) Declared pregnant women likely to receive, during the entire pregnancy, from radiation sources external to the body, a committed effective dose equivalent in excess of 0.1 rem (1 mSv).

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0215

Location of Individual Monitoring Devices

Each licensee or registrant must ensure that individuals who are required to monitor occupational doses in accordance with 333-120-0210(1) wear individual monitoring devices as follows:

(1) An individual monitoring device used for monitoring the dose to the whole body must be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar);

(2) An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), must be located at the waist under any protective apron being worn by the woman;

(3) An individual monitoring device used for monitoring the lens dose equivalent, to demonstrate compliance with 333-120-0100(1)(b)(A), must be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye;

(4) An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with 333-120-0100(1)(b)(B), must be worn on the extremity likely to receive the highest exposure. Each individual monitoring device must be oriented to measure the highest dose to the extremity being monitored.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0220

Control of Access to High Radiation Areas

(1) The licensee or registrant must ensure that each entrance or access point to a high radiation area has one or more of the following features:

(a) A control device that, upon entry into the area, causes the level of radiation to be reduced below that level at which an individual might receive a deep-dose equivalent of one mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates;

(b) A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or

(c) Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entry.

(2) In place of the controls required by section (1) of this rule for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.

(3) A licensee or registrant may apply to the Agency for approval of alternative methods for controlling access to high radiation areas.

(4) The licensee or registrant must establish the controls required by sections (1) and (3) of this rule in a way that does not prevent individuals from leaving a high radiation area.

(5) Control is not required for each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation (49 CFR) provided that:

(a) The packages do not remain in the area longer than three days; and

(b) The dose rate at one meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.

(6) Control of entrance or access to rooms or other areas in hospitals is not required solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this division and to operate within the ALARA provisions of the licensee's or registrant's radiation protection program.

(7) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in this rule if the licensee or registrant has met all the specific requirements for access and control specified in other applicable divisions of chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0230

Control of Access to Very High Radiation Areas

(1) In addition to the requirements in OAR 333-120-0220, the licensee or registrant must institute additional measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at five Gray (500 Rad) or more in one hour at one meter from a radiation source or any surface through which the radiation penetrates.

(2) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area as described in 333-120-0220 if the licensee or registrant has met all the specific requirements for access and control specified in other applicable divisions of chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0240

Control of Access to Very High Radiation Areas — Irradiators

This rule applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. It does not apply to sources of radiation that are used in teletherapy, in industrial radiography, or in completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.

(1) Each area in which there may exist radiation levels in excess of five Gray (500 rad) in one hour at one meter from a sealed radioactive source that is used to irradiate materials must meet the following requirements.

(a) Each entrance or access point must be equipped with entry control devices which:

(A) Function automatically to prevent any individual from inadvertently entering the area when very high radiation levels exist; and

(B) Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the sealed source, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of one mSv (0.1 rem) in one hour; and

(C) Prevent operation of the source if the source would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of one mSv (0.1 rem) in one hour.

NOTE: This rule applies to radiation from accelerators, and byproduct, source, NARM, or special nuclear radioactive materials that are used in sealed sources in non-self-shielded irradiators. This rule does not apply to radioactive or x-ray sources that are used in teletherapy or medical accelerators, in radiography, or in completely self-shielded irradiators in which the source is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual. This rule also does not apply to sources from which the radiation is incidental to some other use.

(b) Additional control devices must be provided so that, upon failure of the entry control devices to function as required by section (1)(a) of this rule:

(A) The radiation level within the area, from the sealed source, or radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of one mSv (0.1 rem) in one hour; and

(B) Conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard and at least one other authorized individual, who is physically present, familiar with the activity, and prepared to render or summon assistance, aware of the failure of the entry control devices.

(c) The licensee or registrant must provide control devices so that, upon failure or removal of physical radiation barriers other than the radiation source's shield or shielded storage container:

(A) The radiation level from the radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of one mSv (0.1 rem) in one hour; and

(B) Conspicuous visible and audible alarm signals are generated to make potentially affected individuals aware of the hazard and the licensee/registrant or at least one other individual, who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

(d) When the shield for the stored source is a liquid, the licensee or registrant must provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.

(e) Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of sections (1)(c) and (d) of this rule.

(f) Each area must be equipped with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source can be put into operation and in sufficient time for any individual in the area to operate a clearly identified control device, which must be installed in the area and which can prevent the source from being put into operation.

(g) Each area must be controlled by use of such administrative procedures and such devices as are necessary to ensure that the area is cleared of personnel prior to each use of the radiation source.

(h) Each area must be checked by a radiation measurement to ensure that, prior to the first individual's entry into the area after any use of the source, the radiation level from the source in the area is below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of one mSv (0.1 rem) in one hour.

(i) The entry control devices required in section (1)(a) of this rule must have been tested for proper functioning. Records of required testing must be maintained in accordance with OAR 333-120-0680.

(A) Testing must be conducted prior to initial operation with the source of radiation on any day (unless operations were continued uninterrupted from the previous day); and

(B) Testing must be conducted prior to resumption of operation of the source of radiation after any unintended interruption; and

(C) The licensee or registrant must submit and adhere to a schedule for periodic tests of the entry control and warning systems.

(j) The licensee or registrant may not conduct operations, other than those necessary to place the source in safe condition or to effect repairs on controls, unless control devices are functioning properly.

(k) Entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by individuals, must be controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for processed materials must be equipped to detect and signal the presence of any loose radiation sources that are carried toward such an exit and to automatically prevent loose radiation sources from being carried out of the area.

(2) Persons holding licenses or registrations or applicants for licenses or registrations for radiation sources that are within the purview of section (1) of this rule and that will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of section (1) of this rule, such as those for the automatic control of radiation levels, may apply to the Agency for approval of the use of alternative safety measures. Any alternative safety measures must provide a degree of personnel protection at least equivalent to those specified in section (1) of this rule. At least one of the alternative measures must include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such radiation sources are used.

(3) The entry control devices required by sections (1) and (2) of this rule must be established in such a way that no individual will be prevented from leaving the area.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0250
Security of Stored Material

(1) The licensee must secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

(2) The registrant must secure registered radiation machines from unauthorized removal.

(3) The registrant must use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0260
Control of Material Not in Storage

The licensee must control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0300
Use of Process or Other Engineering Controls

The licensee must use, to the extent practicable, process or other engineering controls (e.g., containment or ventilation) to control the concentrations of radioactive material in air.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0310
Use of Other Controls

(1) When it is not practicable to apply process or other engineering controls to control the concentrations of radioactive material in air to values below those that define an airborne radioactivity area, the licensee must, consistent with maintaining the total effective dose equivalent ALARA, increase monitoring and limit intakes by one or more of the following means:

(a) Control of access;

(b) Limitations of exposure times;

(c) Use of respiratory protection equipment; or

(d) Other controls.

(2) If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee should also consider the impact of respirator use on workers' industrial health and safety.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0320
Use of Individual Respiratory Protection Equipment

(1) If the licensee uses respiratory protection equipment to limit intakes pursuant to OAR 333-120-0310:

(a) The licensee must use only respiratory protection equipment that is tested and certified or had certification extended by the National Institute for Occupational Safety and Health/Mine Safety and Health Administration (NIOSH/MSHA).

(b) The licensee may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certifica-

tion, the licensee must submit an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

(c) The licensee must implement and maintain a respiratory protection program that includes:

(A) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures; and

(B) Surveys and bioassays, as appropriate, to evaluate actual intakes; and

(C) Testing of respirators for operability immediately prior to each use; and

(D) Written procedures regarding:

(i) Monitoring, including air sampling and bioassays;

(ii) Supervision and training of respirator users;

(iii) Fit testing;

(iv) Respirator selection;

(v) Breathing air quality;

(vi) Inventory and control;

(vii) Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;

(viii) Recordkeeping; and

(ix) Limitations on periods of respirator use and relief from respirator use; and

(E) Determination by a physician prior to initial fitting and use of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment.

(F) Fit testing, with fit factor > 10 times the APF for negative pressure devices, and a fit factor > 500 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. Fit testing must be performed with the facepiece operating in the negative pressure mode.

(d) The licensee must issue a written policy statement on respirator usage covering:

(A) The use of process or other engineering controls, instead of respirators; and

(B) The routine, nonroutine, and emergency use of respirators; and

(C) The periods of respirator use and relief from respirator use.

(e) The licensee must advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(f) The licensee must use equipment within limitations for type and mode of use and must provide proper visual, communication, low temperature work environments, the concurrent use of safety or radiological protection equipment and other special capabilities (such as adequate skin protection) when needed. The licensee must ensure equipment is used in such a way as not to interfere with the proper operation of the respirator.

(2) In estimating exposure of individuals to airborne radioactive materials, the licensee or registrant may make allowance for respiratory protection equipment used to limit intakes pursuant to OAR 333-120-0310, provided that the following conditions, in addition to those in section (1) of this rule, are satisfied:

(a) The licensee selects respiratory protection equipment that provides a protection factor (10 CFR Part 20 Appendix A to 20.1001 to 20.2401) greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in 10 CFR Part 20 Table 1, Column 3 of Appendix B to 20.1001 to 20.2401. If the selection of a respiratory protection device with a protection factor greater than the peak concentration is inconsistent with the goal specified in OAR 333-120-0310 of keeping the total effective dose equivalent ALARA, the licensee or registrant may select respiratory protection equipment with a lower protection factor only if such a selection would result in keeping the total effective dose equivalent ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than estimated, the corrected value must be used; if the exposure is later found to be less than estimated, the corrected value may be used; and

(b) The licensee must obtain authorization from the Agency before assigning respiratory protection factors in excess of those specified in 10 CFR Part 20 Appendix A to 20.1001 to 20.2401. The Agency may authorize a licensee to use higher protection factors on receipt of an application that:

(A) Describes the situation for which a need exists for higher protection factors; and

(B) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

(3) The licensee must use as emergency devices only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH/MSHA.

(4) The licensee must notify the Agency, in writing, at least 30 days before the date that respiratory protection equipment is first used under the provisions of either sections (1) or (2) of this rule.

(5) Standby rescue persons are required whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The standby persons must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards. The standby rescue persons must observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. A sufficient number of standby rescue persons must be immediately available to assist all users of this type of equipment and to provide effective emergency rescue if needed.

(6) Atmosphere-supplying respirators must be supplied with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997. Grade D quality air criteria include:

(a) Oxygen content (v/v) of 19.5-23.5%;

(b) Hydrocarbon (condensed) content of five milligrams per cubic meter of air or less;

(c) Carbon monoxide (CO) content of ten ppm or less;

(d) Carbon dioxide content of 1,000 ppm or less; and

(e) Lack of noticable odor.

(7) The licensee must ensure that no objects, materials or substances, such as facial hair, or any conditions that interfere with the face facepiece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator facepiece.

(8) In estimating the dose to individuals from intake of airborne radioactive materials, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the corrected value must be used. If the dose is later found to be less than the estimated dose, the corrected value may be used.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0330
Further Restrictions on the Use of Respiratory Protection Equipment

The Agency may impose restrictions in addition to those in OAR 333-120-0310 and 333-120-0320, and **10 CFR**, **Part 20**, **Appendix A** to 20.1001 to 20.2401 to:

(1) Ensure that the respiratory protection program of the licensee is adequate to limit exposures of individuals to airborne radioactive materials; and

(2) Limit the extent to which a licensee may use respiratory protection equipment instead of process or other engineering controls.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0400
Caution Signs

(1) Standard radiation symbol: Unless otherwise authorized by the Agency, the symbol prescribed by this division must use the colors magenta, purple, or black on yellow background. The symbol prescribed by this division is the three-bladed design: [Symbol not included. See ED. NOTE.]

(a) Cross-hatched area is to be magenta, or purple, or black; and

(b) The background is to be yellow.

(2) Exception To Color Requirements For Standard Radiation Symbol. Notwithstanding the requirements of section (1) of this rule, licensees and registrants are authorized to label sources, source holders, or device components containing sources of licensed materials that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

(3) Additional Information On Signs and Labels. In addition to the contents of signs and labels prescribed in this division, the licensee may provide, on or near the required signs and labels, additional information, as appropriate, to make individuals aware of potential radiation exposures and to minimize the exposures.

[ED NOTE: Symbol referenced is available from the agency.]

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0410

Posting Requirements

(1) Posting of radiation areas: The licensee or registrant must post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, Radiation Area."

(2) Posting of high radiation areas: The licensee or registrant must post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, High Radiation Area" or "Danger, High Radiation Area."

(3) Posting of very high radiation areas: The licensee or registrant must post each very high radiation area with a conspicuous sign or signs bearing the radiation symbol and words "Grave Danger, Very High Radiation Area."

(4) Posting of airborne radioactivity areas: The licensee must post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, Airborne Radioactivity Area" or "Danger, Airborne Radioactivity Area."

(5) Posting of areas or rooms in which licensed material is used or stored: The licensee must post each area or room in which there is used or stored an amount of licensed material exceeding ten times the quantity of such material specified in 10 CFR, Part 20, Appendix C to 20.1001 to 20.2401 with a conspicuous sign or signs bearing the radiation symbol and the words "Caution, Radioactive Material(s)" or "Danger, Radioactive Material(s)."

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0420

Exceptions to Posting Requirements

(1) A licensee is not required to post caution signs in areas or rooms containing radioactive materials for periods of less than 8 hours, if all of the following conditions are met:

(a) The materials are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to radiation or radioactive materials in excess of the limits established in this division; and

(b) The area or room is subject to the licensee's control.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to OAR 333-120-0410 provided that:

(a) A patient being treated with a permanent implant or therapeutic radiopharmaceutical could be released from confinement pursuant to 333-116-0260 and 333-116-0265 of this chapter; and

(b) There are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this division and to operate within the ALARA provisions of the licensee's radiation protection program.

(3) A caution sign is not required to be posted in a room or area containing a sealed source, provided the radiation level at 30 centimeters from the surface of the source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0430

Labeling Containers

(1) The licensee must ensure that each container of licensed material bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label must also provide sufficient information (such as the radionuclide(s) present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment) to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

(2) Each licensee must, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

(3) Each registrant must ensure that each radiation machine is labeled in a conspicuous manner which cautions individuals that radiation is produced when it is energized.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0440

Exemptions to Labeling Requirements

A licensee is not required to label:

(1) Containers holding licensed material in quantities less than the quantities listed in 10 CFR, Part 20, Appendix C to 20.1001 to 20.2401; or

(2) Containers holding licensed material in concentrations less than those specified in 10 CFR, Part 20, Table 3 of Appendix B to 20.1001 to 20.2401; or

(3) Containers attended by an individual who takes the precautions necessary to prevent the exposure of individuals in excess of the limits established by this division; or

(4) Containers when they are in transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation (49 CFR); or

NOTE: Labeling of packages containing radioactive materials is required by the U.S. Department of Transportation (DOT) if the amount and type of radioactive material exceeds the limits for an excepted quantity or article as defined and limited by DOT regulations 49 CFR 173.403(m) and (w) and 173.421-173.424.

(5) Containers that are accessible only to individuals authorized to handle or use them, or to work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record (examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells). The record must be retained as long as the containers are in use for the purpose indicated on the records; or

(6) Installed manufacturing or process equipment, such as reactor components, piping, and tanks.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0450

Procedures for Receiving and Opening Packages

(1) Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 49 CFR 173.435 Table of A1 and A2 Values for Radionuclides, must make arrangements to receive:

(a) The package when the carrier offers it for delivery; or

(b) Notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

(2) Each licensee must:

(a) Monitor the external surfaces of a labeled package for radioactive contamination unless the package contains only radioactive material in the form of a gas or in special form as defined in 333-118-0020;

(b) Monitor the external surfaces of a labeled package for radiation levels; and

NOTE: Labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations, 49 CFR 172.403 and 172.436-440.

(c) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.

(3) The licensee must perform the monitoring required by section (2) of this rule as soon as practicable after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.

(4) The licensee must immediately notify the final delivery carrier and the Agency, by telephone when:

(a) Removable radioactive surface contamination exceeds the limits of OAR 333-118-0150 Table 3;

(b) External radiation levels exceed the limits of OAR 333-118-0150(11).

(5) Each licensee must:

(a) Establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

(b) Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

(6) Licensees transferring special form sources in licensee-owned or licensee-operated vehicles to and from a work site are exempt from the contamination monitoring requirements of section (2) of this rule, but are not exempt from the survey requirement in section (2) of this rule for measuring radiation levels, which is required to ensure that the source is still properly lodged in its shield.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0460

Testing for Leakage or Contamination of Sealed Sources

(1) The licensee in possession of any sealed source must assure that:

(a) Each sealed source, except as specified in section (2) of this rule is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee; and

(b) Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(c) Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(d) For each sealed source that is required to be tested for leakage or contamination, at any other time there is reason to suspect that the sealed source might have been damaged or might be leaking, the licensee must assure that the sealed source is tested for leakage or contamination before further use; and

(e) Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium-226, must be capable of detecting the presence of 185 Bq (0.005 uCi) of radioactive material on a test sample. Test samples must be taken from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which one might expect contamination to accumulate. For a sealed source contained in a device, test samples are obtained when the source is in the "off" position; and

(f) The test for leakage for brachytherapy sources manufactured to contain radium-226 must be capable of detecting an absolute leakage rate of 37 Bq (0.001 uCi) of radon-222 in a 24 hour period when the collection efficiency for radon-222 and its daughters has been determined with respect to collection method, volume and time; and

(g) Tests for contamination from radium-226 daughters must be taken on the interior surface of brachytherapy source storage containers and must be capable of detecting the presence of 185 Bq (0.005 uCi) of a radium daughter which has a half-life greater than four days.

(2) A licensee need not perform test for leakage or contamination on the following sealed sources:

(a) Sealed sources containing only radioactive material with a half-life of less than 30 days; or

(b) Sealed sources containing only radioactive material as a gas; or

(c) Sealed sources containing 3.7 MBq (100 uCi) or less of beta or photon-emitting material or 370 kBq (10 uCi) or less of alpha-emitting material; or

(d) Sealed sources containing only hydrogen-3; or

(e) Seeds of iridium-192 encased in nylon ribbon; or

(f) Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee must, however, test each such sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within six months before the date of use or transfer.

(3) Tests for leakage or contamination from sealed sources must be performed by persons specifically authorized by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission to perform such services.

(4) Test results must be kept in units of becquerel or microcurie and maintained for inspection by the Agency.

(5) The following must be considered evidence that a sealed source is leaking:

(a) The presence of 185 Bq (0.005 uCi) or more of removable contamination on any test sample; or

(b) Leakage of 37 Bq (0.001 uCi) of radon-222 per 24 hours for brachytherapy sources manufactured to contain radium-226; or

(c) The presence of removable contamination resulting from the decay of 185 Bq (0.005 uCi) or more of radium-226.

(6) The licensee must immediately withdraw a leaking sealed source from use and must take action to prevent the spread of contamination. The leaking sealed source must be repaired or disposed of in accordance with this division.

(7) Reports of test results for leaking or contaminated sealed sources must be made pursuant to OAR 333-120-0720(1)(e).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0500

General Requirements

(1) A licensee must dispose of licensed radioactive material only:

(a) By transfer to an authorized recipient as provided in OAR 333-102-0330; or

(b) By decay in storage; or

(c) By release in effluents within the limits in OAR 333-120-0520; or

(d) As authorized under OAR 333-120-0520, 333-120-0530, and 333-120-0540.

(2) A person must be specifically licensed to receive waste containing licensed material from other persons for:

(a) Treatment prior to disposal; or

(b) Treatment or disposal by incineration; or

(c) Decay in storage; or

(d) Disposal at a land disposal facility licensed under 10 CFR, Part 61 (U.S. Nuclear Regulatory Commission) or equivalent Agreement State regulations; or

(e) Storage until transferred to a storage or disposal facility authorized to receive the waste.

(3) As authorized under the provisions of Oregon Revised Statutes.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0510

Method for Obtaining Approval of Proposed Disposal Procedures

A licensee or applicant for a license may apply to the Agency for approval of proposed procedures, not otherwise authorized in the rules of this division, to dispose of licensed material generated in the licensee's activities. Each application must include:

(1) A description of the waste containing licensed material to be disposed of, including the physical and chemical properties important to risk evaluation, and the proposed manner and conditions of waste disposal; and

(2) An analysis and evaluation of pertinent information on the nature of the environment; and

(3) The nature and location of other potentially affected licensed and unlicensed facilities; and

(4) Analyses and procedures to ensure that doses are maintained ALARA and within the dose limits in this division.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0520
Disposal by Release into Sanitary Sewerage

(1) A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

(a) The material is readily soluble (or is readily dispersible biological material) in water; and

(b) The quantity of licensed or other radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(c) If more than one radionuclide is released, the following conditions also must be satisfied:

(A) The licensee must determine the fraction of the limit in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401 represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(B) The sum of the fractions for each radionuclide required by section (1)(c)(A) of this rule does not exceed unity; and

(d) The total quantity of licensed and other radioactive material that the licensee releases into the sanitary sewerage system in a year does not exceed 185 GBq (5 Curies) of hydrogen-3, 37 GBq (1 Curie) of carbon-14, and 37 GBq (1 Curie) of all other radioactive materials combined.

(2) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material is not subject to the limitations contained in section (1) of this rule.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0530
Treatment of Disposal by Incineration

A licensee may treat or dispose of licensed material by incineration only in the amounts and forms specified in OAR 333-120-0540 or as specifically approved by the Agency pursuant to OAR 333-120-0510.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0540
Disposal of Specific Wastes

(1) A licensee may dispose of the following licensed material as if it were not radioactive:

(a) 1.85 kBq (0.05 uCi), or less, of hydrogen-3 or carbon-14 per gram of medium used for liquid scintillation counting; and

(b) 1.85 kBq (0.05 uCi), or less, of hydrogen-3 or carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.

(2) A licensee may not dispose of tissue under section (1)(b) of this rule in a manner that would permit its use either as food for humans or as animal feed.

(3) The licensee must maintain records in accordance with OAR 333-120-0670.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0550
Transfer for Disposal and Manifests

(1) The requirements of this rule and 10 CFR Part 20 Appendix G to 20.1001 to 20.2401 are designed to control transfers of low-level radioactive waste intended for disposal at a land disposal facility (as defined in 10 CFR Part 61), establish a manifest tracking system, and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Each shipment of radioactive waste intended for disposal at a licensed land disposal facility must be accompanied by a shipment manifest as specified in 10 CFR Part 20 section I of Appendix G to 20.1001 to 20.2401.

(3) Each shipment manifest must include a certification by the waste generator as specified in 10 CFR Part 20 section II of **Appendix G** to 20.1001 to 20.2401.

(4) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, must comply with the requirements specified in 10 CFR Part 20 section III of **Appendix G** to 20.1001 to 20.2401.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0560
Compliance with Environmental and Health Protection Regulations

Nothing in chapter 333 divisions 100 through 123 relieves the licensee or registrant from complying with other applicable Federal, State, and local regulations or rules governing any other toxic or hazardous properties of materials that may be disposed of under division 333-120.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0600
General Provisions

(1) Each licensee must use the SI units Becquerel, Gray, Sievert and coulomb per kilogram, or the special units Curie, rad, rem, including multiples and subdivisions, and must clearly indicate the units of all quantities on records required by this division.

(2) The licensee must make a clear distinction among the quantities entered on the records required by this division (e.g total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0610
Records of Radiation Protection Programs

(1) Each licensee must maintain records of the radiation protection program, including:

(a) The provisions of the program; and

(b) Audits and other reviews of program content and implementation.

(2) The licensee must retain the records required by section (1)(a) of this rule until the Agency terminates each pertinent license or registration requiring the record. The licensee must retain the records required by section (1)(b) of this rule for five years or until inspected by the Agency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0620
Records of Surveys and Leak Tests

(1) Each licensee or registrant must maintain records showing the results of surveys, sealed source leak tests, and calibrations required by OAR 333-120-0200, 333-120-0450(2) and 333-120-0460. The licensee or registrant must retain these records in accordance with 333-100-0057.

(2) The licensee or registrant must retain each of the following records until the Agency terminates each pertinent license or registration requiring the record:

(a) Records of the results of surveys to determine the dose from external sources and used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents. This includes records of survey results to determine the dose from external sources and used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents required under the standards for protection against radiation in effect prior to January 1, 1994; and

(b) Records of the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment for internal dose. This includes records documenting the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal dose required

under the standards for protection against radiation in effect prior to January 1, 1994; and

(c) Records showing the results of air sampling, surveys, and bioassays required pursuant to OAR 333-120-0320(1)(c)(A) and (B). This includes records documenting the results of air sampling, surveys, and bioassays required under the standards for protection against radiation in effect prior to January 1, 1994; and

(d) Records of the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment. This includes records documenting the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment required under the standards for protection against radiation in effect prior to January 1, 1994.

(3) Records of Tests for Leakage or Contamination of Sealed Sources. Records of tests for leakage or contamination of sealed sources required by OAR 333-120-0460, must be kept in units of becquerels or microcuries and maintained for inspection by the Agency in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0630
Determination of Prior Occupational Dose

(1) For each individual likely to receive, in a year, an occupational dose requiring monitoring pursuant to OAR 333-120-0210, the licensee or registrant must:

(a) Determine the occupational radiation dose received during the current year; and

(b) Attempt to obtain the records of lifetime cumulative occupational radiation dose.

(2) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant must determine:

(a) The internal and external doses from all previous planned special exposures; and

(b) All doses in excess of the limits (including doses received during accidents and emergencies) received during the lifetime of the individual.

(3) In complying with the requirements of section (1) of this rule, a licensee or registrant may:

(a) Accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual may have received during the current year; or

(b) Accept, as the record of lifetime cumulative radiation dose, an up-to-date Agency Form Y, or equivalent, signed by the individual and counter-signed by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer (if the individual is not employed by the licensee or registrant); and

(c) Obtain reports of the individual's dose equivalent(s) from the most recent employer for work involving radiation exposure, or the individual's current employer (if the individual is not employed by the licensee or registrant) by telephone, telegram, electronic media, or letter. The licensee or registrant must request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(4) The licensee or registrant must record the exposure history, as required by section (1) of this rule, on Agency Form Y, or other clear and legible record, of all the information required on Form Y. The form or record must show each period in which the individual received occupational exposure to radiation or radioactive material and must be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant must use the dose shown in the report in preparing Agency Form Y. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant must place a notation on Agency Form Y indicating the periods of time for which data are not available.

NOTE: Licensees are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed under OAR 333-104 (repealed 1994). Further, occupational exposure histories obtained and recorded on Agency Form Y before January 1, 1994, would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

(5) If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant must assume:

(a) In establishing administrative controls under OAR 333-120-0100(6) for the current year, that the allowable dose limit for the individual is reduced by 1.25 rem (12.5 mSv) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and

(b) That the individual is not available for planned special exposures.

(6) The licensee or registrant must retain the records on Agency Form Y or equivalent until the Agency terminates each pertinent license or registration requiring this record. The licensee or registrant must retain records used in preparing Agency Form Y in accordance with 333-100-0057.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0640
Records of Planned Special Exposures

(1) For each use of the provisions of OAR 333-120-0150 for planned special exposures, the licensee must maintain records that describe:

(a) The exceptional circumstances requiring the use of a planned special exposure; and

(b) The name of the management official who authorized the planned special exposure and a copy of the signed authorization; and

(c) What actions were necessary; and

(d) Why the actions were necessary; and

(e) How doses were maintained ALARA; and

(f) What individual and collective doses were expected to result, and the doses actually received in the planned special exposure.

(2) The licensee must retain the records until the Agency terminates each pertinent license or registration requiring these records.

(3) Upon termination of the license or registration, the licensee or registrant must permanently store records on Agency Form Y or equivalent, or must make provision with the Agency for transfer to the Agency.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0650
Records of Individual Monitoring Results

(1) Recordkeeping Requirement. Each licensee must maintain records of doses received by all individuals for whom monitoring was required pursuant to OAR 333-120-0210 and records of doses received during planned special exposures, accidents, and emergency conditions. These records must include, when applicable:

(a) The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities; and

(b) The estimated intake or body burden of radionuclides (OAR 333-120-0110); and

(c) The committed effective dose equivalent assigned to the intake or body burden of radionuclides; and

(d) The specific information used to calculate the committed effective dose equivalent pursuant to OAR 333-120-0130(3); and

(e) The total effective dose equivalent when required by OAR 333-120-0110; and

(f) The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose.

NOTE: Assessments of dose equivalent and records made using units in effect before the licensee's adoption of this division need not be changed.

(2) Recordkeeping Frequency: The licensee must make entries of the records specified in section (1) of this rule at least annually.

(3) Recordkeeping Format. The licensee must maintain the records specified in section (1) of this rule on Agency Form Z, in accordance with the instructions for Agency Form Z, or in clear and legible records containing all the information required by Agency Form Z.

(4) Privacy Protection. The records required under this rule are protected from public disclosure because of their personal privacy nature. These records are protected and if transferred to the Agency, are protected under ORS 192.

(5) The licensee must maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman, as defined in OAR 333-100-0005. The declaration of pregnancy must also be kept on file, but may be maintained separately from the dose records.

(6) The licensee must retain each required form or record until the Agency authorizes disposition.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type (Social Security Number (SSN), Passport Number (PPN), Canadian Social Insurance

Number (CSI), Work Permit Number (WPN), INDEX Identification Number (IND), or Other (OTH)); sex; date of birth; monitoring period; licensee name; license or registration number; is dose is official record or estimate; if dose is routine or planned special exposure; intake, list radionuclide, class, mode, total intake (Ci); external dose(s), DDE (Deep Dose Equivalent in rems), LDE (Lens Dose Equivalent in rems), SDE(WB) (Shallow Dose Equivalent Whole Body in rems), SED(ME) (Shallow Dose Equivalent Maximum Extremity in rems), CEDE (Committed Effective Dose Equivalent in rems), CDE (Committed Dose Equivalent in rems), TEDE (Total Effective Dose Equivalent in rems) and TODE Total Organ Dose Equivalent in rems).
[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0660
Records of Dose to Individual Members of the Public

(1) Each licensee must maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public (OAR 333-120-0180).

(2) The licensee must retain the records required by section (1) of this rule until the Agency terminates each pertinent licensee requiring the record.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type of number, such as SSN; sex; date of birth; monitoring period; licensee name; license or registration number; if dose is official record or estimate; if dose is routine or planned special exposure; intakes, list radionuclide, class, mode, and total intake (Ci); external dose(s), DDE, LDE, SDE (WB), SDE(ME), CEDE, CDE, TEDE and TODE; signature of monitored individual and date signed; certifying organization and signature.
[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0670
Records of Waste Disposal

(1) Each licensee must maintain records of the disposal of licensed materials made under divisions OAR 333-120-0510, 333-120-0520, 333-120-0530, 333-120-0540, 10 CFR Part 61, and disposal by burial in soil, including burials authorized before January 28, 1981.

(2) The licensee must retain the records required by section (1) of this rule until the Agency terminates each pertinent license requiring the record.
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0680
Records of Testing Entry Control Devices for Very High Radiation Areas

(1) Each licensee must maintain records of tests made under OAR 333-120-0240(1)(i) on entry control devices for very high radiation areas. These records must include the date, time, and results of each such test of function.

(2) The licensee must retain the records required by section (1) of this rule in accordance with 333-100-0057.
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0690
Form of Records

Each record required by this division must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0700
Reports of Theft or Loss of Licensed Material

(1) Telephone reports: Each licensee or registrant must report by telephone to the Agency as follows:

(a) Immediately after its occurrence becomes known to the licensee or registrant, any lost, stolen, or missing licensed or registered device, or licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401, under such circumstances that it appears to the licensee or registrant that an exposure could result to persons in unrestricted areas; or

(b) Within 30 days after the occurrence of any lost, stolen, or missing licensed or registered device, or licensed radioactive material, becomes known to the licensee or registrant, all licensed or registered material in a quantity greater than ten times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401 that is still missing at this time.

(2) Written Reports: Each licensee or registrant required to make a report under section (1) of this rule must make a written report to the Agency, within 30 days after making the telephone report, setting forth the following information:

(a) A description of the device or licensed material involved, including kind, quantity, and chemical and physical form; and

(b) A description of the circumstances under which the loss or theft occurred; and

(c) A statement of disposition, or probable disposition, of the device or licensed material involved; and

(d) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(e) Actions that have been taken, or will be taken, to recover the material; and

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of a device or licensed material; and

(g) Subsequent to filing the written report, the licensee must also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

(3) The licensee must prepare any report filed with the Agency pursuant to this rule so that names of individuals who may have received exposure to radiation are stated in a separate and detachable part of the report.
[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0710
Notification of Incidents

(1) Immediate notification: Notwithstanding any other requirements for notification, each licensee, or registrant, must immediately report any event involving a device or licensed radioactive material possessed by the licensee, or registrant, that may have caused or threatens to cause any of the following conditions:

(a) An individual to receive:

(A) A total effective dose equivalent of 0.25 Sv (25 rem) or more; or

(B) A lens dose equivalent of 0.75 Sv (75 rem) or more; or

(C) A shallow-dose equivalent to the skin or extremities of 2.5 Gray (250 rad) or more; or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the occupational annual limit on intake (the provisions of this rule do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(2) Twenty-four hour notification: Each licensee or registrant must, within 24 hours of discovery of the event, report any event involving loss of control of a device or licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:

(a) An individual to receive in a period of 24 hours:

(A) A total effective dose equivalent exceeding 0.05 Sv (5 rem); or

(B) A lens dose equivalent exceeding 0.15 Sv (15 rem); or

(C) A shallow-dose equivalent to the skin or extremities exceeding 0.15 Sv (15 rem); or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit on intake (the provisions of this rule do not apply to locations where person-

nel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(3) The licensee must prepare any report filed with the Agency pursuant to this rule so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

(4) Reports made by licensees, or registrants, in response to the requirements of (1)(a) and (b) of this rule must be made by telephone and either by telegram, mail-gram, or facsimile to the Agency.

(5) The provisions of this rule do not include doses that result from planned special exposures, that are within the limits for planned special exposures, and that are reported under OAR 333-120-0730.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0720
Reports of Exposures, Radiation Levels, Leak Tests, and Concentrations of Radioactive Material Exceeding the Limits

(1) Reportable events: In addition to the notification required by OAR 333-120-0710, each licensee must submit a written report within 30 days after learning of any of the following occurrences:

(a) Any incident for which notification is required by OAR 333-120-0710; or

(b) Doses in excess of any of the following:

(A) The occupational dose limits for adults in OAR 333-120-0100; or

(B) The occupational dose limits for a minor in OAR 333-120-0160; or

(C) The limits for an embryo/fetus of a declared pregnant woman (as defined in OAR 333-100-0005) in OAR 333-120-0170; or

(D) The limits for an individual member of the public in OAR 333-120-0180; or

(E) Any applicable limit in the license; or

(F) The ALARA constraints for air emissions established under 333-120-0020(4); or

(c) Levels of radiation or concentrations of radioactive material in:

(A) A restricted area in excess of any applicable limit in the license; or

(B) An unrestricted area in excess of ten times any applicable limit set forth in this division or in the license (whether or not involving exposure of any individual in excess of the limits in OAR 333-120-0180); or

(d) For licensee subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

(e) Leaking or contaminated sealed sources in excess of limits in OAR 333-120-0460, must be reported within five days to the Agency describing the equipment involved, the test results and the corrective action taken.

(f) Erroneous overexposure dosimetry reports that resulted from non-personnel exposures;

(2) Contents of reports: Each report required by section (1) of this rule must describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(a) Estimates of each individual's dose; and

(b) The levels of radiation and concentrations of radioactive material involved; and

(c) The cause of the elevated exposures, dose rates, or concentrations; and

(d) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license conditions; and

(e) For each individual exposed: the name, Social Security account number, and date of birth. The report must be prepared so that this information is stated in a separate and detachable part of the report.

Note: With respect to the limit for the embryo/fetus (OAR 333-120-0170) the identifiers should be those of the declared pregnant woman, as defined in OAR 333-100-0005.

(3) All licensees who make reports under section (1) this rule must submit the report in writing to the Agency.

(4) The Agency must prohibit the removal or expungement of any permanent dosimetry report submitted to the licensee or registrant. Evaluated erroneous personnel dose record changes to licensee or registrant records must be recorded only on Form Z and retained by the licensee or registrant.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0730
Reports of Planned Special Exposures and Individual Monitoring

(1) The licensee must submit a written report to the Agency within 30 days following any planned special exposure conducted in accordance with OAR 333-120-0150 informing the Agency that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by OAR 333-120-0640.

(2) The following licensees must submit a written report to the Agency on or before April 30 of each year, documenting results of individual monitoring carried out by the licensee for each individual for whom monitoring was required pursuant to OAR 333-120-0210 during that year.

(a) Licensees authorized to possess or use radioactive material for purposes of radiography pursuant to division 102 and 105 of these rules; or

(b) Licensees who receive radioactive waste from other persons for disposal pursuant to 10 CFR Part 61; or

(c) Licensees who possess or use at any time, for processing or manufacturing for distribution pursuant to division 102 or 116 of these rules, radioactive material in quantities exceeding any one of the following quantities:

Quantity of Radionuclide in Curies:
(A) Cesium-137 — 1;
(B) Cobalt-60 — 1;
(C) Gold-198 — 100;
(D) Iodine-131 — 1;
(E) Iridium-192 — 10;
(F) Krypton-85 — 1,000;
(G) Promethium-147 — 10;
(H) Technetium-99m — 1,000.

The Agency may require as a license condition, or by rule, regulation, or order pursuant to OAR 333-100-0030, reports from licensees who are licensed to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

NOTE: The licensee may include additional data for individuals for whom monitoring was provided but not required. The licensee shall use Oregon Form Z or electronic media containing all the information required by Oregon Form Z.
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

333-120-0740
Reports to Individuals Exceeding Dose Limits

When a licensee or registrant is required, pursuant to the provisions of 333-120-0720 or 333-120-0730, to report to the Agency any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee or registrant must also provide a copy of the report submitted to the Agency to the individual. This report must be transmitted at a time no later than the transmittal to the Agency.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07

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

Rule Caption: Medicaid payment in hospitals.
Adm. Order No.: SPD 1-2007
Filed with Sec. of State: 3-12-2007
Certified to be Effective: 3-13-07
Notice Publication Date: 2-1-07
Rules Amended: 411-070-0130
Subject: The Department of Human Services, Seniors and People with Disabilities Division is permanently amending OAR 411-070-0130 to allow Critical Access Hospitals not located within a 30 mile geographic radius of a licensed nursing facility to receive Medicaid payment for up to 20 residents at one time; as long as at least five

beds or twice the average acute care daily census, whichever is greater, is maintained for exclusive acute care use. The Critical Access Hospitals meeting the preceding criteria will also be allowed Medicaid payment for residents that do not meet the complex medical add-on requirements.
Rules Coordinator: Lisa Richards—(503) 945-6398

411-070-0130
Medicaid Payment in Hospitals

(1) SWING BED ELIGIBILITY. To be eligible to receive a Medicaid payment under this rule, a hospital must:

(a) Have approval from the Centers for Medicare and Medicaid Services (CMS) to furnish skilled nursing facility services as a Medicare swing-bed hospital;

(b) Have a Medicare provider agreement for acute care; and

(c) Have a current signed provider agreement with the Seniors and People with Disabilities Division to receive Medicaid payment for swing-bed services.

(2) NUMBER OF BEDS:

(a) A Critical Access Hospital (CAH) not located within a 30 mile geographic radius of a licensed nursing facility as of March 13, 2007 may receive Medicaid payment for up to 20 residents at one time. The CAH must maintain at least five beds or twice the average acute care daily census, whichever is greater, for exclusive acute care use;

(b) Other hospitals receiving payment for Medicaid services under this rule may not receive Medicaid payment for more than a total of five residents at one time. In addition, the residents must have a documented need for and receive services that meet the complex medical add-on requirements outlined in OAR 411-070-0091;

(c) If circumstances change so that a CAH receiving payment for Medicaid services pursuant to section (2)(b) of this rule meets the criteria set out in section (2)(a) of this rule after March 13, 2007, the CAH may petition the Division for authorization to receive such payment pursuant to section (2)(a) of this rule. The Division will evaluate all available long-term care resources within a 30 mile geographic radius of the CAH and the amount of unmet long-term care need in the same area and determine if the CAH will be authorized to receive payment pursuant to section (2)(a) of this rule.

(3) PAYMENT:

(a) Daily Rate. Medicaid payment for swing-beds will be equal to the rate paid to Oregon's Medicaid certified nursing facilities during the current six-month period;

(b) Medicare Co-payment. Medicaid payment for Medicare co-insurance for Division clients will be made at a rate which is the difference, if any, between the Medicare partial payment and the facility rate as established in section (3) of this rule.

(4) SERVICES PROVIDED. The daily Medicaid rate will be for the services outlined in OAR 411-070-0085 (All-Inclusive Rate).

(5) COMPLIANCE WITH MEDICAID REQUIREMENTS. Hospitals receiving Medicaid payment for swing-bed services must comply with federal and Division rules and statutes that affect long-term care facilities as outlined in the facility's provider agreement with the Division.

(6) ADMISSION OF CLIENTS. Prior to determination of Medicaid payment eligibility in the swing bed, the case manager must determine there is no nursing facility bed available to the client within a 30 mile geographic radius of the hospital. For the purpose of this rule, "available bed" means a bed in a nursing facility that is available to the client at the time the placement decision is made.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070 & 414.065
Hist.: SSD 7-1988, f. & ef. 7-1-88; SSD 20-1990, f. & cert. ef. 10-4-90; SSD 6-1993, f. 6-30-93, cert. ef. 7-1-93; SSD 1-1997, f. 6-30-97, cert. ef. 7-1-97; SPD 9-2006, f. 1-26-06, cert. ef. 2-1-06; SPD 1-2007, f. 3-12-07. & cert. ef. 3-13-07

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Amends rule relating to Lapsed Certifications.
Adm. Order No.: DPSST 6-2007
Filed with Sec. of State: 3-14-2007
Certified to be Effective: 3-14-07
Notice Publication Date: 12-1-06
Rules Amended: 259-009-0067
Subject: Amends rule relating to a lapsed certification to require a fire service professional whose certification has lapsed to apply for recertification.
Rules Coordinator: Bonnie Salle—(503) 378-2341

259-009-0067
Lapsed Certification

(1) All levels of certification of any fire service professional shall be considered lapsed if the individual has not been utilized as such for more than twelve (12) consecutive months.

(2) A fire service professional whose certification has lapsed may apply for re-certification upon re-utilization as a fire service professional:

(a) The fire service professional must complete a Department task book, task performance evaluation or approved training;

(b) Upon successful completion of the appropriate testing or evaluation, as verified by the signature and recommendation of the agency head or designee, the fire service professional whose certification has lapsed, may request reinstatement of his/her certification. The request must be made to the Department by submitting the appropriate form.

Stat. Auth.: ORS 181.652, 181.653 & 181.667
Stats. Implemented: ORS 181.652, 181.653 & 181.667
Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 6-2007, f. & cert. ef. 3-14-07

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

Rule Caption: Commercial Driver License with Passenger Endorsement.
Adm. Order No.: DMV 3-2007
Filed with Sec. of State: 2-26-2007
Certified to be Effective: 2-26-07
Notice Publication Date: 1-1-07
Rules Amended: 735-062-0150
Subject: OAR 735-062-0150 establishes when a passenger endorsement will be added to commercial driving privileges and a commercial driver license (CDL). The rule was previously amended in January 2005 to comply with federal standards for placing a driving privilege restriction on commercial driving privileges and on the CDL when the holder is issued a passenger endorsement. That rule amendment put specific time-periods on sections of the rule that specified what would occur between certain dates or after a certain date. DMV has removed those sections in rule that no longer apply and has removed specific dates listed if the date is no longer relevant. Other changes are made for clarity.
Rules Coordinator: Brenda Trump—(503) 945-5278

735-062-0150
Commercial Driver License with Passenger Endorsement

(1) DMV will place an M restriction on the commercial driving privileges and commercial driver license (CDL) of an applicant who passes the passenger skills test in a Class B passenger vehicle. The M restriction allows the person to operate only a Class B or C passenger vehicle.

(2) DMV will place an N restriction on the commercial driving privileges and CDL of an applicant who passes the passenger skills test in a Class C passenger vehicle. The N restriction allows the person to operate only a Class C passenger vehicle.

(3) The commercial driving privileges of the holder of a CDL with a passenger endorsement are restricted as follows:

(a) Unless the person passes a passenger skills test in a Class A passenger vehicle, the holder of a Class A CDL will have an M restriction;

(b) The holder of a Class B CDL will have an M restriction; and

(c) The holder of a Class C CDL will have an N restriction.

(4) DMV will not place a restriction on the commercial driving privileges of a person who passes a passenger skills test in a Class A passenger vehicle.

(5) Whenever the holder of a CDL with a passenger endorsement is required to appear or voluntarily appears in person at a DMV office to renew or replace the license, DMV will update the CDL by placing an M or N passenger restriction on the holder's CDL as set forth in section (3) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Other Auth.: 49 CFR § 383.117
Stats. Implemented: ORS 807.070, 807.080, 807.170, 807.175

Hist.: MV 6-1990, f. & cert. ef. 4-2-90; DMV 9-1997, f. & cert. ef. 10-16-97; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 3-2007, f. & cert. ef. 2-26-07

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Department of Transportation,
Rail Division
Chapter 741

Rule Caption: State Oversight of Rail Transit Agencies.
Adm. Order No.: RD 1-2007
Filed with Sec. of State: 3-7-2007
Certified to be Effective: 3-7-07
Notice Publication Date: 1-1-07
Rules Adopted: 741-060-0025, 741-060-0035, 741-060-0095
Rules Amended: 741-060-0010, 741-060-0020, 741-060-0030, 741-060-0040, 741-060-0050, 741-060-0060, 741-060-0070, 741-060-0080, 741-060-0090, 741-060-0100, 741-060-0110
Subject: These rules establish state oversight of rail transit agencies. The amendments bring state oversight into compliance with the changes made to the federal rules governing this program, 49 USC 5330 and 49 CFR part 659. The federal regulations became effective May 31, 2005.
Rules Coordinator: Brenda Trump—(503) 986-3171

741-060-0010
General Provisions

(1) OAR 741-060-0010 through 741-060-0110 establish the system safety and system security program standards for rail transit agencies in the State of Oregon.

(2) Federal Transit Administration standards and requirements, **49 U.S.C. 5330** and **Title 49 of the Code of Federal Regulations**, **Part 659**, **Rail Fixed Guideway Systems**, **State Safety Oversight**, effective May 31, 2005, are hereby adopted by reference as the minimum acceptable program standards for state oversight of rail transit agencies. These federal regulations are available from the Oregon Department of Transportation Rail Division and from the Federal Transit Administration.

(3) OAR 741-060-0010 through 741-060-0110 apply to all rail transit agencies operating rail fixed guideway systems in the State of Oregon. Non-compliance with these rules is subject to a penalty under ORS 824.990(1)(a). Rail transit agencies shall provide written certification of compliance with these rules to the Rail Division prior to beginning new passenger operations or passenger operations on an expanded rail fixed guideway system.

(4) The Rail Division shall monitor compliance with the system safety and system security and emergency preparedness program standards.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0020
Definitions

As used in OAR 741-060-0010 through 741-060-0110, the following definitions apply:

(1) "24-hour day" means a period of time that begins at the time an employee reports to work, after concluding at least the required minimum number of consecutive hours off.

(2) "Accident" means any event involving a transit vehicle or occurring on a transit-controlled property, involving one or more of the following:

(a) A fatality, either at the scene or resulting from injuries sustained at the scene when the injured person dies within 30 days of the incident;

(b) Injuries requiring immediate medical attention away from the scene;

(c) Property damage to rail transit vehicles, non-rail transit vehicles, other rail transit property or facilities, or non-transit property equal to or exceeding $25,000;

(d) An evacuation due to life safety or security reasons;

(e) A collision at a rail-grade crossing;

(f) A mainline derailment;

(g) A collision between a rail transit vehicle and another rail transit vehicle or a transit non-revenue vehicle; or.

(h) A collision with an individual on a rail right of way.

(3) "Contracto" means an entity that performs tasks required by division 60 rules on behalf of the Rail Division or rail transit agency. The rail transit agency may not be a contractor for the Rail Division.

(4) "Corrective action plan" means a plan developed by the rail transit agency that meets the requirements of **49 CFR § 659.37**, effective May 31, 2005, and describes the actions the rail transit agency will take to minimize, control, correct, or eliminate hazards, and the schedule and responsibility for implementing those actions.

(5) "Danger" means exposure to injury, damage, loss or pain.

(6) "FTA" means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

(7) "Hazard" means any real or potential condition (as defined in the rail transit agency's hazard management process) that may cause injury, illness, death, damage to or loss of a system, equipment or property, or damage to the environment.

(8) "Individual" means a passenger, employee, contractor, other rail transit facility worker, pedestrian, trespasser, or any person on rail transit-controlled property.

(9) "Investigation" means a process to determine the causal and contributing factors of an accident or hazard, so that actions can be identified to prevent recurrence.

(10) "NTSB" means the National Transportation Safety Board.

(11) "On-duty time" means a period of time beginning when a safety sensitive employee reports for work at a designated point or at a designated time, and continues until such time as that employee is released or relieved from all responsibility for performing work. On-duty time shall begin only after the safety sensitive employee has completed at least the minimum number of continuous hours off duty.

(12) "Oversight agency" means the Rail Division.

(13) "Passenger" means a person who is on board, boarding, or alighting from a rail transit vehicle for the purpose of travel.

(14) "Passenger operations" means the period of time when any aspect of rail transit agency operations is initiated with the intent to carry passengers.

(15) "Program standard" means a written document developed and adopted by the Rail Division that describes the rules and procedures used to provide rail transit agency safety and security oversight.

(16) "Rail Division" means the Rail Division of the Oregon Department of Transportation.

(17) "Rail fixed guideway system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley, streetcar or automated guideway used primarily for carrying passengers that is not regulated by the Federal Railroad Administration, and:

(a) Is included, or has filed to be included, in the FTA's calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (**49 U.S.C. 5336**); or

(b) Is owned or operated by a municipal corporation, as defined in ORS 824.045(2), and does not fall within the definition in (17)(a) above.

(18) "Rail transit agency" means an entity that operates a rail fixed guideway system in the State of Oregon.

(19) "Rail transit-controlled property" means property that is used by the rail transit agency and may be owned, leased, or maintained by the rail transit agency.

(20) "Rail transit vehicle" means the rail transit agency's rolling stock, including but not limited to passenger and maintenance vehicles.

(21) "Safety" means freedom from harm resulting from unintentional acts or circumstances.

(22) "Safety sensitive employee" means an individual employed by, contracted by, or a volunteer of, the rail transit agency who operates a light rail vehicle, trolley, streetcar, or other vehicle used for carrying passengers, or who dispatches or controls the movement of such vehicles, or who is engaged in the installation or maintenance of the on-track vehicles, train control, train protection, or signaling system.

(23) "Security" means freedom from harm resulting from intentional acts or circumstances.

(24) "Security breach" means an unforeseen event, occurrence or threat that may endanger life or property, or may result in the loss of services or system equipment. For reporting purposes, security breach includes, but may not be limited to:

(a) Homicide;

(b) Forcible rape;

(c) Robbery;

(d) Aggravated assault;

(e) Bomb threat, or potential bomb threat;

(f) Hijack of a rail transit vehicle; or

(g) Evacuation due to any security reason or potential threat.

(25) "Security sensitive information" means any information that is exempt from public disclosure pursuant to ORS 192.502 and **49 CFR §§ 15** and **1520**.

(26) "System safety program plan" means a document developed and adopted by the rail transit agency describing its safety policies, objectives, responsibilities and procedures.

(27) "System security and emergency preparedness plan" means a document developed and adopted by the rail transit agency describing its security policies, objectives, responsibilities and procedures to assure rapid, controlled, and predictable responses to various types of emergencies.

(28) "System Security and Emergency Preparedness Planning Guide" means the guidelines available from the FTA for the development of system security and emergency preparedness plans.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0025
Corrective Action Plan Requirements

(1) Each rail transit agency that operates a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(a) shall prepare a corrective action plan as required by this rule and in compliance with **49 CFR Part 659**, effective May 31, 2005. Each rail transit agency that operates a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall prepare a corrective action plan in compliance with this rule.

(2) Each rail transit agency must develop a corrective action plan for the following:

(a) Results from investigations in which identified causal and contributing factors are determined by the rail transit agency or Rail Division as requiring corrective action; or

(b) Hazards or deficiencies identified through internal or external safety and security audits or reviews, or from the hazard management process.

(3) The corrective action plan must identify the hazard or deficiency, the planned activity or actions to resolve the hazard or deficiency, the responsible departments for implementing the corrective action, and a schedule of dates for implementation of corrective action.

(4) The rail transit agency must submit the corrective action plan to the Rail Division for review and approval within 30 days after the need for the corrective action plan has been identified. The Rail Division will review the plan and issue written notice approving it, approving it with conditions, or rejecting it.

(5) If the Rail Division approves the rail transit agency's corrective action plan with conditions, or rejects it, the rail transit agency shall have 15 days from the date the Rail Division issued such notice to request that the Rail Division reconsider its decision or to submit a new plan for approval.

(6) The rail transit agency shall submit verification that the corrective actions within the approved corrective action plan have been implemented.

(7) Each rail transit agency shall maintain a corrective action monitoring log and provide the Rail Division monthly status reports regarding individual corrective action plans or a monthly update to its corrective action monitoring log.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045
Stats. Implemented: ORS 824.045
Hist.: RD 1-2007, f. & cert. ef. 3-7-07

741-060-0030
System Safety Program Plan Requirements

(1) Each rail transit agency with a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(a) shall prepare a system safety program plan conforming to the requirements of **49 CFR Part 659**, effective May 31, 2005, and OAR 741-060-0010 through 741-060-0110. Each rail transit agency that operates a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall prepare a system safety program plan conforming to OAR 741-060-0010 through 741-060-0110.

(2) The rail transit agency shall review its system safety program plan a minimum of once a year. If any changes are made to the plan, the rail transit agency shall submit the plan, along with any checklists used for the review, to the Rail Division for review and approval. If the rail transit agency determines that no changes to the plan are necessary, it shall document in writing to the Rail Division that it has reviewed the plan and that no change will be made. The written documentation shall include any checklists the rail transit agency used for its review. The rail transit agency shall have 30 days to revise its plan to comply with modifications requested by the Rail Division.

(3) The system safety program plan shall describe the method used to maintain effective communications and liaison with Rail Division staff for:

(a) Reporting and investigating accidents;

(b) Hazard management process activities, as required in OAR 741-060-0035;

(c) Reviewing, updating and using investigation procedures;

(d) Submitting corrective action plans;

(e) Submitting annual internal review reports; and

(f) Facilitating on-site safety reviews by the Rail Division.

(4) The system safety program plan for rail transit agencies that operate a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall include a drug and alcohol-testing program, or reference to an existing program, that pertains to its safety sensitive employees. The program, if contained in a separate document from the plan, shall be submitted to the Rail Division for review and approval.

(5) The rail transit agency shall implement and comply with the system safety program plan for all aspects of its rail fixed guideway system.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0035
Hazard Management Process

(1) The rail transit agency must develop and document as a part of its system safety program plan a process to identify and resolve hazards during its operation, including any hazards resulting from subsequent system extensions or modifications, operational changes, or other changes.

(2) The hazard management process must, at a minimum:

(a) Define the rail transit agency's approach to hazard management and the implementation of an integrated system-wide hazard resolution process;

(b) Specify the sources of, and the mechanisms to support, the on-going identification of hazards;

(c) Define the process by which the identified hazard(s) will be evaluated and prioritized for elimination or control;

(d) Identify the mechanism used to track through to resolution the identified hazard(s);

(e) Define minimum thresholds for the notification and reporting of hazard(s) to the Rail Division; and

(f) Specify the process by which the rail transit agency will provide on-going reporting of hazard resolution activities to the Rail Division.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045
Stats. Implemented: ORS 824.045
Hist.: RD 1-2007, f. & cert. ef. 3-7-07

741-060-0040
Monitoring the System Safety Program Plan

(1) The Rail Division or its contractor may inspect, investigate and review the operation and maintenance of each rail transit agency to assess whether the actual safety and practices comply with its system safety program plan.

(2) At least once every three years, the Rail Division or its contractor shall conduct an on-site review of the implementation of each rail transit agency's system safety program plan to verify compliance with, and evaluate the effectiveness of, the plan.

(3) Following each on-site review, the Rail Division or its contractor shall prepare a written report of its findings and recommendations, and the need, if any, for updating the system safety program plan or revising implementation of the plan. If the report identifies deficiencies for which a corrective action plan is required, the rail transit agency shall submit a corrective action plan to the Rail Division within 30 days after receiving the report, or within a different time period if specified by the Rail Division. The corrective action plan must comply with the requirements in OAR 741-060-0025.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0050
System Security and Emergency Preparedness Plan Requirements

(1) Each rail transit agency with a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(a) shall prepare a system security and emergency preparedness plan conforming to the **FTA's**

Transit Agency System Security and Emergency Preparedness Planning Guide, and OAR 741-060-0010 through 741-060-0110. Each rail transit agency with a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall prepare a system security and emergency preparedness plan conforming to OAR 741-060-0010 through 741-060-0110.

(2) The system security and emergency preparedness plan shall be developed and maintained in a separate document and not as part of the system safety program plan.

(3) The rail transit agency shall review its system security and emergency preparedness plan a minimum of once a year. If any changes are made to the plan, the rail transit agency shall submit the plan, along with any checklists used for the review, to the Rail Division for review and approval. If the rail transit agency determines that no changes to the plan are necessary, it shall document in writing to the Rail Division that it has reviewed the plan and that no changes will be made. The written documentation shall include any checklists the rail transit agency used for its review. The rail transit agency shall have 30 days to revise its plan to comply with any modifications requested by the Rail Division.

(4) The rail transit agency shall implement and comply with the system security and emergency preparedness plan for all operations of its rail fixed guideway system. The rail transit agency shall document within the plan its process for managing threats and vulnerabilities during operations and for major projects, extensions, new vehicles and equipment, including integration with the safety certification process.

(5) The rail transit agency shall not make its system security and emergency preparedness plan available to the public.

(6) The system security and emergency preparedness plan shall include the process the rail transit agency used to develop the plan.

(7) The system security and emergency preparedness plan shall include measures to control and track all access to the plan and any of its contents. At a minimum, the rail transit agency must place a unique identifying mark on each copy of the plan and maintain a log showing the whereabouts of each copy of the plan. The plan shall include the process the rail transit agency will use to make the plan available for Rail Division review.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0060
Monitoring the System Security and Emergency Preparedness Plan

(1) The Rail Division or its contractor may investigate and review the operational phase of each rail transit agency to determine whether the rail transit agency's actual security practices comply with its system security and emergency preparedness plan.

(2) At least once every three years, the Rail Division or its contractor shall conduct an on-site review of the implementation of each rail transit agency's system security and emergency preparedness plan to verify compliance with, and evaluate the effectiveness of, the plan.

(3) Following each triennial on-site review, the Rail Division or its contractor shall prepare a written report of its findings and recommendations, and the need, if any, for updating the system security and emergency preparedness plan or revising implementation of the plan. If the report identifies deficiencies for which a corrective action plan is required, the rail transit agency shall submit a corrective action plan to the Rail Division within 30 days after receiving the report, or within a different time period if specified by the Rail Division. The corrective action plan must comply with the requirements in OAR 741-060-0025.

(4) The rail transit agency shall submit to the Rail Division progress or status reports regarding implementation of the corrective action plan as requested.

(5) Security sensitive information, as defined in OAR 741-060-0020(25), may not be disseminated or publicly disclosed.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0070
Requirements for Internal Reviews

(1) Internal reviews shall be performed by each rail transit agency to evaluate compliance and measure the effectiveness of its system safety program plan and system security and emergency preparedness plan.

(2) Over a three-year period, each rail transit agency that operates a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(a) shall conduct on-going internal reviews that cover all the elements of **49 CFR §§ 659.19** and **659.23**, effective May 31, 2005, and all elements of OAR 741-060-0030 and 741-060-0050. All rail transit agencies that operate a rail fixed guideway system meeting the definition in OAR 741-060-0020(17)(b) shall conduct reviews that cover all the elements of OAR 741-060-0030 and 741-060-0050.

(3) The rail transit agency shall notify the Rail Division at least 30 days prior to any planned internal reviews. The rail transit agency shall submit to the Rail Division copies of the checklists and procedures it will use for the review.

(4) Each internal review shall be performed in accordance with the written checklist by personnel technically qualified to verify compliance and assess the effectiveness of the system safety program plan or the system security and emergency preparedness plan components being reviewed. The reviewers may be organizationally assigned to the unit responsible for the activity being reviewed, but they must be independent from the first line of supervision responsible for performing the activity being reviewed.

(5) Internal reviews shall be documented in an annual report that covers the reviews performed and the results of each review in terms of the adequacy and effectiveness of the system safety program plan and system security and emergency preparedness plan. The annual report for the internal reviews performed during the preceding year shall be submitted to the Rail Division prior to the 15th of February of each year, pursuant to OAR 741-060-0095.

[Publications: Publications referenced are available from the agency.]
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0080
Requirements for Reporting Accidents, Security Breaches and Hazards

(1) Each rail transit agency shall notify the Rail Division of any accident or security breach no later than two hours after its occurrence.

(2) Each rail transit agency that shares track with a general railroad system, and is subject to Federal Railroad Administration reporting requirements, shall notify the Rail Division within two hours of any incident for which they are required to report to the Federal Railroad Administration.

(3) Each rail transit agency shall notify the Rail Division of any hazard that meets the threshold for notification and reporting of such hazards no later than six hours after identification.

(4) Notice required under sections (1), (2) and (3) of this section shall be made by electronic mail or telephone and, at a minimum, shall contain the following information:

(a) Name of reporting party;

(b) Date and time of the report;

(c) Date and time of the accident or security breach and probable cause;

(d) Location and brief description of the accident, security breach or identified hazard; and

(e) Action taken to insure the safety and security of employees, passengers and public from the effects of the accident, security breach or identified hazard.

(5) Each rail transit agency shall submit to the Rail Division a summary report for each month of the year:

(a) Summarizing the number of accidents, security breaches and identified hazards that occurred that month, as well as any other incident involving:

(A) A collision between a rail transit vehicle and other on-track equipment or between on-track equipment;

(B) A fire or other event that requires fire suppression activities; or

(C) A derailment within a yard or auxiliary track.

(b) With a detailed report attached for each accident, security breach, identified hazard, and incident in the report; and

(c) With the final report of any investigation completed that month.

(6) The summary report must be submitted within 30 days from the end of the month being reported.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0090
Requirements for Investigating Accidents, Security Breaches and Hazards

(1) Each rail transit agency shall investigate accidents, security breaches and identified hazards that meet the notification and investigation

threshold. Unless formally advised otherwise, the rail transit agency shall conduct these investigations on behalf of the Rail Division. The rail transit agency may use its own staff or a contractor to conduct investigations.

(2) Within 24 hours of the accident, security breach or identified hazard, the rail transit agency shall submit to the Rail Division a 24-hour status report documenting investigation activities and findings. The rail transit agency shall also submit additional status reports if requested by the Rail Division.

(3) In addition to the 24-hour status report and any other reports requested by the Rail Division pursuant to section (2) of this rule, the rail transit agency shall submit to the Rail Division a draft final investigation report that includes a description of the investigation activities, identified causal and contributing factors, and a corrective action plan in compliance with OAR 741-060-0025.

(4) The Rail Division will review the final draft report submitted under section (3) of this rule. If the Rail Division concurs with the findings of the draft final report it will formally adopt the report. If the Rail Division does not concur with the findings of the final draft report it may conduct its own investigation.

(5) The rail transit agency shall submit to the Rail Division for review and approval a copy of its investigation procedures. Any subsequent modifications and revisions to the procedures must also be submitted to the Rail Division for review and approval.

(6) Each rail transit agency system shall oversee investigations undertaken on behalf of the Rail Division pursuant to section (1) of this rule, and shall retain responsibility for the results of such investigations.

(7) The rail transit agency shall cooperate fully during any investigation conducted by the Rail Division or the NTSB. All NTSB findings or recommendations that are adopted by the Rail Division shall be implemented by the rail transit agency.

(8) Investigation reports and corrective action plans resulting from rail transit agency or Rail Division activities shall not be admissible evidence in any proceeding or civil action for damages that may result from the matters investigated.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RS 1-1998, f. & cert. ef. 6-19-98; RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0095
Annual Report Requirements

By February 15 of each year, each rail transit agency shall submit to the Rail Division a written report for review and approval, certifying that it has complied with the provisions of OAR 741-060-0010 through 741-060-0110 for the preceding year. The report shall include:

(1) A formal letter of certification signed by the rail transit agency's chief executive indicating:

(a) That the rail transit agency is in compliance with its system safety program plan and its system security and emergency preparedness plan, and the provisions of OAR 741-060-0010 through 741-060-0110; or

(b) Noncompliance findings from its internal safety and security audits and reviews, with documentation of activities that will be or have been taken to achieve compliance.

(2) A compilation summarizing all the reportable accidents, security breaches, and identified hazards, and all investigations and hazard analyses conducted. It shall include findings, probable cause and contributing factors, and updated corrective action plans, if any;

(3) A summary of the hazard management process activities and all internal safety and security reviews conducted, with findings and updated corrective action plans, if any; and

(4) A summary of the required annual review and the modifications, if any, to its system safety program plan and system security and emergency preparedness plan.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.045
Stats. Implemented: ORS 824.045
Hist.: RD 1-2007, f. & cert. ef. 3-7-07

741-060-0100
Hours of Service

(1) Each rail transit agency shall establish, implement and enforce an hours-of-service policy for its safety sensitive employees. The policy and any subsequent changes shall be reviewed and approved by the Rail Division.

(2) The policy must prohibit a safety sensitive employee from:

(a) Performing work in excess of the maximum hours of on-duty time during a 24-hour day or a seven-day period;

(b) Performing work in excess of the maximum consecutive days without a rest day; or

(c) Going on duty until the employee has had the minimum required number of consecutive hours off.

(3) Hours of service limitations may be waived under situations of emergencies, as declared by the rail transit agency's Chief Executive Officer of Operations, or his or her designee. When an emergency situation requiring the extended service of a safety sensitive employee occurs which is both unforeseeable and beyond the control of the rail transit agency, the employee may be on duty in excess of the allotted hours. These emergency situations may include, but are not limited to, winter storms, public emergencies like an earthquake or fire, and accidents or security breaches. During emergency situations, hours of service must be limited to the extent practical and monitored by the rail transit agency.

(4) The rail transit agency shall maintain hours of service records for safety sensitive employees for a period of two years, and upon request, make such records available to the Rail Division for review.

(5) The rail transit agency shall notify the Rail Division whenever a safety sensitive employee is not in compliance with the hours-of-service policy. The rail transit agency shall notify the Rail Division of the non-compliance by telephone or electronic mail, and shall do so within 48 hours of its occurrence. The notification required under this section shall contain:

(a) The employee's name;

(b) The employee's identification number;

(c) The employee's work title;

(d) The type of violation;

(e) The schedule of work and rest for the period of 24 hours prior to the infraction; and

(f) A brief description of the circumstances of the violation.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

741-060-0110
Annual Fee for State Oversight Activities

(1) On or before February 15 of each year, the Rail Division shall establish an estimated annual fee for all rail transit agencies. This estimate of costs shall be for the state oversight program described in OAR 741-060-0010 through 741-060-0110 for the next fiscal year based on the legislatively approved budget. The Rail Division shall also provide an estimate of costs apportioned among each rail fixed guideway system, based on time and expenses associated with the state oversight of each system.

(2) The Rail Division may also require reimbursement for expenses directly attributable to a single rail transit agency, such as federally required audits.

(3) Each month, the Rail Division shall submit to each rail transit agency a request for reimbursement for that agency's portion of the actual cost associated with the state oversight program for the previous month.

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045
Stats. Implemented: ORS 824.045
Hist.: RD 2-2003, f. & cert. ef. 7-17-03; RD 1-2007, f. & cert. ef. 3-7-07

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Oregon Board of Dentistry
Chapter 818

Rule Caption: Repeals rules regarding Exceptions and amends rules regarding Unprofessional Conduct.
Adm. Order No.: OBD 1-2007
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 1-1-07
Rules Amended: 818-012-0030
Rules Repealed: 818-001-0015, 818-001-0021
Subject: OAR 818-001-0015, Filing Exceptions and Argument to the Board and 818-001-0021, Petition for Reconsideration or Rehearing as Condition for Judicial Review, are repealed as the procedures already exist in the Administrative Procedures Act.

OAR 818-012-0030, Unprofessional Conduct, is amended to include the requirement to release photographs; adds the addiction and dependency or abuse of alcohol, illegal or uncontrolled drugs or mind altering substances; and requires a dentist or dental hygienist to work in a clinic owned by an Oregon licensed dentist except as described under ORS 679.020(3) and 680.206(1)(2).
Rules Coordinator: Sharon Ingram—(971) 673-3200

818-012-0030
Unprofessional Conduct

The Board finds that in addition to the conduct set forth in ORS 679.140(2), a licensee engages in unprofessional conduct if the licensee does or permits any person to:

(1) Attempt to obtain a fee by fraud or misrepresentation.

(2) Offer rebates, split fees, or commissions for services rendered to a patient to any person other than a partner, employee, or employer.

(3) Accept rebates, split fees, or commissions for services rendered to a patient from any person other than a partner, employee, or employer.

(4) Initiate, or engage in, with a patient, any behavior with sexual connotations. The behavior can include but is not limited to, inappropriate physical touching; kissing of a sexual nature; gestures or expressions, any of which are sexualized or sexually demeaning to a patient; inappropriate procedures, including, but not limited to, disrobing and draping practices that reflect a lack of respect for the patient's privacy; or initiating inappropriate communication, verbal or written, including, but not limited to, references to a patient's body or clothing that are sexualized or sexually demeaning to a patient; and inappropriate comments or queries about the professional's or patient's sexual orientation, sexual performance, sexual fantasies, sexual problems, or sexual preferences.

(5) Engage in an unlawful trade practice as defined in ORS 646.605 to 646.608.

(6) Fail to present a treatment plan with estimated costs to a patient upon request of the patient or to a patient's guardian upon request of the patient's guardian.

(7) Misrepresent any facts to a patient concerning treatment or fees.

(8)(a) Fail to provide a patient or patient's guardian within 14 days of written request:

(A) Legible copies of records; and

(B) Duplicates of study models and radiographs, photographs or legible copies thereof if the radiographs, photographs or study models have been paid for.

(b) The dentist may require the patient or guardian to pay in advance a fee reasonably calculated to cover the costs of making the copies or duplicates. The dentist may charge a fee not to exceed $0.25 per page (or $0.50 for records copied from microfilm), plus any reasonable clerical costs incurred in the duplication of records. The actual cost of duplicating X-rays may also be charged to the patient. Patient records or summaries may not be withheld from the patient because of any prior unpaid bills, except as provided in (8)(a)(B) of this rule.

(9) Fail to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders services.

(10) Use prescription forms pre-printed with any Drug Enforcement Administration number, name of controlled substances, or facsimile of a signature.

(11) Use a rubber stamp or like device to reproduce a signature on a prescription form or sign a blank prescription form.

(12) Order drugs listed on Schedule II of the Drug Abuse Prevention and Control Act, 21 U.S.C. Sec. 812, for office use on a prescription form.

(13) Violate any Federal or State law regarding controlled substances.

(14) Becomes addicted to, or dependent upon, or abuses alcohol, illegal or controlled drugs, or mind altering substances.

(15) Practice dentistry or dental hygiene in a dental office or clinic not owned by an Oregon licensed dentist(s), except for an entity described under ORS 679.020(3) and dental hygienists practicing pursuant to ORS 680.205(1)(2).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 679.140(1)(c), 679.140(2), 679.170(6) & 680.100
Hist.: DE 6, f. 8-9-63, ef. 9-11-63; DE 14, f. 1-20-72, ef. 2-10-72; DE 5-1980, f. & ef. 12-26-80; DE 2-1982, f. & ef. 3-19-82; DE 5-1982, f. & ef. 5-26-82; DE 9-1984, f. & ef. 5-17-84; Renumbered from 818-010-0080; DE 3-1986, f. & ef. 3-31-86; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89; DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-011-0020; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 2-1997, f. & cert. ef. 2-20-97; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 1-2006, f. 3-17-06, cert. ef. 4-1-06; OBD 1-2007, f. & cert. ef. 3-1-07

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Oregon Commission on Children and Families
Chapter 423

Rule Caption: To codify the intent of the 2005–07 Budget Note and current practice.
Adm. Order No.: OCCF 2-2007(Temp)
Filed with Sec. of State: 2-16-2007
Certified to be Effective: 2-16-07 thru 8-15-07
Notice Publication Date:
Rules Amended: 423-045-0005, 423-045-0010, 423-045-0015
Subject: The proposed rule amendment specifies the requirement for Healthy Start programs to match state General Fund and to direct state Healthy Start General Fund grant awards to higher risk families; changes the ability to assess an administrative charge to Medicaid Administrative Claiming from a flat percentage on reimbursement to actual expenditures capped at 5% of reimbursements; changes language to reflect industry standards, current practice and contains minor language clean-up.
Rules Coordinator: Marsha Clark—(503) 373-1283

423-045-0005
Authority

These rules are promulgated pursuant to ORS 417.705 through 417.797.

Stat. Auth.: ORS 417.705 - 417.797
Stats. Implemented:
Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 2-2007(Temp), f. & cert. ef. 2-16-07 thru 8-15-07

423-045-0010
Purpose

The purpose of these rules is to assist counties in the implementation and operation of Healthy Start program services. The Healthy Start program seeks to ensure healthy, thriving children and strong, nurturing families by offering a range of voluntary and non-stigmatizing services ranging from universal basic short-term services to long-term intensive home visiting. Healthy Start offers these services in and around the time of birth, targeting first-birth families at a minimum. Healthy Start services follow evidence-based practices designed to achieve appropriate early childhood benchmarks, following the Healthy Families America model. These rules are the minimum standards for the establishment, operations, evaluation, and funding of Healthy Start program services under ORS 417.795.

Stat. Auth.: ORS 417.705 - 417.797
Stats. Implemented: ORS 417.705 - 417.797
Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04; OCCF 2-2007(Temp), f. & cert. ef. 2-16-07 thru 8-15-07

423-045-0015
Program Restrictions

(1) Systems Requirements:

(a) Healthy Start services will be consistent with the local early childhood system planning;

(b) Healthy Start programs will collaborate with local health departments, other providers of prenatal and perinatal services, and the Local Commission to identify and build upon existing services for families and to prioritize additional services if needed (i.e.: mental health, drug and alcohol, and early intervention). If collaboration does not occur, the Department of Human Services and the Agency will provide technical assistance to promote improved collaboration;

(c) Healthy Start programs actively participate in local community efforts to implement the early childhood system of supports and services towards the achievement of desired outcomes, working to maximize the effective use of available resources and to avoid duplication of services;

(d) Local Commissions are not required to engage in a competitive bidding process to select providers for Healthy Start services each biennium. Local Commissions may conduct a competitive or collaborative funding process when significant deficits in program operations and services are found or when changes in the stability of service delivery systems present new options for these services.

(2) Age: Children ages prenatal through five and their families.

(3) Service Area: Provide funding for voluntary family support services, including but not limited to screening and follow-up services such as resource referral, and intensive home visiting following the Healthy Families America model.

(4) Program Requirements:

(a) All Healthy Start Programs will demonstrate full compliance with ORS 417.795 as operationalized by the most current Healthy Start Program Policies and Procedures;

NOTE: Copies of the Healthy Families America Site Self Assessment Tool (program implementation standards) and of the most current Healthy Start Program Policies and Procedures Manual are available from the Agency.

(b) Programs will develop site specific procedure manuals to further specify local program operations. Local procedure manuals will be submitted to the Agency at intervals specified by the Agency;

(c) Services provided by Healthy Start program are voluntary. Service providers will obtain express written consent before any services are offered;

(d) Local Healthy Start programs will assure that parents have given express written consent prior to any release of information;

(e) Healthy Start program services will not be a part of a mandated plan for families. Mandated plans include plans developed by the Department of Human Services Self Sufficiency and Child Welfare services;

(f) Local Healthy Start Programs will:

(A) Participate in the independent statewide program evaluation;

(B) Participate in statewide training for program managers, supervisors, and family support workers;

(C) Participate in bi-annual meetings and trainings for program managers and supervisors;

(D) Meet statewide and local early childhood system quality assurance standards;

(E) Participate in the Healthy Families America site self-assessment, as part of ongoing quality assurance;

(F) Ensure that voluntary home visiting services through Healthy Start are coordinated with home visiting services offered by the local health department and other programs.

(5) Program Budget Requirements:

(a) State General Funds received by programs from the Agency must first be used to serve higher risk families as identified by two or more risk factors or a single risk factor of either mental health or substance abuse on the approved Healthy Start screening tool. Once all identified higher risk families who want Healthy Start services have been served, programs may use any remaining state General Funds received from the Agency to serve families with fewer than two risk factors but not to the exclusion of future higher risk families;

(b) All programs are required to participate in federal Medicaid (Title XIX) Administrative Claiming, following program procedures provided by the Agency:

(A) Medicaid Administrative Claiming reimbursement must be used to maintain or expand Healthy Start program core services, as defined in the Healthy Start Program Policies and Procedures Manual;

(B) Programs will report on the use of their Medicaid (Title XIX) Administrative Claiming funds to the Agency at intervals specified by the Agency;

(C) All program staff will attend training provided by the Agency prior to participation in Medicaid (Title XIX) Administrative Claiming and annually thereafter;

(D) The Agency will manage the Medicaid (Title XIX) Administrative Claiming program in accordance with all state and federal rules and regulations.

(c) Local programs will demonstrate a 25 percent local match as part of the base operating budget of their programs. Local match may not include grants or awards from the Agency or other Oregon state agencies. Match will be reported to the Agency at the intervals specified by the Agency. The 25 percent match will include a 5 percent local cash match. The remaining 20 percent match may be in any combination of cash, cash equivalent, in-kind or volunteer hours;

(d) The Local Commission will monitor the local Healthy Start programs to ensure fiscal and programmatic integrity;

(e) If, for any reason, a current provider stops providing contracted services prior to the end of the contract, the Local Commission will notify the Agency 45 days prior to signing a new provider contract so that the Agency can provide program specific training and technical assistance. The Local Commission and the Agency may mutually agree to a notice period of less than 45 days if necessitated by specific local circumstances.

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

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04; OCCF 2-2007(Temp), f. & cert. ef. 2-16-07 thru 8-15-07

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Oregon Department of Education
Chapter 581

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

Adm. Order No.: ODE 3-2007

Filed with Sec. of State: 2-21-2007

Certified to be Effective: 2-21-07

Notice Publication Date: 1-1-07

Rules Amended: 581-023-0006

Subject: The proposed amendments to OAR 581-023-0006 will clarify the application of the appropriate funding method for nonpublic students attending public school part-time and for public school students placed in an alternative education program. The proposed amendment will ratify clarification given in the ODE Executive Memoranda #022-2005-06.

Rules Coordinator: Paula Merritt—(503) 947-5746

581-023-0006

Student Accounting Records and State Reporting

(1) The following definitions and abbreviations apply to this rule:

(a) "Active roll" means the list of students enrolled and attending the school or program during the current school year;

(b) "ADA" means average daily attendance;

(c) "ADM" means average daily membership;

(d) "Alternative program" means any private or public alternative program providing instruction or instruction combined with counseling under ORS 336.635;

(e) "Day in session" means a scheduled day of instruction during which students are under the guidance and direction of teachers;

(f) "Department" means the Oregon Department of Education;

(g) "Full school day" means the length of time a school or program is normally in session during the day in compliance with OAR 581-022-1620;

(h) "FTE" means full-time equivalency;

(i) "Inactive roll" means the list of students enrolled for purposes of credit but not attending the school or program. Includes students attending private alternative or Job Corps programs, students withdrawn after ten consecutive days' absence and students served on a tutorial basis outside the classroom;

(j) "Instruction" for purposes of reimbursement of alternative programs means all activities that are approved by the student's resident school district, consistent with Oregon's academic and career related learning standards, and designed to lead to student achievement of those standards, including participation in Oregon state assessment, where applicable.

(k) "Instructional unit" means a school or other organizational arrangement which provides instruction of a given type or types;

(l) "Intermediate group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by a school district to a class of six to 15 students;

(m) "Large group" means instruction consistent with OAR 581-022-1210 and provided to a student individually placed by a school district in an alternative program approved by a school district to a class of 16 or more students;

(n) "nonpublic school" means instruction provided by an individual or institution listed in ORS 339.030 as exemptions to the compulsory attendance requirements set out in ORS 339.010.

(o) "Regular school program" means that which is offered to comply with the standards adopted by the State Board of Education and compulsory school attendance law. This does not include summer school, adult education, or pre-kindergarten programs;

(p) "Small group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by the school district to a class of two to five students;

(q) "Superintendent" means the State Superintendent of Public Instruction;

(r) "Tutorial" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by a school district to one student.

(2) Instructions pertaining to the maintenance of student accounting records and state reporting shall be published by the Department.

(3) Each school district and ESD shall:

(a) Permanently maintain accounting records of student enrollment, attendance, membership, resident/nonresident status, and such other student information as may be required, for each student enrolled in regular school programs operating during the regular school year. Such records shall utilize uniform definitions of each student measure as stated in this rule;

(b) Designate the residency for school purposes, subject to the provisions of ORS 327.006 and 339.133 of each student enrolled in the district;

(c) Have in operation an attendance accounting system which is adequately controlled and enables the district's chief administrator to certify in writing the accuracy of reported data;

(d) Report enrollment, attendance, membership, and such other information as the Superintendent may require, within 10 days of the end of the

December 31, March 31, and June 30 reporting periods. Reports for the period ending September 30 shall be submitted no later than November 15;

(e) Retain daily source records of enrollment, membership and attendance for a period of no less than two years. Records, whether paper or electronic, must be maintained in an accessible format; and

(f) Utilize the following enrollment codes for recording entry, reentry, and withdrawal of students during the regular school year.

(A) Original entries:

(i) E1 — any student who has not previously, during the current year, entered any school in the United States;

(ii) E2 — any student who has been enrolled during the current school year in a school in another state and who has not previously, during the current school year, been enrolled in any school in Oregon.

(B) Re-entries:

(i) R1 — students received from another room in the same school;

(ii) R2 — students received from a public school in the same school district;

(iii) R3 — students received from a public school in the state but outside the local school district;

(iv) R4 — students re-entering after withdrawal or discharge;

(v) R5 — students received from a nonpublic school in the state.

(C) Withdrawals (or losses). Codes are recommended but not required:

(i) W1 — students transferred to another room or classroom in the same building;

(ii) W2 — students transferred to another public school in the same local district;

(iii) W3 — students transferred to a nonpublic school in the same local district;

(iv) W4 — students moved out of the local school district or state;

(v) W5 — students quitting school after passing compulsory attendance age;

(vi) W6 — students issued work permits;

(vii) W7 — students graduated early;

(viii) W8 — students withdrawn because of other reasons;

(ix) W — the total of W1 through W8.

(D) If a school district adopts a year-round schedule incorporating a track system in which one or more tracks are scheduled to cross school years (July 1 through June 30) the enrollment code shall be expanded to include:

(i) R9 — students received from a different grade level within the same district;

(ii) W9 — students transferred to a different grade level within the same district;

(iii) The use of the R9 and W9 codes shall be limited to those students who change grades within a track during the school year. A W9 entry shall be counted as a day of membership.

(4) Students shall be entered and withdrawn from the district roll as follows:

(a) A student shall be entered on the district active roll utilizing the appropriate E or R code on the first day of the student's actual attendance. A student with an excused absence of less than ten days at the beginning of the school year may be counted in membership prior to the first day of attendance if the status has been verified by contact with the parent or guardian. A student participating in the program of more than one instructional unit shall be entered on the active roll of that instructional unit in which 50 percent or more of the student's time is scheduled and the student shall not be entered on the roll of other instructional units;

(b) A student whose withdrawal status can be determined within ten days shall be marked as a withdrawal on the school day following that determination. A student must be withdrawn from the active roll on the day following the tenth consecutive full day of absence but may be retained on the inactive roll at the district's option. A student must be present for at least one-half day in order to restart the count of consecutive days' absence. Under no circumstances shall a student who is absent for the first ten days at the beginning of the school year be counted in membership prior to the first day of school attendance.

(5) Membership and attendance accounting in instructional units scheduled to operate a full school day shall be recorded as follows:

(a) A full-time equivalency (FTE) for each student on the active roll shall be determined. Students participating in more than one-half of the full-day program shall be given an FTE of 1.0. Students participating in one-half or less of the full-day program shall be given an FTE of .5. The FTE computation of students placed in community college programs by the local school district shall include time spent in the community college program:

(A) Kindergarten students shall be assigned an FTE of 1.0. The Department shall adjust the total days membership of kindergarten students reflecting the permissible percentage as stated in statute;

(B) Students participating in district supervised work-study programs may be credited as 1.0 FTE. If a student is released for work during school hours and the district assumes no supervisory responsibility for the time involved, that time shall not be counted as participation in the full-day program when determining the student's FTE.

(b) Membership of each student for the quarter shall be computed as follows: student FTE times days present plus student FTE times days absent equals total days membership of the student. The day upon which a student is marked as a W (except W9) shall not be counted as a day of membership. A student not scheduled to attend daily shall be marked present or absent only on the days the student is scheduled to attend;

(c) Total days membership of the instructional unit shall be the total of days membership of all students on the active roll of the instructional unit as computed in subsection (b) of this section. The computation of total days membership of the instructional unit shall yield subtotals indicating grade placement and resident/nonresident status of student membership;

(d) The Department shall compute the ADM and ADA of resident students, nonresident students, and attending students for each instructional unit reporting and derive totals of such data for each local school district in the state, subject to the following procedures:

(A) ADM is the total days membership of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADM of groups of instructional units having varying lengths of terms shall be the sum of the ADMs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADM will not be higher or lower than if the local board had not adopted such a schedule;

(B) ADA is the total days attendance of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADA of groups of instructional units having varying lengths of terms shall be the sum of the ADAs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADA will not be higher or lower than if the local board had not adopted such a schedule.

(6) Students enrolled in programs operating less than the full school day and nonpublic school students attending public schools part time shall be accounted for as follows:

(a) The ADM of students enrolled in schools under provisions of ORS 336.135 and students enrolled in nonpublic schools or taught by private teacher or parent under ORS 339.035 shall be computed by multiplying total hours of instruction given all students during the reporting period by .167 and dividing the product by 55 for the October 1 to December 31 quarterly report and by 175 for the June 30 annual report;

(b) The ADM of students receiving tutorial instruction provided by certified district staff shall be computed by dividing total number of hours of tutorial instruction given (not to exceed 5 hours per week for a single student) by 55 for the October 1 to December 31 quarterly report and by 175 for the June 30 annual report;

(c) The computation of ADM for each less than full-time program listed shall yield subtotals for resident and nonresident students;

(d) The ADM of students enrolled in less than full-time programs shall be reported to the Department for the quarter ending December 31 and for the year ending June 30.

(e) No more than five day's membership may be claimed for any student enrolled in any combination of programs during a one-week period.

(f) Kindergarten ADM will be adjusted by the Department to reflect the permissible percentage as stated in statute.

(7) A student enrolled in a public school district and receiving instruction in the district's comprehensive planned K-12 curriculum consistent with OAR 581-022-1210 and who is individually placed by the school district in an alternative education program[s] under ORS 336.635 shall be accounted for as follows:

(a) The ADM of students enrolled in alternative programs scheduled to operate a full school day may be computed either on the basis of membership (section (5) of this rule) or on the basis of actual attendance (section (7)(b) of this rule);

(b) Equivalent ADM of students enrolled in alternative programs scheduled to operate less than full time shall be computed as follows:

(A) Equivalent ADM of students enrolled in large group instruction shall be computed by multiplying total hours of instruction given all students during the reporting period by a factor of .167 and dividing the product by 55 for the October 1 to December 31 quarterly report and by 175 for the June 30 annual report;

(B) Equivalent ADM of students enrolled in intermediate group instruction shall be computed by multiplying the total hours of instruction given all students during the reporting period by a factor of .222 and dividing the product by 55 for the October 1 to December 31 quarterly report and by 175 for the June 30 annual report;

(C) Equivalent ADM of students enrolled in small group instruction shall be computed by multiplying the total hours of instruction by a factor of .333 and dividing the product by 55 for the October 1 to December 31 quarterly report and by 175 for the June 30 annual report;

(D) Equivalent ADM of students receiving individual instruction shall be computed by multiplying the total number of hours of tutorial instruction given by a factor of 1.0 and dividing the product by 55 for the October 1 to December 31 quarterly report and by 175 for the June 30 annual report;

(E) Case management services (not limited to student contact) may be counted as large group instruction and constitute up to ten percent of equivalent ADM if specifically authorized by contract with the resident school district;

(F) Documented time in supervised work experience programs, supervised community service activities and supervised independent study, if performed as a part of the instructional programs designed to fulfill the student's educational goals, may be counted as large group instruction;

(G) Over any 20-day period, no more than 20 equivalent membership days may be claimed for any student receiving a combination of instructional services under paragraph (7)(b)(A), (B), (C) or (D) of this rule. Equivalent membership days for any student is equal to the hours of instruction given multiplied by the factor appropriate for the size of the instructional group.

(c) Students attending alternative programs part day and attending the home high school part day shall be reported by the home high school only, taking account of the total time spent in the alternative program and the home high school when determining FTE under section (5) of this rule;

(d) Students attending private alternative programs only, shall not be reported by the instructional unit placing the student for purposes of reporting membership or attendance.

(8) Each private alternative program shall:

(a) Maintain accounting records of student attendance, size of group attended, resident school district and such other student information as may be required by the contracting school district for each student attending the private alternative program;

(b) Report student name, dates served and hours served by group size to resident school district no less than twice yearly, once for the October 1 through December 31 period and an annual report ten days after the close of the school year; and

(c) Retain student attendance records for a period of no less than two years.

(9) Students in the following programs are not eligible to be counted in the resident average daily membership for purposes of ORS 327.013(7)(a):

(a) Students enrolled in special education programs under ORS 343.261, 343.961, and 346.010.

(b) Children enrolled in early intervention and early childhood special education programs under ORS 343.533;

(c) Students not receiving a free public education;

(d) Students in summer school programs;

(e) Students in adult education classes.

(10) Rules governing the reporting of students identified as dropouts are contained in the most recent edition of the Oregon Dropout Reporting Manual, published by the Oregon Department Education. The State Board of Education adopts the procedures in this publication to govern the reporting of dropouts by school districts.

(11) For the purposes of dropout reporting, the following shall apply:

(a) A student is considered enrolled when the student is present at school and attends more than half of a school day;

(b) Acceptable alternative programs are those programs providing activities meeting OAR 581-023-0008 and provided by public school districts, ESDs, community colleges or private alternative programs registered with the Oregon Department of Education under OAR 581-021-0072;

(c) An absence, explained or unexplained becomes a withdrawal after an absence of 10 consecutive days. A student must be present for at least one-half day in order to restart the count of consecutive days absence;

(d) Standards for excused absences must be developed by local districts. Policies shall clearly define excused and unexcused absences and ensure the health and safety of the child. Parents shall be informed of the policies at enrollment. Policy should address the documentation required.

(12) The Superintendent shall prescribe the applicable student accounting procedures for any programs or specific situations not covered by the provisions of this rule.

Stat. Auth.: ORS 326.310 & 327.125
Stats. Implemented: ORS 325.125
Hist.: 1EB 1-1981, f. 2-5-81, ef. 7-1-81; 1EB 14-1985, f. 7-3-85, ef. 7-5-85; 1EB 28-1986, f. & ef. 7-18-86; EB 17-1987, f. & ef. 8-4-87; EB 18-1987(Temp), f. & ef. 8-4-87; EB 33-1987, f. & ef. 12-11-87; EB 38-1988, f. & cert. ef. 9-22-88; EB 30-1992, f. & cert. ef. 10-14-92; EB 6-1996, f. & cert. ef. 4-25-96; ODE 3-2007, f. & cert. ef. 2-21-07

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Rule Caption: The proposed rule adopts the current version of the AG's Model Rules of Procedure.
Adm. Order No.: ODE 4-2007
Filed with Sec. of State: 2-21-2007
Certified to be Effective: 2-21-07
Notice Publication Date: 1-1-07
Rules Amended: 581-001-0005
Subject: The proposed amendments will incorporate the most recent version of the Attorney General's Model Rules of Procedure and will update reference to the most recent version of the federal law, the Individuals with Disabilities Education Act.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-001-0005
Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the State Board of Education adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2006, except for special education due process hearings authorized under ORS 343.165, which shall be heard in accordance with rules of the State Board of Education implementing the federal law, Individuals with Disabilities Education Act, in effect as of December 3, 2004.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Education.]
Stat. Auth.: ORS 183
Stats. Implemented: ORS 183.341
Hist.: 1EB 2, f. 12-22-58; 1EB 125, f. 11-4-71, ef. 11-15-71; 1EB 160, f. 11-2-73, ef. 11-25-73; Renumbered from 581-061-0035, 4-1-76; 1EB 222, f. 3-22-76, ef. 4-1-76; 1EB 14-1978, f. & ef. 4-3-78; 1EB 7-1980, f. & ef. 4-17-80; 1EB 20-1981(Temp), f. 12-29-81, ef. 12-31-81; 1EB 11-1982, f. & ef. 3-24-82; 1EB 2-1984, f. 2-17-84, ef. 5-8-84; 1EB 22-1986, f. & ef. 7-14-86; EB 2-1995, f. & cert. ef. 1-24-95; ODE 2-2006(Temp), f. & cert. ef. 2-14-06 thru 8-1-06; Administrative correction 8-22-06; ODE 4-2007, f. & cert. ef. 2-21-07

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Rule Caption: Adoption of an Amendment to the Oregon Administrative Rule 581-022-1060 School and District Performance Report Criteria.
Adm. Order No.: ODE 5-2007
Filed with Sec. of State: 2-21-2007
Certified to be Effective: 2-21-07
Notice Publication Date: 11-1-06
Rules Amended: 581-022-1060
Subject: From the federal Non-Regulatory Guidance for Title IA Report Cards.

States and LEAs must issue report cards annually. While States and LEAs have the flexibility to determine the exact time during the year when they will issue report cards, the best practice would be to issue report cards as early as possible, so that schools have critical information for improving instruction and parents have critical information to make decisions regarding public school choice and supplemental educational services options.

The current rule only requires schools and districts disseminate reports cards by March 31 following report card issue, two months after the statutory publication date of January 30. Now report cards are produced prior to October 15th.

Amending this administrative rule will ensure best practice.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-022-1060
School and District Performance Report Criteria

(1) The Superintendent of Public Instruction will annually collect data from schools and school districts on student performance, student behavior and school characteristics and will annually produce a performance report for each school and school district.

(2) The Superintendent will notify the public and the media by January 30 of each year that school and district performance reports are available at each school and school district and at the Department of Education website and office. The Superintendent will include in the notice that Consolidated District Improvement Plans and School Improvement Plans as required in ORS 329.095 are available form the school and school district offices.

(3) By December 15 of each year, school districts shall send a copy of the state provided school and school district performance report to the parent(s) or guardian(s) of each child enrolled in a public school in the school district.

(4) School performance reports will include grades assigned by the Superintendent, based on valid scoring scales, in each of the following categories:

(a) Student Performance;

(b) Student Behavior; and

(c) School Characteristics.

(5) School grades shall be reported as:

(a) Exceptional;

(b) Strong;

(c) Satisfactory;

(d) Low; or

(e) Unacceptable.

(6) Criteria for a school grade in Student Performance will include performance as measured by: Statewide assessment.

(7) Criteria for a school grade in Student Behavior will include performance as measured by:

(a) Student dropout rate; and

(b) Student attendance rate.

(8) Criteria for a school grade in School Characteristics will include performance as measured by: Percentage of students participating in statewide assessment.

(9) The school performance report will also include an overall grade based on a composite of the three categorical grades listed in section (4) of this rule and on improvement in Student Performance and Student Behavior over time and will be explained on the performance reports.

(10) A school receiving any grade of "Low" or "Unacceptable" shall file its revised school improvement plan with the Superintendent, the school board and the 21st Century Schools Council for the school by March 31 following the report.

(11) School performance reports may include information other than that listed in section (4). Such information will not be part of the calculation of the school grade in individual categories or of the overall grade.

(12) School district performance reports will be developed and must include the overall rating of each school in the district. The district performance report may include information other than that listed in section (4).

(13) School and school districts may include information in addition to that listed in section (4) in their locally prepared and distributed school and school district performance reports.

(14) School and school district performance reports, in conjunction with electronic supplements of the performance reports, will serve as the means by which the state meets the report card requirements of section 1111 of the No Child Left Behind Act of 2001.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 329.105
Hist.: ODE 36-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 5-2007, f. & cert. ef. 2-21-07

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Rule Caption: Adoption of Adequate Yearly Progress Substantive Appeals Administrative Rule.
Adm. Order No.: ODE 6-2007
Filed with Sec. of State: 2-21-2007
Certified to be Effective: 2-21-07
Notice Publication Date: 11-1-06
Rules Adopted: 581-022-1065
Subject: Currently, a committee of Oregon Department of Education staff consider substantive appeals and evidence filed by districts and recommends final Adequate Yearly Progress determinations of schools and districts based on the results of the appeals to the Assistant Superintendent. These recommendations would more appropriately be made with Local Education Agency staff serving on the appeals committee.

Adoption of this rule will formalize the process for substantive appeals to include Local Education Agency staff.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-022-1065
Substantive Appeals

(1) The Superintendent of Public Instruction will appoint a committee of at least 8 members of the educational community to serve annually to review district requests for substantive appeals of school Adequate Yearly Progress (AYP) determinations.

(2) Substantive appeals for AYP designations will be considered by the committee when:

(a) The written request from the superintendent or his/her designee is received at the ODE within 18 calendar days of the public release of preliminary AYP reports;

(b) The school is determined to not meet AYP based on unique events that could not be predicted and/or controlled by the school or district; and

(c) The data issue contributing to the substantive appeal could not otherwise be remedied through district corrections of related data.

(3) Substantive appeals will not be considered by the committee when based on:

(a) Problems that could have been avoided based on correction to student test records or student level data;

(b) Challenges to state policy and rules, federal law, regulations or non-regulatory guidance or provisions described in the State's Accountability Workbook; or

(c) Lack of knowledge of policies outlined in the AYP/Report Card manuals or the Assessment Administration Manual or numbered memos.

(4) The committee will review appeals based on:

(a) The district's description of the issue;

(b) The district's history related to the issue; and

(c) Availability of alternatives to mitigate instances of the issue.

(5) For the 2005–06 AYP designation, appeals will be considered based on data from the 2004–05 or 2005–06 school years.

(6) For the 2006–07 AYP designation, appeals will be considered based only on data from the 2006–07 school year.

(7) The committee's decision regarding appeals will be final.

(8) The ODE will publish annually the list of approved appeals by November 15th. The list will designate those appeals that will not be approved in subsequent years.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: ODE 6-2007, f. & cert. ef. 2-21-07

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Rule Caption: Describes the security protocol for school districts administering electronic state assessment without a secure browser.
Adm. Order No.: ODE 7-2007(Temp)
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07 thru 8-24-07
Notice Publication Date:
Rules Adopted: 581-022-0613
Subject: The rule describes the security protocol required for school districts to administer state assessments using a computer platform that does not currently support use of a secure browser.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-022-0613
Administering Electronic Tests without a Secure Browser

(1) School districts will administer Technology Enhance Statewide Assessments using a secure internet application if the application:

(a) Is made available to districts by the department or its delegate; and

(b) Once installed on districts' computer systems, the application allows students to use all the functions of the application that are material to the administration of the test as described by guidance from the department, the test administration manual or associated user guides.

(2) School districts unable to administer Technology Enhance Statewide Assessments using a secure internet application must:

(a) Prohibit printing of assessment documents except to print reading passages. Printed passages must be securely destroyed at the end of each day as identified in the Test Administration manual;

(b) Provide proctors to actively monitor students while they are taking tests to ensure that students do not: A) leave the Technology Enhanced Statewide Assessment (TESA) website during a statewide assessment testing session; or

(c) Use software during a statewide assessment testing session that could compromise the security of the statewide assessment.

(3) School districts administering assessments using a non-secure internet application must monitor their students' statewide assessment results to identify potential test security breeches.

(4) Test administrators must notify the District Test Coordinator (DTC) of any potential security breach.

(5) The District Test Coordinator must notify the department of any potential security breeches.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: ODE 7-2007(Temp), f. & cert. ef. 3-1-07 thru 8-24-07

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Rule Caption: Revision of Student Record rules to comply with federal law (Family Education Rights and Privace Act).
Adm. Order No.: ODE 8-2007
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 1-1-07
Rules Adopted: 581-021-0255, 581-021-0265, 581-021-0371, 581-021-0372, 581-021-0391
Rules Amended: 581-021-0220, 581-021-0250, 581-021-0260, 581-021-0270, 581-021-0330, 581-021-0340, 581-021-0350, 581-021-0360, 581-021-0380, 581-021-0400, 581-021-0410
Rules Repealed: 581-021-0440
Subject: Federal law regarding student records is contained in the Family Education Rights and Privacy Act (FERPA). Oregon administrative rules regarding student records must reflect current FERPA requirements and these new rules and amendments will result in that alignment.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-021-0220
Definitions

As used in OAR 581-021-0220 through 581-021-0440, the following definitions apply:

(1) "Attendance" includes, but is not limited to:

(a) Attendance in person or by correspondence; and

(b) The period during which a person is working under a work-study program.

(2) "Directory Information" means those items of personally identifiable information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information may include, and is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended. (3) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(4) "Disciplinary action or proceeding" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

(5) "Educational Agency or Institution" means any public or private school, education service district, state institution, private agency or youth care center providing educational services to students birth through age 21, and through Grade 12, that receives federal or state funds either directly or by contract or subcontract with the Department under any program administered by the U.S. Secretary of Education or the Department.

(6) "Education Records":

(a) The term means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution;

(b) The term does not include:

(A) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(B) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of OAR 581-021-0225.

(C) Records relating to an individual who is employed by an educational agency or institution, that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under this subsection;

(D) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.

(E) Records that only contain information relating to activities in which an individual engaged after he or she is no longer a student at that agency or institution;

(F) Medical or nursing records which are made or maintained separately and solely by a licensed health care professional who is not employed by the educational agency or institution, and which are not used for education purposes of planning.

(7) "Eligible Student" means a student who has reached 18 years of age, or a student who is attending only an institution of postsecondary education and is not enrolled in a secondary school.

(8) "Institution of Postsecondary Education" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond Grade 12) at which secondary education is provided.

(9) "Parent" means a parent of a student and includes a natural parent, a guardian, an individual authorized in writing to act as a parent in the absence of a parent or a guardian, or a surrogate parent appointed to represent a student with disabilities. The term does not include the state if the child is a ward of the state and the student is eligible for special education services or is suspected of being eligible for special education services under state and federal law.

(10) "Party" means an individual, agency, institution, or organization.

(11) "Permanent record" means the educational record maintained by the educational agency or institution which includes:

(a) Name and address of the educational agency or institution;

(b) Full legal name of the student;

(c) Student's birth date and place of birth;

(d) Name of parents/guardians;

(e) Date of entry into the school;

(f) Name of school previously attended;

(g) Courses of study and marks received;

(h) Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;

(i) Credits earned;

(j) Attendance;

(k) Date of withdrawal from school;

(l) Social security number, subject to subsection (1)(j) of this rule; and

(m) Such additional information as the educational agency or institution may prescribe.

(12) "Personally Identifiable Information" includes, but is not limited to:

(a) The student's name;

(b) The name of the student's parent or other family member;

(c) The address of the student or student's family;

(d) A personal identifier, such as the student's social security number or student number;

(e) A list of personal characteristics that would make the student's identity easily traceable; and

(f) Other information that would make the student's identity easily traceable.

(13) "Record" means any information recorded in any way including, but not limited to, handwriting, print, tape, film, microfilm and microfiche.

(14) "Student" means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

(15) "Substitute care program" means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 326.565 & 34 CFR § 99.3
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0250
An Educational Agency or Institution's Policy Regarding Student Education Records

(1) Each educational agency or institution shall adopt a policy regarding how the agency or institution meets the requirements of OARs 581-021-0220 through 581-021-0430. The policy shall include:

(a) A description of how the agency or institution annually informs parents and students of their rights, in accordance with OAR 581-021-0260;

(b) A description of how a parent or eligible student may inspect and review education records according to OAR 581-021-0270;

(c) A statement that personally identifiable information will not be released from an education record without the prior written consent of the parent or eligible student according to OAR 581-021-0330, except under one or more of the conditions described in OAR 581-021-0340;

(d) A statement indicating whether the educational agency or institution has a policy of disclosing personally identifiable information under OAR 581-021-0340(1), and, if so, a specification of the criteria for determining which parties are school officials and what the agency or institution considers to be a legitimate educational interest. With respect to students with disabilities, each educational agency or institution shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information;

(e) A statement that a record of disclosures will be maintained as required by OAR 581-021-0400, and that a parent or eligible student may inspect and review that record;

(f) Specification by the educational agency or institution of the types of personally identifiable information the agency or institution has designated as directory information under OAR 581-021-0390;

(g) A statement that the agency or institution permits a parent or eligible student to request correction of the student's education records under OAR 581-021-0300, to obtain a hearing under OAR 581-021-0310(1), and to add a statement to the record under OAR 581-021-0310(3);

(h) A statement that the educational agency or institution, as required by OAR 581-021-0260, annually notifies parents and eligible students of their rights to review and propose amendments to the student's education records;

(i) A statement that the educational agency or institution maintains a permanent record on each student;

(j) A statement that the educational agency or institution will request the social security number of a student and will include the social security number on the permanent student record only if the parent or eligible student complies with the request. The request shall include notification to the parent or eligible student that the provision of the social security number is voluntary and notification of the purposes for which the social security number will be used;

(k) A statement that the educational agency or institution provides for the retention of permanent records in a minimum one-hour fire-safe place in the educational agency or institution, or for keeping duplicate permanent records in a safe depository outside the building;

(l) A statement that the education agency or institution complies with OAR 581-021-0255 on the request for and transfer of student education records; and

(m) A statement that the educational agency or institution has a policy of disclosing personally identifiable information from an education record to an ESD, state regional program, or other educational agency or institution that has requested the records and in which the student seeks or intends to enroll or is enrolled or receives services from. The term "receives services" includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(2) For purposes of subsection (1)(l) of this rule:

(a) "Private agency" means an agency with which the Department of Education contracts under ORS 343.961; and

(b) "Youth care center" means a center as defined in ORS 420.855.

(3) The educational agency or institution shall state the policy in writing and make a copy of it available on request to a parent or eligible student.

Stat. Auth.: ORS 326.565, 34 CFR § 99.6, 34 CFR 300.616
Stats. Implemented: ORS 326.565 & 326.575
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; EB 12-1997(Temp), f. & cert. ef. 8-28-97; ODE 4-1998, f. & cert. ef. 2-27-98; ODE 10-1998, f. & cert. ef. 6-23-98; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0255
Transfer of Student Education Records

(1) Within ten days of a student seeking enrollment in or services from a public or private school including an ESD, or when a student is placed in a state institution other than an institution of postsecondary education, or a private agency or youth care center (hereinafter referred to as the new educational agency), the new educational agency must notify the public or private school, education service district, institution, agency, or youth care center in which the student was formerly enrolled (hereinafter referred to as the former educational agency), and request the student's education records.

(2) Subject to ORS 339.260, the former educational agency must transfer all requested student education records to the new educational agency no later than 10 days after receiving the request.

(3) The education records transferred to the new educational agency must include any education records relating to the particular student retained by an education service district.

(4) The educational agency must retain originals of student education records for the time periods and under the conditions described in the record retention rule, OAR 166-400-0060, except that originals shall be transferred to a new education agency upon request.

(5) When original records have been transferred to a new educational agency as required in subsection (2) of this rule, readable photocopies of the following documents must be retained by the former educational agency or institution for the time periods and under the conditions as prescribed in the record retention rule, OAR 166-400-0060:

(a) The student's permanent record as defined in subsection (11) of OAR 581-021-0220; and

(b) Such special education records as are necessary to document compliance with state and federal audits.

(6) Notwithstanding subsections (1) and (2) of this section, for students who are in substitute care programs:

(a) A school, institution, agency, facility or center shall notify the school, institution, agency, facility or center in which the student was formerly enrolled and shall request the student's education records within five days of the student seeking initial enrollment; and

(b) Any school, institution, agency, facility or center receiving a request for a student's education records shall transfer all student education records relating to the particular student to the requesting school, institution, agency, facility or center no later than five days after the receipt of the request.

Stat. Auth.: ORS 326.565, 34 CFR § 99.6
Stats. Implemented: ORS 326.565
Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0260
An Educational Agency or Institution's Annual Notification

(1) Each educational agency or institution shall annually notify parents of students currently in attendance, and eligible students currently in attendance, at the agency or institution of their rights under OAR 581-021-0220 through 581-021-0440.

(2)The notice must inform parents and eligible students that they have a right to:

(a) Inspect and review the student's education records;

(b) Request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;

(c) Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that these rules authorize disclosure without consent;

(d) Pursuant to OAR 581-021-0410, file with the U.S. Department of Education a complaint under 34 CFR § 99.64 concerning alleged failures by the agency or institution to comply with the requirements of the Family Educational Rights and Privacy Act; and

(e) Obtain a copy of the policy adopted under OAR 581-021-0250.

(3) The notice must include all of the following:

(a) The procedure for exercising the right to inspect and review education records.

(b) The procedure for requesting amendment of records under OAR 581-021-0300;

(c) Regarding disclosure of education records to school officials and teachers within the education agency whom the agency has determined to have legitimate educational interest, a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest;

(3) Each educational agency or institution shall annually notify parents and eligible students of what it considers to be directory information and the conditions for disclosure of such information as provided in OAR 581-021-0390.

(4) Each educational agency or institution shall annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request.

(5) The notice provided under section (1) of this rule must also indicate the places where copies of the policy adopted under OAR 581-021-0250 are located.

(6) An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents and eligible students of their rights;

(7) An agency or institution of elementary or secondary education shall effectively notify parents of students who have a primary or home language other than English.

(8) An educational agency or institution shall effectively notify parents or eligible students who are disabled.

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

Stat. Auth.: ORS 326.565 & 34 CFR § 99.7

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0265

Confidentiality of Student Education Records

(1) Each school district shall keep confidential any record maintained on a child with a disability in conformance with OAR 581-021-0220 through 581-021-0440.

(2) Each school district shall protect the confidentiality of personally identifiable information at collection, storage, discloser, and destruction stages.

(3) One official at each school district shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

(4) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under OAR 581-015-0055 through 581-015-0606 and 581-021-0220 through 581-021-0440.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 34 CFR Sec 99.7

Stats. Implemented: ORS 343.045, 343.155

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0270

Rights of Inspection and Review of Education Records

(1) Except as limited under OAR 581-021-0290, each educational agency or institution shall permit a parent, an eligible student, or a representative of a parent if authorized in writing by the parent, to inspect and review the education records of the student.

(2) The educational agency or institution shall comply with a request for access to records:

(a) Within a reasonable period of time and without unnecessary delay;

(b) For children with disabilities under OAR 581-015-0051, before any meeting regarding an IEP, or any due process hearing, or any resolution session related to a due process hearing; and

(c) In no case more than 45 days after it has received the request.

(3) The educational agency or institution shall respond to the reasonable requests for explanations and interpretations of the records.

(4) If a parent or an eligible student so requests, the educational agency or institution shall give the parent or eligible student a copy of the student's education records pursuant to ORS 192.440, except that no copy of test protocols, test questions and answers, and other documents described in ORS 192.501(4) shall be provided unless authorized by federal law.

(5) The educational agency or institution shall not destroy any education records if there is an outstanding request to inspect and review the records under this rule.

(6) While an education agency or institution is not required to give an eligible student access to treatment records under the definition of "education records" in OAR 581-021-0220(6)(b)(D), the student may, at his or her expense, have those records reviewed by a physician or other appropriate professional of the student's choice.

Stat. Auth.: ORS 192.440, 192.501(4), 326.565 & 34 CFR § 99.10

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0330

Prior Consent to Disclose Information

(1) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in OAR 581-021-0340.

(2) "Signed and dated written consent" under this part may include a record and signature in electronic form that:

(a) Identifies and authenticates a particular person as the source of the electronic consent; and

(b) Indicates such person's approval of the information contained in the electronic consent.

(3) The written consent must:

(a) Specify the records that may be disclosed;

(b) State the purpose of the disclosure; and

(c) Identify the party or class of parties to whom the disclosure may be made.

(3) When a disclosure is made under section (1) of this rule:

(a) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and

(b) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(4) If a child is enrolled or is going to enroll in a private school that is not located in the child's resident school district, parent consent must be obtained before any personally identifiable information about the child is released between officials of the school district where the private school is located and the resident school district.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.30, 34 CFR 300.622

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0340

Exceptions to Prior Consent

An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by OAR 581-021-0330 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to school board members during executive session pursuant to ORS 332.061, or to other school officials and teachers within the educational agency whom the agency or institution has determined to have legitimate educational interests.

(2) The disclosure is to officials of another school, school system, institution of postsecondary education, education service district, state regional program, or other educational agency that has requested the records and in which the student seeks or intends to enroll, or is enrolled in or receives services from the other agency or institution. The term "receives services" includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(3) The disclosure is, subject to the requirements of OAR 581-021-0370, to authorized representatives of:

(a) The Comptroller General of the United States;

(b) The Secretary of the U.S. Department of Education;

(c) State and local educational authorities; or

(d) The Oregon Secretary of State's Audit Division.

(4) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(a) Determine eligibility for the aid;

(b) Determine the amount of the aid;

(c) Determine the conditions for the aid; or

(d) Enforce the terms and conditions of the aid;

(e) As used in this section, "financial aid" means a payment of funds provided to an individual (or a payment in king of tangible or intangible

property to the individual) that is conditioned on the individual's attendance at an education agency or institution.

(5)(a) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

(A) Develop, validate, or administer predictive tests;

(B) Administer student aid programs; or

(C) Improve instruction.

(b) The agency or institution may disclose information under this section only if:

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(c) For the purposes of this section, the term "organization" includes, but is not limited to, federal, state and local agencies, and independent organizations.

(6) The disclosure is to accrediting organizations to carry out their accrediting functions.

(7) The disclosure is to parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986.

(8) The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the requirements of OAR 581-021-0371.

(9) The disclosure is related to a legal action subject to the conditions of OAR 581-021-0372.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in OAR 581-021-0380.

(11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in OAR 581-021-0390.

(12) The disclosure is to the parent of a student who is not an eligible student or to an eligible student.

(13) The disclosure is to a court and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies subject to conditions described in OAR 581-021-0391.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 326.565, 336.187, 34 CFR § 99.31 336.187
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0350
Limitations on the Redisclosure of Information

(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. The officers, employees, and agents of a party that receives information under this section may use the information, but only for the purposes for which the disclosure was made.

(2) Section (1) of this rule does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

(a) The disclosures meets the requirements of OAR 581-021-0340; and

(b) The educational agency or institution has complied with the requirements in OAR 581-021-0400(2).

(3) Section (1) of this rule does not apply to the following:

(a) Disclosures to parents of a dependent student under OAR 581-021-0340(7) or to an eligible student;

(b) Disclosures pursuant to court orders, lawfully issued subpoenas, or legal action under OAR 581-021-0340(8) or (9);

(c) Disclosures of directory information under OAR 581-021-0340(11).

(4) When applicable, an educational agency or institution shall inform a party to whom disclosure is made of the requirements of this rule.

(5) If the Family Policy Compliance Office determines that a third party improperly rediscloses personally identifiable information from education records in violation of paragraph 1, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.33
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0360
Conditions for the Disclosure of Information to Other Educational Agencies or Institutions

(1) An educational agency or institution that discloses an education record under OAR 581-021-0340(2) to officials of another school or school system where the student seeks or intends to enroll shall:

(a) Annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request;

(b) Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:

(A) The disclosure is initiated by the parent or eligible student; or

(B) The annual notification of the agency or institution under §99.6 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll;

(b) Give the parent or eligible student, upon request, a copy of the record that was disclosed; and

(c) Give the parent or eligible student, upon request, an opportunity for a hearing.

(2) An educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:

(a) The student is enrolled in or receives services from the other agency or institution; and

(b) The disclosure meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.34
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0371
Conditions for Disclosure of Information to Comply with Judicial Order or Subpoena

The educational agency or institution may disclose information under this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action except as provided below.

(1) Conditions when no notice required:

(2) The educational agency or institution may disclose information under this section without notice to the parent or eligible student if the disclosure is in compliance with:

(a) A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(b) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.31
Stats. Implemented: ORS 326.56
Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0372
Conditions for the Disclosure of Information When Legal Action Initiated

(1) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(2) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or the institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.31
Stats. Implemented: ORS 326.56
Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0380
Conditions for the Disclosure of Information in Health and Safety Emergencies

(1) An educational agency or institution shall disclose personally identifiable information from an education record to law enforcement, child protective services, and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of

the information is necessary to protect the health and safety of the student or other individuals.

(2) Nothing in this Act or this part shall prevent an educational agency or institution from –

(a) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(b) Disclosing appropriate information maintained under paragraph (2)(a) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(3) Paragraphs (1) and (2) of this section will be strictly construed.

(4) As used in this rule, a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction, or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to ORS 418.750 to 418.760.

(3) Sections (1) and (4) of this rule shall be strictly construed.

Stat. Auth.: ORS 326.565, 336.187 & 34 CFR § 99.36
Stats. Implemented: ORS 336.187 & 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0391
Conditions for the Disclosure of Information to Juvenile Justice Agencies

An educational agency or institution may disclose personally identifiable information to a court and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies provided that:

(1) Disclosure relates to the court's or juvenile justice agency's ability to serve the needs of a student prior to the student's adjudication under ORS chapter 419C.

(2) A person to whom personally identifiable information is disclosed under this paragraph shall certify, in writing, that the person will not disclose the information to a third party other than another court or juvenile justice agency or a person or organization providing direct services to the student on behalf of a juvenile justice agency.

Stat. Auth.: ORS 326.565, 336.187 & 34 CFR § 99.
Stats. Implemented: ORS 326.56
Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0400
Recordkeeping Requirements

(1) An educational agency or institution shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student:

(a) The agency or institution shall maintain the record with the education records of the student as long as the records are maintained;

(b) For each request or disclosure the record must include:

(A) The parties who have requested or received personally identifiable information from the education records;

(B) The date access was given; and

(C) The legitimate interests the parties had in requesting or obtaining the information.

(2) If an educational agency or institution discloses personally identifiable information from an education record with the understanding authorized under OAR 581-021-0350(2), the record of disclosure required under this section must include:

(a) The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

(b) The legitimate interests under OAR 581-021-0340 which each of the additional parties has in requesting or obtaining the information.

(3) The following parties may inspect the record relating to each student:

(a) The parent or eligible student;

(b) The school official or his or her assistants who are responsible for the custody of the records;

(c) Those parties authorized in OAR 581-021-0340(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

(4) Section (1) of this rule does not apply if the request was from or the disclosure was to:

(a) The parent or eligible student;

(b) A school official under OAR 581-021-0340(1);

(c) A party with written consent from the parent or eligible student; or

(d) A party seeking directory information.

(e) A party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.32, 34 CFR 300.614
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0410
Filing a Federal Complaint

(1) A person may file a written complaint with the Family Policy Compliance Office, U.S. Department of Education, regarding an alleged violation under the Family Educational Rights and Privacy Act. The office's address is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Ave. SW, Washington, D.C. 20202-5920.

(2) A timely complaint under section (1) of this rule is defined as an allegation of a violation of the Family Educational Rights and Privacy Act that is submitted to the Family Policy Compliance Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonable should have know of the alleged violation.

(3) The Family Policy Compliance Office extends the time limit in section (2) of this rule if the complainant shows that he or she was prevented by circumstances beyond the complainant's control from submitting the matter within the time limit, or for other reasons considered sufficient by the Family Policy Compliance Office.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.63 & 99.64
Stats. Implemented: ORS 326.565
Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amend rule which allows license refusal that public interest or convenience does not demand.
Adm. Order No.: OLCC 2-2007
Filed with Sec. of State: 2-20-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 12-1-06
Rules Amended: 845-005-0326
Subject: This rule describes the public interest or convenience reasons for which the Commission may deny a license. We intend to make housekeeping-type amendments to the rule, including: removing the word "lewd" from section (1) to bring the language into agreement with another recently amended rule; removing all of section (6) from the rule because it exceeds our statutory scope; changing the word "and" to "or" in section (2)(a)(A); and correcting a reference to the underlying refusal statute in section (5).
Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-005-0326
License Not Demanded by Public Interest or Convenience

ORS 471.313(1) allows the Commission to deny a license that public interest or convenience does not demand. The following are some of the public interest or convenience reasons for which the Commission may deny a license unless the applicant shows good cause to overcome the criteria:

(1) Alcohol-Related Problems at Other Licensed Premises:

(a) The applicant has had repeated problems at another licensed location during the two years preceding this application or has had a license canceled or renewal refused because of problems with disturbances, unlawful activities or noise. These problems:

(A) Must occur on the licensed premises or be caused by patrons in the immediate vicinity of the licensed premises;

(B) Include, but are not limited to, obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol-related litter; trespassing on private property; and public urination; and

(C) Must be related to the sale or service of alcohol under the exercise of the license privileges.

(b) Good cause to overcome this criterion is a showing by the applicant that the applicant will reasonably control all of the applicant's licensed premises to prevent problems described in paragraphs (1)(a)(A), (B), and

(C) of this rule. Factors that affect this good cause determination may include, but are not limited to:

(A) Applicant is currently licensed at an outlet that has not had the problems described in paragraphs (1)(a)(A), (B), and (C) of this rule in the past year;

(B) Applicant successfully regained control of premises that had problems described in paragraphs (1)(a)(A), (B), and (C) of this rule;

(C) Applicant has a corrective plan that is likely to be effective;

(D) License conditions or restrictions would enable control of applicant's premises; and

(E) Applicant did not participate in the daily operation of the problem outlet, and there has not been a pattern of problems described in paragraphs (1)(a)(A), (B), and (C) of this rule at other outlets where applicant has been licensed.

(c) This criterion does not apply to renewal applications.

(2) Proximity to Facilities:

(a) The licensed premises:

(A) Will be located within 500 feet in urban or suburban areas or within 1,500 feet in a rural area of the boundary (measured property line to property line) of a licensed child care facility or elementary or secondary school; a church; a hospital, nursing care facility or convalescent care facility; a park or children-oriented recreational facility; or alcohol and other drug treatment or rehabilitation facility; and

(B) Will adversely impact the facility.

(b) Good cause to overcome this criterion includes, but is not limited to, a showing by the applicant that:

(A) The proposed operation is consistent with the zoning where the proposed premises will be located, is consistent with the general character of the area and the adverse impact will not unreasonably affect the facility; or

(B) The size of the proposed premises' community is so small that the proposed location is a reasonable location for the proposed operation.

(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.

(3) Problem Areas:

(a) The licensed premises will be located in an area that has a history of serious or persistent problems with unlawful activities, noise or disturbances. These problems need not be alcohol-related;

(b) Good cause to overcome this refusal basis includes, but is not limited to, a showing by the applicant that:

(A) Alcoholic beverage sale or service at the premises will not contribute to the problems, and

(B) The applicant has a willingness and ability to control the proposed premises and patrons' behavior near the licensed premises. When assessing the applicant's willingness and ability, the Commission will consider factors including but not limited to the applicant's relevant experience, and the applicant's reasonable and credible operating and security plans.

(c) This criterion does not apply to renewal applications or to changes of ownership with no change in license privileges or operation.

(4) Off-Premises Sales License: The applicant seeks an Off-Premises Sales license at an outlet that sells petroleum products and does not or will not maintain a wide variety of grocery items available for immediate sale. "Wide variety" means an inventory at a cost to the applicant of not less than $5,000 of foods that satisfy the general public's ordinary eating habits and personal and household products. "Wide variety" does not include alcoholic beverages or tobacco products. It also does not include snack food items that exceed ten percent of the inventory's value.

(5) Licensed physician or other professional evaluations of the applicant or any on-premises manager's mental, emotional or physical condition that show incompetence or physical inability to manage the business the applicant wants licensed. ORS 471.313(4)(c) allows the Commission to deny a license if the applicant is incompetent or physically unable to manage the business the applicant wants licensed. These evaluations are some indicators of this incompetence or physical inability.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.313
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2001, f. 12-18-01, cert. ef. 1-1-02; OLCC 12-2004, f. 10-15-04 cert. ef. 11-1-04; OLCC 2-2007, f. 2-20-07, cert. ef. 3-1-07

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Rule Caption: Amend and adopt rules allowing initial Alcohol Server Education course to be given online.
Adm. Order No.: OLCC 3-2007
Filed with Sec. of State: 2-26-2007
Certified to be Effective: 9-1-07
Notice Publication Date: 11-1-06
Rules Adopted: 845-016-0016, 845-016-0036
Rules Amended: 845-016-0005, 845-016-0010, 845-016-0015, 845-016-0020, 845-016-0030, 845-016-0035, 845-016-0045, 845-016-0075
Subject: All alcohol servers and on-premises licensees must take an ASE course before licensure, and must renew/retake the training every five years. Previously the initial course had been presented only in a face-to-face classroom setting; and ASE renewal course is already presented in both face-to-face and online formats. This package of ten rules allows the initial course to also be given online.
Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-016-0005
Definitions

As used in OAR chapter 845, division 16:

(1) "Advertising" means any form of notice used in recruiting and promotion, however disseminated, such as publications, signs, mailings, radio, television and audiovisual materials.

(2) "Authorized Representative" means a person who meets the minimum qualifications in OAR 845-016-0020(1) and makes decisions on behalf of the provider that include hiring instructors, evaluating instructor qualifications and supervising instructor performance or managing online operations.

(3) "Case Study" means a teaching method in which the instructor or actor(s) describes, orally or in writing, a situation directly related to the training. The students, instructor or actor(s) demonstrate a possible solution and then the students, instructor or actor(s) describe, demonstrate or discuss the strengths, weaknesses and alternatives to the solution.

(4) "Classroom course" or "classroom setting" means an Alcohol Server Education course (either initial or renewal) taught in a classroom setting with an instructor present.

(5) "Initial Alcohol Server Education course" or "initial course" means the course required by ORS 471.542 and OAR 845-009-0075.

(6) "Online course" means an Alcohol Server Education course (either initial or renewal) accessible via a computer or computer network.

(7) "Provider" means a person certified by the Commission to provide a Commission-approved alcohol server education course and includes: an individual, limited partnership, general partner, limited partner whose investment commitment is ten percent or more of the total investment commitment, corporation, director or principal officer as defined in OAR 845-006-0301, stockholder who owns or controls ten percent or more of any class of stock, limited liability company, limited liability company's member or manager, or other bonafide legal entity. The legal entity may not be set up to avoid the fee structure for providers that these rules establish.

(8) "Renewal Alcohol Server Education course" or "renewal course" means the course required by ORS 471.542, OAR 845-009-0075, and 845-016-0068.

(9) "Role Play" means a teaching method in which the students or actors assume the roles of characters in a situation directly related to the training and then act out responses to the situation the scene presents. Role plays in online courses must meet the course design and technical standards in the Alcohol Server Education Provider Quality Assurance Plan, including the Minimum Course Design and Technical Standards for Online Courses (published September 1, 2007 and available at the Commission's main office at 9079 SE McLoughlin Blvd., Portland, OR).

Stat. Auth.: ORS 471.030, 471.730(1) & (5))
Stats. Implemented: ORS 471.542 & 471.547
Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0010
Provider Certification Process

(1) A person who wants to become a provider of Alcohol Server Education Courses must submit:

(a) A completed application package provided by the Commission that shows how the applicant meets the standards in OAR 845-016-0015 or 845-016-0016; and

(b) A $500 non-refundable application evaluation fee. The Commission accepts a check or money order payable to the Oregon Liquor Control Commission.

(2) If an application is incomplete, the Commission will tell the applicant what is needed. The applicant will have 90 days from the date the Commission received the application to give the required information. If the applicant does not provide the information within the 90 days, the Commission will refuse to process the application. If the applicant provides

the information after the 90 day limit, the Commission will require a new application and fee.

(3) The Commission evaluates the application to determine if the applicant and proposed course/s meet the standards in OAR 845-016-0015 or 845-016-0016.

(4) The Commission sends the applicant written notification of certification approval or denial. If the Commission approves the application, it will issue a Letter of Certification.

(5) Initial provider certification is for six calendar months from the certification date. The Commission evaluates the provider's performance before the end of the sixth month. If the provider complies with all course procedures, the Commission extends certification for the next six calendar months, with no additional fee. If the provider does not comply, the Commission may suspend or cancel certification. The Commission gives the provider written notification of its determination to extend, suspend or cancel certification at least 15 days before the end of the sixth month.

Stat. Auth.: ORS 471, including 471.030 & 471.730 (1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0015
Alcohol Server Education Provider Standards

To be certified, a provider must:

(1) Have a course that meets the Commission's Alcohol Server Education Minimum Curriculum Standards (published September 1, 2007 and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR) and that includes:

(a) Role-playing, case study exercises and other methods that actively involve students in acquiring behavioral skills in identifying minors and stopping service to visibly intoxicated persons.

(b) At least 4.5 hours of instruction time and at least two breaks totaling 20 minutes during the course when the course is taught in a classroom setting.

(c) Teaching techniques and methods the provider proposes and the Commission approves. The Commission will approve teaching techniques and methods based on the guidelines in the Alcohol Server Education Provider Quality Assurance Plan, including the Minimum Teaching Techniques and Methods Standards, (published September 1, 2007 and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR) and

(d) A student workbook that meets the Commission's Minimum Workbook Standards (published September 1, 2007 and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR)

(2) Meet the minimum qualifications in OAR 845-016-0020(1) or have an authorized representative who meets these minimum qualifications, if the provider is not responsible for hiring, training or evaluating instructor qualifications or performance. The provider applicant must submit a completed Provider Staff Certification form describing the provider applicant or authorized representative's qualifications, as appropriate.

(3) Identify all course instructors and persons who train instructors and verify that they meet the qualifications in OAR 845-016-0020.

(4) Submit a completed Provider Staff Certification form and instructor fee for all course instructors as OAR 845-016-0020 requires.

(5) Comply with Secretary of State filing requirements for an Oregon business entity, nonprofit corporation, or assumed business name as specified in ORS 60, 62, 63, 65, 67, 70, and 648, if applicable.

Stat. Auth.: ORS 471, including 471.030 & 471.730 (1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 5-1989, f. 5-24-89, cert. ef. 5-29-89; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0016
Alcohol Server Education Provider Standards for Initial Course When Given Online

To be certified to present the initial Alcohol Server Education course online, a provider must:

(1) Have a course that meets the Commission's Alcohol Server Education Minimum Curriculum Standards (published September 1, 2007 and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR). The course approved for the initial online course must include:

(a) Role-playing, case study exercises and other methods that actively involve students in acquiring behavioral skills in identifying minors and stopping service to visibly intoxicated persons.

(b) Course design and technical standards the provider proposes and the Commission approves. The Commission will approve course design and technical standards based on the guidelines in the Alcohol Server Education Provider Quality Assurance Plan, including the Minimum Course Design and Technical Standards for Online Courses, (published September 1, 2007 and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR); and

(c) A student workbook that meets the Commission's Minimum Workbook Standards for Online Courses (published September 1, 2007 and available at the Commission's main office at 9079 SE McLoughlin, Portland, OR)

(2) Meet the minimum qualifications in OAR 845-016-0020(1) or have an authorized representative who meets these minimum qualifications if the provider is not responsible for hiring, training or evaluating instructor qualifications or performance or managing online operations. The provider applicant must submit a completed Provider Staff Certification form describing the provider applicant or authorized representative's qualifications, as appropriate.

(3) Meet all technical and security standards required by the Commission for transmission of electronic data and information to the Commission.

(4) Submit a completed Provider Staff Certification form and appropriate fees as OAR 845-016-0020 requires.

(5) Comply with Secretary of State filing requirements for an Oregon business entity, nonprofit corporation, or assumed business name as specified in ORS 60, 62, 63, 65, 67, 70, and 648, if applicable.

Stat. Auth.: ORS 471, including ORS 471.030; 471.730(1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0020
Instructor and Trainer Qualification and Performance Standards; Provider Responsibility for Fee and Performance

(1) Qualifications: Each instructor and person who trains instructors, and who submits a Provider Certification form after September 1, 2007 must have:

(a) A minimum of four years of verified full-time employment (8,000 hours) in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality industry or any of the subjects listed in ORS 471.542(5); or

(b) A minimum of two years of post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality industry or any of the subjects listed in 471.542(5).

(2) Performance Standards: Each instructor and person who trains instructors must:

(a) Teach the Alcohol Server Education Program that the Commission approved;

(b) Understand the objectives of the program and be able to communicate to the students with knowledge, clarity and judgment about the program;

(c) Demonstrate skill in student supervision;

(d) Respect the rights of all students and treat them without discrimination based on their age, disability, national origin, race, marital status, religion, sex or sexual orientation;

(e) Demonstrate willingness to work cooperatively with others, including the Commission staff.

(3) Provider Responsibility for Fee:

(a) The provider is responsible for submitting a completed Provider Staff Certification form and a $100 fee for each instructor. The Commission does not require a $100 instructor fee for a qualified provider instructor or authorized representative instructor. If, however, both the provider and the authorized representative will teach courses, the provider must pay the instructor fee for the authorized representative. An instructor may not teach an Alcohol Server Education course until certified by the Commission;

(b) Despite subsection (3)(a) of this rule, if an instructor wants to teach in another provider's Oregon Alcohol Server Education program, the Commission will not require another instructor fee if the fee has been paid for the certification period;

(c) Violation of this section is a Category III violation (see OAR 845-016-0080, Sanctions).

(4) Provider Responsibility for Performance Standards:

(a) The provider must ensure that each instructor meets the performance standards in section (2) of this rule. This includes at least:

(A) Personally observing each instructor's entire class and evaluating the instructor on the Commission's evaluation form during the instructor's first or second class. (If the provider is the instructor, the Commission will evaluate the provider-instructor.);

(B) Sending the form to the Commission within 15 days after the class;

(C) Correcting any performance that the provider identifies or that the Commission identifies through its Quality Assurance Plan.

(b) Violation of this section is a Category II violation (see OAR 845-016-0080, Sanctions).

(5) Provider Responsibility to give notice of class times and locations for classroom courses:

(a) The provider must submit a schedule of planned classes, with times and locations, to the Commission's Alcohol Server Education program at least seven days before the classes are held;

(b) The provider must notify the Commission of any changes to the schedule required in section (5)(a) as soon as possible;

(c) Despite Sections (5)(a) and (b), a provider or instructor may:

(A) Schedule or reschedule a class shortly before the class to accommodate a request from students. If the Commission has been unable to observe and evaluate an instructor because most classes are scheduled under seven days, the Commission will notify the provider and require the provider to call the Commission to give all class times and locations until the Commission is able to complete the required observations and evaluation;

(B) Cancel a class in an emergency without prior notice to the Commission. A provider or instructor may also cancel shortly before a class without notifying the Commission if the provider:

(i) Notifies persons inquiring about classes that the provider may cancel if there are not a stated minimum numbers of students; and

(ii) Has notified the Commission in advance of this practice.

(d) Violation of this section is a Category III Violation (see OAR 845-016-0080, Sanctions).

Stat. Auth.: ORS 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 6-2003, f. 4-25-03, cert. ef. 5-1-03; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0030
Student Enrollment, Information to be Provided to Students in Classroom and Online Courses

(1) The provider or instructor will give each student:

(a) At the time of enrollment, an enrollment agreement that clearly states the obligations of the provider and student, refund policies, and procedures to terminate enrollment;

(b) During the course, a statement that says, "If you have questions, or comments or complaints about the course, please call the Commission," and includes the appropriate Commission telephone numbers; and a notice that a student must complete the course in order to take the exam.

(2) In addition to the requirements in section (1) of this rule, the provider of an online course will provide to each student who is taking the course online the following information:

(a) At the time of enrollment, a statement informing students that there is assistance available to them for questions.

(b) At regular intervals throughout the training materials, the provider must repeat the statement about available assistance.

(c) Both the initial and repeated statements must direct students to a provider assistant who can answer the student's questions about course materials.

(3) For both classroom and online courses, the provider or instructor will give each student a student workbook no later than at the beginning of the course presentation. If an enrolled student asks for the workbook before then, the provider will make one available to the student.

(4) Upon request, the provider or instructor will give the student:

(a) The course outline in sufficient detail so students can understand course content, objectives and length;

(b) A statement of the total cost of the course and workbook;

(c) A schedule of course presentations.

(5) The provider who is teaching the course in a classroom setting will have adequate facilities (seating, lighting, heating and restrooms appropriate to an instructional setting), instructional equipment and materials, and personnel to provide a program that meets the Alcohol Server Education Course standards.

(6) Violation of this rule is a Category III violation (see OAR 845-016-0080, Sanctions).

Stat. Auth.: ORS 471, including 471.030 & 471.730 (1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0035
Course Examination in a Classroom Setting

(1) The provider or instructor will:

(a) Administer the Commission-provided exam:

(A) As a required portion of each course presentation; and

(B) As a closed-book exam; and

(C) As an oral exam, if a student asks.

(b) Use Commission examination answer sheets;

(c) Mail or deliver exam answer sheets, student sign-in sheets and transmittal forms to the Commission for scoring within 36 hours of the completion of the course presentation. Holidays and weekends are not included in counting the 36 hours;

(d) Store exams in a secure place;

(e) Not reproduce exams;

(f) Collect the exam material from any personnel when that person is no longer associated with the provider's program;

(g) Promptly return any unused exam material and all exam booklets to the Commission during a suspension or upon termination of provider certification.

(2) Violation of this rule is a Category III violation (see OAR 845-016-0080, Sanctions).

Stat. Auth.: ORS 471.030, ORS 471.730(1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92;OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0036
Course Examination in Online Courses

(1) The provider will:

(a) Administer the Commission-provided closed-book exam as a required portion of each course presentation;

(b) Transmit student and examination data in the electronic format specified by the Commission for scoring within 36 hours of the completion of the course presentation. Holidays and weekends are not included in counting the 36 hours; and

(c) Ensure safe electronic storage of student information and testing materials as specified in technical specifications the Commission approves.

(2) Violation of this rule is a Category III violation (see OAR 845-016-0080, Sanctions).

Stat. Auth.: ORS 471.030, ORS 471.730(1) & (5)
Stats. Implemented: ORS 471.542 & ORS 471.547
Hist.: OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0045
Certification and Recertification Denial

(1) The Commission may deny certification or recertification to a provider or provider applicant if the applicant, provider, provider's instructor or instructor applicant, or the provider's authorized representative does not comply with section (3)(a) through (f) of this rule.

(2) The Commission may deny certification or recertification to an instructor or instructor applicant who does not comply with section (3)(a) through (f) of this rule.

(3) Applicants, instructors, providers, and authorized representatives must:

(a) Not make any material false or misleading statement to induce or prevent Commission action;

(b) Meet the requirements in OAR 845-016-0015, 845-016-0016, or 845-016-0020, as appropriate;

(c) Follow the procedures described in these rules;

(d) Not violate any laws or Commission rules related to the Alcohol Server Education course;

(e) Not exploit the professional relationship with a student for personal gain;

(f) Not have a recent history of liquor or controlled substance law violations, a recent history of using a controlled substance or alcoholic beverage to excess or recent disregard for laws related to being a responsible provider or authorized representative.

(4) When the Commission proposes to deny certification or recertification, a provider, instructor, or applicant may make a written request for a hearing under the provisions of OAR 845, division 3 (Contested Case Procedures).

Stat. Auth.: ORS 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: LCC 13-1986(Temp), f. 9-2-86, ef. 9-8-86; OLCC 5-1987, f. 2-9-87, ef. 3-1-87; OLCC 9-1990, f. 3-27-90, cert. ef. 4-1-90; OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

845-016-0075
Prohibited Conduct

No provider or instructor will:

(1) Administer the exam to a person who has not attended and completed the entire class. Violation of this section is a Category I violation.

(2) Drink alcoholic beverages, be visibly intoxicated, or be under the influence of intoxicants during the course presentation and exam, including breaks and meals. Violation of this section is a Category I violation.

(3) Make any material false or misleading statement to induce or prevent Commission action. Violation of this section is a Category I violation.

(4) Falsify, alter or otherwise tamper with examination materials. Violation of this section is a Category I violation.

(5) Have a recent history of liquor or controlled substance law violations, a recent history of using a controlled substance or alcoholic beverage to excess or recent disregard for laws related to being a responsible provider, instructor or authorized representative. Violation of this section is a Category I violation.

(6) Exploit the professional relationship with a student for personal gain. Violation of this section is a Category II violation.

(7) Permit a student to refer to any written material or have a discussion with another person (except the instructor or instructor's designee) during the exam unless the instructor authorizes the student to use an interpreter. Violation of this section is a Category II violation.

(8) Prohibit or interfere with on-site observations by the Commission or fail to assist the Commission in scheduling these observations. Violation of this section is a Category III violation.

(9) Permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or exam, including breaks and meals. Violation of this section is a Category III violation.

(10) Permit distractions and interruptions that diminish the quality of the instructional setting. Violation of this section is a Category III violation.

Stat. Auth.: ORS 471.030, 471.730(1) & (5)
Stats. Implemented: ORS 471.542 & 471.547
Hist.: OLCC 6-1992, f. 6-5-92, cert. ef. 7-1-92; OLCC 10-1998, f. 10-27-98, cert. ef. 12-1-98; OLCC 3-2007, f. 2-26-07, cert. ef. 9-1-07

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Oregon Patient Safety Commission
Chapter 325

Rule Caption: Establishes Oregon Patient Safety Reporting Program for long-term care facilities.
Adm. Order No.: PSC 1-2007
Filed with Sec. of State: 3-9-2007
Certified to be Effective: 3-9-07
Notice Publication Date: 2-1-07
Rules Adopted: 325-020-0001, 325-020-0005, 325-020-0010, 325-020-0015, 325-020-0020, 325-020-0025, 325-020-0030, 325-020-0035, 325-020-0040, 325-020-0045, 325-020-0050, 325-020-0055
Subject: These rules, taken together, establish the Oregon Patient Safety Reporting Program for long term care facilities in Oregon. They also establish a long term care facility fee structure to partially fund the work of the Patient Safety Commission
Rules Coordinator: James C. Dameron—(503) 224-9226

325-020-0001
Definitions

As used in OAR 325-020-0001 to 325-020-0055:

(1) "**Commission**" means the Oregon Patient Safety Commission.

(2) "**Event Report**" means the form designated by the Commission to be used by Long Term Care Facility Participants for the reporting of Reportable Long Term Care Facility Serious Adverse Events.

(3) "**Long Term Care Facility Participant**" means a long term care facility as defined in ORS 442.015 and licensed under OAR 411, division 085, that has volunteered to participate in the Oregon Patient Safety Reporting Program.

(4) "**Oregon Patient Safety Reporting Program**" means the Patient Safety Reporting Program as defined in Oregon Laws 2003, Chapter 686, section 4, and operated by the Commission.

(5) "**Participant**" means an entity that reports Patient Safety Data to a Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity.

(6) "**Patient Safety Activities**" include but are not limited to:

(a) The collection and analysis of Patient Safety Data by a Participant;

(b) The collection and analysis of Patient Safety Data by the Oregon Patient Safety Commission established in Oregon Laws 2003, Chapter 686 and ORS 442.820;

(c) The utilization of Patient Safety Data by Participants;

(d) The utilization of Patient Safety Data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding Patient Safety Data among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program.

(7) "**Patient Safety Data**" means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a Participant for the purpose of reporting Patient Safety Data voluntarily to a Patient Safety Reporting Program, or that are communicated among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program; or

(b) Are created by or at the direction of the Patient Safety Reporting Program, including communication, reports, notes or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(8) "**Reportable Serious Adverse Event**" for the purposes of OAR 325-020-0001 to 325-020-0055 means any unanticipated, usually preventable consequence of patient care that results in patient death or serious physical injury, including the events described in **Appendix A**. **Appendix A** is incorporated by reference.

[ED. NOTE: Attachment referenced are available from the agency.]
Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0005
Enrollment in the Oregon Patient Safety Reporting Program

(1) Participation in the Oregon Patient Safety Reporting Program is voluntary. Long Term Care Facility Participants are entitled to the benefits and subject to the obligations set forth in these administrative rules.

(2) Interested long term care facilities may apply for participation in the Oregon Patient Safety Reporting Program by completing the Commission's registration form and submitting the applicable annual fee. The registration form must include the name of a designated contact person.

(3) In agreeing to participate a long term care facility must affirm that it is willing to fully share requested Patient Safety Data with the Commission. This statement must be co-signed by the nursing home administrator, Director of Nursing Services, and the principal owner or Chairperson of the Board of Directors, or their equivalents.

(4) Upon enrolling in the Oregon Patient Safety Reporting Program, a Long Term Care Facility Participant must have adopted policies and procedures describing patient safety activities, including how it triages adverse events; how it investigates adverse events; and how it provides notice of adverse events to a patient and/or family member. The Long Term Care Facility Participant must provide copies to the Commission upon request.

(5) Within 30 calendar days of receipt and acceptance of the registration form and fee the Commission will issue a certificate establishing a Long Term Care Facility Participant's enrollment in the Oregon Patient Safety Reporting Program. The Long Term Care Facility Participant should post the certificate in public view.

(6) The Commission will issue a press release on a regular basis which will provide a list of Long Term Care Facility Participants to the public.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0010
Annual Long Term Care Facility Participant Fee

(1) A long term care facility must pay an annual fee of $700 for each long term care facility licensed under OAR 411, division 085.

(2) Initial fees will be assessed at the time of enrollment in the Oregon Patient Safety Reporting Program and will expire on December 31 following the date of issue. At the discretion of the Commission, initial fees may be prorated. Annual Long Term Care Facility Participant fees will be due by December 31 for the next year's enrollment. A delinquent renewal fee of up to 25% of the renewal fee may be assessed against a Long Term Care Facility Participant submitting fees postmarked after December 31st.

(3) No participation fees will be refunded due to withdrawal or termination from the Oregon Patient Safety Reporting Program.

(4) The Commission may, at its discretion, reduce fees based upon development of an incentive program for participation. However, such an incentive program must be broad-based and uniform in its application.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0015
Termination of Participation

(1) The Commission's reporting program relies on voluntary reporting. However, the Commission is responsible for ensuring that those who choose to participate also comply with the standards established by the Commission.

(2) Participation requirements include the reporting of all Reportable Serious Adverse Events; fully completing Event Reports; creating and implementing acceptable action plans; and providing written disclosure to patients or families following a Reportable Serious Adverse Event.

(3) If the Commission believes a Long Term Care Facility Participant is not meeting its participation requirements, the Commission must provide the Long Term Care Facility Participant with a written notice explaining why. The Long Term Care Facility Participant will have 30 calendar days to respond and come into compliance.

(4) The Commission may deny, suspend or revoke a Long Term Care Facility Participant's status when the Commission finds that there has been a substantial failure to comply with the provisions of participation.

(5) Upon written notification by the Commission of revocation, suspension, or denial of a Long Term Care Facility Participant enrollment in the Oregon Patient Safety Reporting Program, a Long Term Care Facility Participant may request a hearing. Hearings will be held in accordance with ORS 183.310 to 183.470.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0020
Re-Issue of Suspended or Revoked Participation Certificate

The Commission may re-issue a participation certificate that has been suspended or revoked if the Commission determines that the long term care facility applying for re-enrollment meets the provisions of participation.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0025
Reporting Serious Adverse Events

(1) The Commission will provide an Event Report form to be used by Long Term Care Facility Participants for reporting Reportable Serious Adverse Events. The Event Report will include: a summary description of the event; an overview of the Long Term Care Facility Participant's complete, thorough and credible investigation of that event; and information about improvement strategies designed to minimize risk of future events. The meaning of terms "complete," "thorough," and "credible" are explained in OAR 325-020-0030.

(2) Long Term Care Facility Participants must use the Event Report form when reporting Serious Adverse Events to the Commission.

(3) Long Term Care Facility Participants must submit a completed Event Report to the Commission within 30 calendar days of discovery of a Reportable Serious Adverse Event.

(4) Subject to a separate written agreement between the Commission and Long Term Care Facility Participant, Participant will share additional resident assessment data with the Commission, to the extent permitted by state and federal law.

(5) If a Long Term Care Facility Participant believes the Commission should immediately issue an alert to all Oregon Long Term Care Facilities or other types of Participants based on a specific Reportable Serious Adverse Event, the Long Term Care Facility Participant should provide an initial report to the Commission within 3 business days of discovery of the event, or sooner. The Long Term Care Facility Participant and Commission will work together to identify information to include in the alert.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0030
Commission Review of Reports

(1) When the Commission receives an Event Report from a Long Term Care Facility Participant, the Commission will determine whether that Event Report is complete, thorough, credible and acceptable. The definitions for the terms *thorough*, *credible* and *acceptable* are described in the Joint Commission's Sentinel Event Policy, October, 2006 and are adopted by reference. In general:

(a) A report is *complete* if it contains all the information requested in the Event Report, or explains, to the Commission's satisfaction, why that information is not available or not necessary to provide;

(b) A report is *thorough* if the investigation includes an analysis of all relevant systems issues and shows evidence of an inquiry into all appropriate areas;

(c) A report is *credible* if it shows evidence that the investigation of the Reportable Long Term Care Facility Serious Adverse Event included participation by leadership within the organization and was internally consistent; and

(e) A report is *acceptable* if all the above standards are met and the action plans clearly describe meaningful improvement strategies designed to minimize risk.

(2) If the Commission believes that an Event Report received from a Long Term Care Facility Participant is incomplete or unacceptable in some manner, it will inform the Long Term Care Facility Participant's contact person within 10 business days of receipt of the Event Report.

(3) On an annual basis, the Commission will query Long Term Care Facility Participants to better understand what lessons have been learned from the action plans identified in their Event Reports.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0035
Public Health Officer Certification

(1) At least annually, the Commission will request that the Public Health Officer certify the completeness, credibility, and thoroughness of each Long Term Care Facility Participant's reporting to the Commission during the applicable period.

(2) The Commission will request that the Public Health Officer develop independent and objective standards to evaluate the overall integrity of the Patient Safety Reporting Program. On an annual basis the Commission will request that the Public Health Officer use those standards to certify the Oregon Patient Safety Reporting Program.

(3) The Commission will provide information to the Public Health Officer to assist the Public Health Officer in completing the certification processes listed in (1) and (2) of this rule, consistent with OAR 325-010-0050.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 – 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0040
Patient Notification Of Reportable Serious Adverse Events

(1) After a Reportable Serious Adverse Event occurs, a Long Term Care Facility Participant must provide written notification to each affected patient, or, if necessary, to the patient's personal representative. Notification must be timely and should be consistent with the Long Term Care Facility Participant's internal communication and disclosure policies.

(2) As provided in Oregon Laws 2003, Chapter 686, section 4(4), notice provided under this subsection may not be construed as an admission of liability in a civil action.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0045
Extensions And Waivers

(1) The Commission may grant an extension of any time requirement stipulated in these rules if the Long Term Care Facility Participant provides justification that the delay is due to factors beyond its control or that the delay will not adversely affect the purposes of the Commission. A Long Term Care Facility Participant requesting a waiver must submit a written request to the Commission prior to the deadline for the required action. Facsimile requests are acceptable.

(2) The Commission may grant a waiver of any other provision of these rules if the Long Term Care Facility Participant provides justification that granting the waiver will not adversely affect the purposes of the Commission.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 – 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0050
Protection Of Patient Safety Data

(1) The Commission is subject to all the confidentiality provisions set forth in Oregon Laws 2003, Chapter 686, sections 1, 4 to 6, 8 to 10, 12, and in ORS 442.820 to 442.835.

(2) The Commission will maintain the confidentiality of all Patient Safety Data that identifies or could be reasonably used to identify a Long Term Care Facility Participant or an individual who is receiving or has received health care from the Long Term Care Facility Participant.

(3) Before it takes receipt of any confidential Patient Safety Data, the Commission will have in place appropriate safeguards and security measures to ensure the technical integrity and physical safety of such data.

(4) Pursuant to ORS 442.820(4), meetings or portions of meetings where the Oregon Patient Safety Commission Board of Directors, or subcommittees or advisory committees consider information that identifies a participant or patient are not subject to the Oregon Public Meetings Law, ORS 192.610 to 192.690.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

325-020-0055
Commission's Use Of Patient Safety Data

(1) The Commission will create a standing committee on best practices in patient safety. This committee will advise the Commission on effective methods for making use of and sharing information gathered from the Commission's review of Event Reports.

(2) At least quarterly, the Commission will provide Long Term Care Facility Participants with aggregate patient safety quality improvement information derived from Patient Safety Data.

(3) During the second quarter of each year, the Commission will publish a report to the public summarizing Patient Safety Data for the preceding calendar year. This report will use aggregate, de-identified data from the program and will describe statewide adverse event patterns and best practices to avoid the occurrence or minimize the effects of adverse events.

(4) The Commission will maintain an easily accessible and well-publicized website to share patient safety information directly with consumers.

(5) The Commission, within its resource limitations, will provide technical assistance to Long Term Care Facility Participants, including but not limited to recommendations and advice regarding methodology, communication, dissemination of information, data collection, security and confidentiality.

(6) The Commission will work with representatives of organizations participating in the Oregon Patient Safety Reporting Program and with other interested parties to develop recommendations for continued improvements in the collection and utilization of Patient Safety Data. The Commission will revise its reporting form as necessary based on feedback from Participants.

(7) The Commission may initiate other projects using patient safety data when consistent with its mission and in accordance with existing confidentiality protections.

Stat. Auth.: Ch. 686, OL 2003
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07

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Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Amend direct rollover rules to administer the PERS programs in compliance with federal tax law.
Adm. Order No.: PERS 5-2007(Temp)
Filed with Sec. of State: 2-16-2007
Certified to be Effective: 2-16-07 thru 8-14-07
Notice Publication Date:
Rules Amended: 459-005-0591, 459-005-0595, 459-005-0599, 459-050-0090
Subject: The recent 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.
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 IRC 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

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:

(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
Stats. Implemented: ORS 238.005 - 238.715
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

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.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005 - 238.715
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

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 IRC 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 Internal Revenue 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

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

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Rule Caption: Amends rules governing PERS' interaction with a member's fiduciary.
Adm. Order No.: PERS 6-2007
Filed with Sec. of State: 2-21-2007
Certified to be Effective: 2-21-07
Notice Publication Date: 11-1-06
Rules Amended: 459-005-0100, 459-005-0110, 459-005-0130, 459-005-0140, 459-005-0150
Rules Repealed: 459-005-0120

Subject: OAR 459-005-0100 starts a series of rules regarding powers of attorney and how a member's attorney-in-fact qualifies and continues to conduct business on behalf of a PERS member. In this context, "member" is defined broadly to also include alternate payees and beneficiaries. Generally, the modifications expand the rules to explicitly cover other types of fiduciaries appointed to act on behalf of members, such as guardians and conservators. Some changes also eliminate prior provisions of the rules to streamline these transactions, simplifying the process for stakeholders.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0100
Definitions — Member's Fiduciary

(1) "Fiduciary Document" means the court order appointing a person as the member's fiduciary or the signed power of attorney by the member appointing the member's fiduciary as their attorney-in-fact.

(2) For the purposes of OAR 459-005-0100 to 459-005-0160, the term "member" means a PERS member as defined in ORS 238.005(7), the beneficiary of a PERS member, an alternate payee as defined in 238.465, or the beneficiary of an alternate payee.

(3) "Member's Fiduciary" means a guardian or conservator appointed under Oregon law, any person acting as an attorney-in-fact for a member under a power of attorney, or any other person appointed by a court to assume financial responsibility with respect to a member.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005 - 238.715
Hist.: PERS 7-1996, f. & cert. ef. 11-12-96; PERS 4-1999, f.& cert. ef. 10-11-99; PERS 6-2007, f. & cert. ef. 2-21-07

459-005-0110
Fiduciary Document Requirements

(1) No person may act as a member's fiduciary with respect to PERS matters unless the Fiduciary Document naming or appointing such person(s) meets the requirements set forth in this rule.

(2) The Fiduciary Document shall be in written form and may be either on forms furnished by PERS or in a format approved by PERS. The Fiduciary Document shall contain express language appointing the member's fiduciary as guardian or conservator or otherwise to act on behalf of the member either with respect to the member's financial matters generally or with respect to the member's PERS benefits specifically.

(3) At a minimum, the Fiduciary Document must contain:

(a) The signature of the member or other authority appointing or designating the member's fiduciary.

(b) The signature and address of the member's fiduciary. This requirement can also be satisfied if the Fiduciary Document is accompanied by another document containing the signature and address of the member's fiduciary.

(4) A Fiduciary Document must be received by PERS before the member's fiduciary will be allowed to conduct any transactions on behalf of the member and must otherwise meet the requirements set forth in OAR 459-005-0110 or 459-005-0130, as applicable.

(5) If a Fiduciary Document was executed by the member over ten years prior to the date such document is filed with PERS, and there is a request to take any action by the member's fiduciary, the document will be effective with respect to PERS only if the member's fiduciary certifies to PERS, in a form which PERS in its sole discretion deems satisfactory, the continued validity of the fiduciary document.

(6) If more than one individual is named or appointed in a Fiduciary Document as the member's fiduciary, the document must stipulate whether the individuals must act together or may act separately.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005 - 238.715
Hist.: PERS 7-1996, f. & cert. ef. 11-12-96; PERS 4-1999, f. & cert. ef. 10-11-99; PERS 6-2007, f. & cert. ef. 2-21-07

459-005-0130
Termination of Member's Fiduciary

The authority granted a member's fiduciary will terminate upon the occurrence of the earliest of the following events:

(1) A written revocation is filed with PERS containing the member's signature, if the member appointed the member's fiduciary.

(2) A Fiduciary Document is filed with PERS which:

(a) Bears a date that is later than the Fiduciary Document previously filed with PERS;

(b) Complies with the requirements set forth in OAR 459-005-0110; and

(c) Names a different person as the member's fiduciary.

(3) PERS receives notification of the death of the member.

(4) PERS receives notification that the member's fiduciary has been removed or their authority terminated by the court which originally named or granted authority to the member's fiduciary, or that action has been taken by a different court.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005 - 238.715
Hist.: PERS 7-1996, f. & cert. ef. 11-12-96; PERS 6-2007, f. & cert. ef. 2-21-07

459-005-0140
Permissible Actions Under A Fiduciary Document

(1) After receipt by PERS of a Fiduciary Document meeting the requirements set forth in OAR 459-005-0110, the member's fiduciary and the member (unless the member's fiduciary is a guardian or conservator) may execute any document required by PERS or perform any PERS related business that falls within the scope of the powers granted by the Fiduciary Document.

(2) If the power to appoint a substitute member's fiduciary is provided in the Fiduciary Document and is subsequently exercised by the member's fiduciary, such appointment must be evidenced by a written document submitted to PERS containing:

(a) The member's fiduciary's signature;

(b) An express granting of all, or whatever portion of, the powers held by the member's fiduciary that is being granted to the substitute member's fiduciary; and

(c) The signature and address of the substitute member's fiduciary.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005 - 238.715
Hist.: PERS 7-1996, f. & cert. ef. 11-12-96; PERS 6-2007, f. & cert. ef. 2-21-07

459-005-0150
Effective Date of Fiduciary Document Rules

OAR 459-005-0100 to 459-005-0140 shall be effective on the date they are adopted by the Public Employees Retirement Board (Board), and shall govern any documents submitted to PERS on or after the date these rules are adopted by the Board for the purpose of effecting the appointment of a member's fiduciary or revoking a Fiduciary Document after such date, or until amended or repealed by the Board.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005 - 238.715
Hist.: PERS 7-1996, f. & cert. ef. 11-12-96; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 6-2007, f. & cert. ef. 2-21-07

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Oregon State Lottery
Chapter 177

Rule Caption: Clarifies personal criteria for contracting with retailer applicants and approving key persons; reorganizes rule structure.
Adm. Order No.: LOTT 2-2007
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-4-07
Notice Publication Date: 10-1-06
Rules Amended: 177-040-0010
Subject: The Oregon Lottery amended this administrative rule to clarify its terms and reorganize its structure.
Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-040-0010
Personal Criteria Which May Be Grounds for Denial of a Lottery Retailer Contract or a Key Person

(1) **General Personal Criteria**: Before approving or denying an application for a Lottery retailer contract or for a key person, the Director shall consider whether the applicant:

(a) **Character**: Is a person of good character, honesty, and integrity.

(b) **Background**: Is a person whose background, including criminal, civil, and financial records, and reputation, does not jeopardize the public interest of the state or the integrity, security, honesty, fairness, or reputation of the Lottery.

(c) **Associations**: Has an association with persons or businesses of known criminal background, or associates with persons who have direct or indirect involvement in the applicant's business who could jeopardize the public interest of the state or the integrity, security, honesty, fairness, or reputation of the Lottery. The Director may also consider whether the applicant associates with persons who have no involvement in the applicant's business when the applicant's association with such persons could create a real or perceived conflict with the Lottery's security or integrity interests.

(d) **Public Interest**: Is a person whose experience, character, or general fitness is such that approving the applicant would be consistent with the public interest, convenience, and trust in keeping with the sensitive nature of the Lottery.

(e) **Financial**: Demonstrates responsibility and integrity in financial transactions, and is creditworthy and currently in a satisfactory financial condition. The Lottery may use the services of a commercial credit reporting agency in order to evaluate the applicant's creditworthiness, financial responsibility, and financial condition. The Director may deny an application if the applicant has outstanding judgments, collections, liens, or is not in compliance with all state, federal, or local tax laws.

(f) **Omissions**: Has omitted any material facts or has provided any material misstatement or any untrue statement of material facts.

(g) **Compliance History**: Has a history with the Oregon Lottery, or the Oregon Liquor Control Commission, or state and local law enforcement, which shows that the applicant could pose a threat to the security and integrity of the Lottery based upon any significant and material compliance or adjudicated violation history.

(2) **General Financial Criteria**: Any person applying for a Lottery retailer contract must:

(a) **Business Ability**: Adequately demonstrate, either individually or through the person's employees, the business ability and experience necessary to successfully establish, operate, and maintain the business for which application is made.

(b) **Business Funding**: Demonstrate adequate funding and ongoing business income sufficient to open, maintain, and operate the business as proposed by the applicant. The Director shall consider whether funding is from a source that may pose a threat to the integrity, security, honesty, or fairness of the Lottery.

(3) **Criminal Behavior**: The Director shall consider the criminal history or conduct of an applicant as follows:

(a) **Mandatory Denial**: The Director will deny an application when the applicant:

(A) **Felony Conviction**: Has been convicted of any felony within 10 years of the date the Lottery accepts the application.

(B) **Gambling Conviction**: Has been convicted of violating any federal, state, or local gambling law (other than ORS 91.240) within 15 years of the date the Lottery accepts the application.

(C) **Controlled Substances Conviction**: Has been convicted of felony possession of a controlled substance, or any crime involving the manufacture, sale, or delivery of a controlled substance, within 15 years of the date the Lottery accepts the application.

(D) **Gambling Devices**: Owns, manufactures, possesses, operates, has interest in, or gains income or reimbursement from, any unlawful gambling device in any jurisdiction unless the device is approved and certified by another state lottery or federal, state, or local gaming control agency, and such ownership, manufacture, possession, operation, or income is disclosed to and approved by the Lottery.

(b) **Discretionary Denial**: The Director may deny an application when the applicant:

(A) **Felony Conviction**: Has any felony conviction more than 10 years old on the date the Lottery accepts the application;

(B) **Gambling Conviction**: Has a conviction more than 15 years old on the date the Lottery accepts the application for violating any state, federal, or local gambling laws;

(C) **Controlled Substances Conviction**: Has been convicted of felony possession of a controlled substance, or has been convicted of any crime involving the manufacture, sale, or delivery of a controlled substance, more than 15 years old on the date the Lottery accepts the application;

(D) G**ambling Leases**: Has ever engaged in conduct which violates ORS 91.240;

(E) **Criminal Conduct**: Has engaged in conduct which constitutes a violation of any gambling law or any law which defines a felony or misdemeanor based on reasonably reliable information;

(F) **Fraudulent Behavior**: Has been held responsible, by judgment, settlement, consent decree, or otherwise, in any court proceeding, or proceeding before an administrative body which was based in whole or in part on allegations of misleading or dishonest conduct including, but not limited to, fraud, deceit, misrepresentation, embezzlement, breach of fiduciary responsibility. The Director may also deny an application when the Director has reasonably reliable information that the applicant has engaged in misleading or dishonest conduct in any court proceeding or before an administrative body; or

(G) **Offenses**: When the applicant has been convicted of, or otherwise subject to official sanction for, any offense other than an offense described in section (3)(a) of this rule, except traffic infractions, unless the applicant has engaged in conduct which demonstrates the applicant's habitual disregard for the law. The Director may also deny an application when the Director has reasonably reliable information that the applicant has engaged in conduct which constitutes an offense as described under this subsection.

(4) **Ownership and Gaming Interests**: The Director may deny an application when the applicant:

(a) **Ownership Interests**: Is qualified, but there is an ownership interest in the applicant's business or premises by a person who is unqualified to hold a Lottery contract based on the requirements of OAR 177-040-0010 or any retailer contract, regardless of the qualifications of the applicant;

(b) **Denial of Gaming Licenses**: Has been denied any type of gaming license, gaming permit, or gaming contract in any state or jurisdiction for a reason(s) that in the judgment of the Director would jeopardize the security, integrity, honesty, fairness, or reputation of the Lottery;

(c) **Cancellation of Gaming Licenses**: Has had any type of gaming license, gaming permit, or gaming contract canceled, suspended, or revoked in any state or jurisdiction for a reason(s) that in the judgment of the Director would jeopardize the security, integrity, honesty, fairness, or reputation of the Lottery; or

(d) **Termination of Gaming Contract**: Has had any type of gaming contract terminated in any state or jurisdiction for a reason that in the judgment of the Director would jeopardize the security, integrity, honesty, fairness, or reputation of the Lottery.

(5) **Mitigating Circumstances**: Where denial of an application is discretionary with the Director under this rule, the Director may consider the following mitigating factors:

(a) **Nature**: The nature and severity of the conduct, incident, offense, or circumstance;

(b) **Time**: The passage of time since the conduct, incident, offense, or circumstance;

(c) **Intervening Factors**: Any intervening factors since the conduct, incident, offense, or circumstance;

(d) **Number of Offenses**: The number of offenses, crimes, or incidents;

(e) **Relevance**: The relevance of the conduct, incident, offense, or circumstance to the performance of duties under the Lottery retailer contract; or

(f) **Other**: Any extenuating circumstances.

(6) **Application to Existing Contracts**: The criteria described in this rule apply to any existing Lottery retailer contract and may provide grounds for the Director to terminate an existing Lottery retailer contract.

(7) **Finality of Determination**: The denial by the Director of an application is final.

(8) **Re-Application**: If an application is denied by the Director, an applicant, or an applicant that is similar to the previously denied applicant, must wait one year from the date of denial to reapply. In the Director's sole discretion, the Director may waive this requirement based on a showing of good cause by the applicant.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.300
Hist.: SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 17-2001(Temp), f.& cert. ef. 12-20-01 thru 6-7-02; LOTT 4-2002, f. & cert. ef. 3-25-02; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert.. ef. 11-25-02; LOTT 22-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 2-2007, f. 3-1-07, cert. ef. 3-4-07

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Oregon University System, University of Oregon
Chapter 571

Rule Caption: Rules governing the community dispute resolution grant program pursuant to ORS 36.175.
Adm. Order No.: UO 5-2007(Temp)
Filed with Sec. of State: 2-20-2007
Certified to be Effective: 2-20-07 thru 8-1-07
Notice Publication Date:
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

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 36.1l0(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

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

571-100-0030
Fees for Service

(l) A Grantee is not required to charge fees to disputants for dispute resolution services. If a Grantee charges fees for dispute resolution servic-

es, 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

571-100-0040
Matching (Participating) Fund Requirements

(I) 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

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

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

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

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

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 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

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

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

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

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

571-100-0140
Reporting Requirements

(l) 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

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

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.

(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

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Rule Caption: Amend special fees, fines, penalties, and services charges for general fees and housing rental fees.
Adm. Order No.: UO 6-2007
Filed with Sec. of State: 2-22-2007
Certified to be Effective: 2-22-07
Notice Publication Date: 2-1-05
Rules Amended: 571-060-0005
Subject: The University of Oregon administration determined that the adoption of the amendments to the fee list and family housing rental rates were necessary in order to provide the basis for funding to cover the expenses for the services rendered and to maintain a current fee list.
Rules Coordinator: Deb Eldredge—(541) 346-3082

571-060-0005
Special Fees, Fines, Penalties, Service Charges

The University of Oregon has adopted by reference a list of Special Fees, Fines, Penalties, Service Charges, etc., for the current fiscal year:

(1) The fees, fines, penalties and service charges listed by reference in this rule are updated annually and copies are on file in the listed departments by July 1.

(2) The amounts and conditions of these fees may change from time to time throughout the year due to administrative considerations, changing costs, changes in institutional budgets, etc. If the size and the amount of these fees are or could be of importance to users, they should verify the details prior to making a commitment, before entering into any planning activities or before actually incurring any charges.

(3) The master copy of the current list of fees is maintained in the Office of the Director of Business Affairs and is available upon request to any person during regular business hours. The Director of Business Affairs also maintains a bulletin board where fee changes made during each 30-day period are posted. Following that posted period, the changes are filed within the master copy.

(4) University departments charging fees shall maintain a copy of at least that department's section of the list of special fees, fines, penalties and service charges including any updates made during the course of the fiscal year. The list and all current changes shall be available upon request to any person during regular departmental business hours.

(5) No department may change fees between annual amendments to this rule without first obtaining an approved statement of justification signed by the appropriate Vice-President. Prior to granting approval of any fee charged to students, the Vice-President shall consult with the Office of Student Advocacy. Changes in fees approved by the Vice-President and the justification statement shall be posted for 15 days in a public area of the departmental office. The new fee, fine, penalty or charge becomes effective at the end of the 15-day posting period after it is filed with the Director of Business Affairs along with the justification statement.

(6) However, student loan service charges, charges levied as penalties for prohibited conduct, general tuition, building fees, incidental fees, health service fees, and residence hall and housing charges, shall be adopted in accordance with the provision of ORS 183.310 to 183.500.

(7) Certain charges, fees or fee schedules may, according to ORS 351.072(b), be adopted without compliance with rulemaking provisions of ORS 183.310 to 183.500. They are: charges relating to symposiums, conferences, short courses, food, books or other retail goods, prices of admission to athletic, entertainment or cultural events or advertising rates in student or institutional publications.

[ED. NOTE: Lists referenced are available from the agency.]
Stat. Auth.: ORS 351.070, 351 & 352
Stats. Implemented: ORS 351.070
Hist.: UOO 20, f. & cert. ef. 4-27-76; UOO 34(Temp), f. & cert. ef. 8-8-77; UOO 37, f. & cert. ef. 9-30-77; UOO 3-1978, f. & cert. ef. 7-1-78; UOO 1-1979(Temp), f. 6-26-79, ef. 7-1-79; UOO 4-1979, f. & cert. ef. 10-3-79; UOO 7-1980, f. 6-30-80, ef. 7-1-80; UOO 7-1981 (Temp), f. 6-16-81, ef. 7-1-81; UOO 9-1981(Temp), f. & cert. ef. 6-29-81; UOO 2-1982, f. & cert. ef. 4-14-82; UOO 4-1982, f. & cert. ef. 6-10-82; UOO 4-1983, f. & cert. ef. 6-10-83; UOO 5-1983(Temp), f. & cert. ef. 6-15-83; UOO 2-1984, f. 6-11-84, ef. 7-1-84; UOO 3-1985, f. 6-19-85, ef. 7-1-85 UOO 1-1986; f. 6-4-86, ef. 7-1-86; UOO 4-1986(Temp), f. & cert. ef. 11-10-86; UOO 7-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 8-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 1-1987, f. & cert. ef. 1-29-87; UOO 3-1987, f. 6-17-87, ef. 7-1-87; UOO 6-1988, f. 6-29-88, cert. ef. 7-1-88; UOO 8-1988, f. & cert. ef. 8-17-88; UOO 5-1989, f.6-20-89, cert. ef. 7-1-89; UOO 7-1990, f. 6-14-90, cert. ef. 7-1-90; UOO 9-1991, f. 6-12-91, cert. ef. 7-1-91; UOO 1-1992, f. 4-9-92, cert. ef. 7-1-92; UOO 2-1993, f. 4-19-93, cert. ef 7-1-93; UOO 9-1993, f. & cert. ef. 6-15-93; UOO 11-1993, f. 8-29-93, cert. ef. 9-1-93; UOO 2-1994, f. 6-13-94, cert. ef. 7-1-94; UOO 3-1994, f. 6-14-94, cert. ef. 7-1-94; UOO 4-1995, f. 6-13-95, cert. ef. 7-1-95; UOO 5-1995, f. 7-31-95, cert. ef. 8-1-95; UOO 3-1996, f. 6-6-96, cert. ef. 7-1-96; UOO 6-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 7-1997, f. 6-18-97, cert. ef. 7-1-97; UO 1-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1999, f. 6-1-99, cert. ef. 7-1-99; UO 3-1999, f. 6-1-99, cert. ef. 7-1-99; UO 2-2000, f. 6-15-00, cert. ef. 7-1-00; UO 1-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2002, f. 6-19-02, cert. ef. 7-1-02; UO 3-2002, f. 6-19-02, cert. ef. 7-1-02; UO 1-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2004, f. 5-11-04, cert. ef. 7-1-04; UO 3-2004, f. 6-30-04, cert. ef. 7-1-04; UO 6-2007, f. & cert. ef. 2-22-07

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Rule Caption: Clarifies that the delegation from President authorizes student government full authority to recognize student organizations.
Adm. Order No.: UO 7-2007
Filed with Sec. of State: 2-27-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 1-1-07
Rules Amended: 571-011-0015
Subject: The current delegation of authority to student government regarding student organizations has been in effect since 1977. For some time granting of recognition has been used for decisions in addition to use of certain campus facilities. Also, the University has abandoned the category of "registered" student organizations. This amendment makes the rules consistent with current practice and allows the ASUO to continue its review of student organizations to determine if they are eligible to participate in the Incidental Fee process.
Rules Coordinator: Deb Eldredge—(541) 346-3082

571-011-0015
Delegation of Authority to ASUO

(1) The Associated Students of the University of Oregon (ASUO), acting through the ASUO President, shall exercise the following authority, which is hereby delegated by the University President:

(a) To formulate general policies relating to student organizations and on-campus extra-curricular activities;

(b) To grant recognition to student groups, or to withdraw recognition from them, as a basis for use of certain campus facilities by said groups;

(c) To develop criteria to "guide" the University calendar and scheduling officer (who is Director of the Erb Memorial Union) in scheduling campus student events and programs.

(2) The ASUO President may exercise the delegated powers directly, or may appoint an administrative body representative of the University community to assist in the administration of such delegated responsibilities. The ASUO President shall notify the University President in writing of the

mechanism by which the ASUO President will exercise these delegated responsibilities.

(3) This delegation is subject to any policies and administrative arrangements which may be subsequently established by the University President or the faculty of the University. The University President reserves the right to revoke and/or exercise any of the powers herein delegated if at any time the University President determines that the responsibilities delegated have not been met.

(4) The student activity regulations (see Memo 17.030) policies governing the EMU facilities and grounds, and scheduling policies (see Memos 18.010 through 18.080) shall remain in full force.

(5) The Director of the Erb Memorial Union is delegated by the University President full authority for the supervision, management, and operation of the EMU, its immediate premises, and its programs, subject to the provisions of any governance document agreed to by the University President.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 352.510
Hist.: UOO 28, f. & cert. ef. 10-1-76; UOO 35, f. 8-25-77, ef. 8-26-77; UO 4-2006(Temp), f. & cert. ef. 11-7-06 thru 5-4-07; UO 7-2007, f. 2-27-07, cert. ef. 3-1-07

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Rule Caption: Amend special fees, fines, penalties, and services charges for general fees and housing rental fees.
Adm. Order No.: UO 8-2007
Filed with Sec. of State: 3-12-2007
Certified to be Effective: 3-12-07
Notice Publication Date: 2-1-02
Rules Amended: 571-060-0005
Subject: The University of Oregon administration determined that the adoption of the amendments to the fee list and family housing rental rates were necessary in order to provide the basis for funding to cover the expenses for the services rendered and to maintain a current fee list.
Rules Coordinator: Deb Eldredge—(541) 346-3082

571-060-0005
Special Fees, Fines, Penalties, Service Charges

The University of Oregon has adopted by reference a list of Special Fees, Fines, Penalties, Service Charges, etc., for the current fiscal year.

(1) The fees, fines, penalties and service charges listed by reference in this rule are updated annually and copies are on file in the listed departments by July 1.

(2) The amounts and conditions of these fees may change from time to time throughout the year due to administrative considerations, changing costs, changes in institutional budgets, etc. If the size and the amount of these fees are or could be of importance to users, they should verify the details prior to making a commitment, before entering into any planning activities or before actually incurring any charges.

(3) The master copy of the current list of fees is maintained in the Office of the Director of Business Affairs and is available upon request to any person during regular business hours. The Director of Business Affairs also maintains a bulletin board where fee changes made during each 30-day period are posted. Following that posted period, the changes are filed within the master copy.

(4) University departments charging fees shall maintain a copy of at least that department's section of the list of special fees, fines, penalties and service charges including any updates made during the course of the fiscal year. The list and all current changes shall be available upon request to any person during regular departmental business hours.

(5) No department may change fees between annual amendments to this rule without first obtaining an approved statement of justification signed by the appropriate Vice-President. Prior to granting approval of any fee charged to students, the Vice-President shall consult with the Office of Student Advocacy. Changes in fees approved by the Vice-President and the justification statement shall be posted for 15 days in a public area of the departmental office. The new fee, fine, penalty or charge becomes effective at the end of the 15-day posting period after it is filed with the Director of Business Affairs along with the justification statement.

(6) However, student loan service charges, charges levied as penalties for prohibited conduct, general tuition, building fees, incidental fees, health service fees, and residence hall and housing charges, shall be adopted in accordance with the provision of ORS 183.310 to 183.500.

(7) Certain charges, fees or fee schedules may, according to ORS 351.072(b), be adopted without compliance with rulemaking provisions of ORS 183.310 to 183.500. They are: charges relating to symposiums, conferences, short courses, food, books or other retail goods, prices of admission to athletic, entertainment or cultural events or advertising rates in student or institutional publications.

[ED. NOTE: Lists referenced are available from the agency.]
Stat. Auth.: ORS 351.070, 351 & 352
Stats. Implemented: ORS 351.070
Hist.: UOO 20, f. & cert. ef. 4-27-76; UOO 34(Temp), f. & cert. ef. 8-8-77; UOO 37, f. & cert. ef. 9-30-77; UOO 3-1978, f. & cert. ef. 7-1-78; UOO 1-1979(Temp), f. 6-26-79, ef. 7-1-79; UOO 4-1979, f. & cert. ef. 10-3-79; UOO 7-1980, f. 6-30-80, ef. 7-1-80; UOO 7-1981 (Temp), f. 6-16-81, ef. 7-1-81; UOO 9-1981(Temp), f. & cert. ef. 6-29-81; UOO 2-1982, f. & cert. ef. 4-14-82; UOO 4-1982, f. & cert. ef. 6-10-82; UOO 4-1983, f. & cert. ef. 6-10-83; UOO 5-1983(Temp), f. & cert. ef. 6-15-83; UOO 2-1984, f. 6-11-84, ef. 7-1-84; UOO 3-1985, f. 6-19-85, ef. 7-1-85 UOO 1-1986; f. 6-4-86, ef. 7-1-86; UOO 4-1986(Temp), f. & cert. ef. 11-10-86; UOO 7-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 8-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 1-1987, f. & cert. ef. 1-29-87; UOO 3-1987, f. 6-17-87, ef. 7-1-87; UOO 6-1988, f. 6-29-88, cert. ef. 7-1-88; UOO 8-1988, f. & cert. ef. 8-17-88; UOO 5-1989, f.6-20-89, cert. ef. 7-1-89; UOO 7-1990, f. 6-14-90, cert. ef. 7-1-90; UOO 9-1991, f. 6-12-91, cert. ef. 7-1-91; UOO 1-1992, f. 4-9-92, cert. ef. 7-1-92; UOO 2-1993, f. 4-19-93, cert. ef 7-1-93; UOO 9-1993, f. & cert. ef. 6-15-93; UOO 11-1993, f. 8-29-93, cert. ef. 9-1-93; UOO 2-1994, f. 6-13-94, cert. ef. 7-1-94; UOO 3-1994, f. 6-14-94, cert. ef. 7-1-94; UOO 4-1995, f. 6-13-95, cert. ef. 7-1-95; UOO 5-1995, f. 7-31-95, cert. ef. 8-1-95; UOO 3-1996, f. 6-6-96, cert. ef. 7-1-96; UOO 6-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 7-1997, f. 6-18-97, cert. ef. 7-1-97; UO 1-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1999, f. 6-1-99, cert. ef. 7-1-99; UO 3-1999, f. 6-1-99, cert. ef. 7-1-99; UO 2-2000, f. 6-15-00, cert. ef. 7-1-00; UO 1-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2002, f. 6-19-02, cert. ef. 7-1-02; UO 3-2002, f. 6-19-02, cert. ef. 7-1-02; UO 1-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2004, f. 5-11-04, cert. ef. 7-1-04; UO 3-2004, f. 6-30-04, cert. ef. 7-1-04; UO 6-2007, f. & cert. ef. 2-22-07; UO 8-2007, f. & cert. ef. 3-12-07

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Oregon University System, Western Oregon University
Chapter 574

Rule Caption: Revisions to special course fees and general services fees and updates to access to student housing.
Adm. Order No.: WOU 1-2007
Filed with Sec. of State: 3-5-2007
Certified to be Effective: 3-5-07
Notice Publication Date: 2-1-07
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

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Physical Therapist Licensing Board
Chapter 848

Rule Caption: Amend and better define scope of practice standards applicable to therapists in a school setting.
Adm. Order No.: PTLB 1-2007
Filed with Sec. of State: 3-13-2007
Certified to be Effective: 4-1-07
Notice Publication Date: 1-1-07

Rules Amended: 848-001-0000, 848-001-0010, 848-010-0015, 848-010-0033, 848-010-0035, 848-015-0010, 848-015-0020, 848-020-0000, 848-040-0100, 848-040-0110, 848-040-0117, 848-040-0125, 848-040-0130, 848-040-0135, 848-040-0140, 848-040-0145, 848-040-0150, 848-040-0155, 848-040-0160

Subject: Amendments include adding or clarifying definitions for the terms; aide, patient, plan of care, IEP, IFSP, IDEiA, record, permanent record, and student. Further, the amendments more adequately define the scope of practice standards as applicable to therapists in a school setting. Proposed language includes changes or clarification for the use of physical therapist assistants in a school setting, identifying who qualifies as an aide, clarifies the distinction and, requirements of, a record verses the permanent record and change to the timeframe for reassessment requirements for therapists in the school setting from calendar days to school days. Although most of the proposed amendments will not universally impact all therapists, the definitions, and record keeping amendments will have some impact on most therapists regardless of their professional setting.

Rules Coordinator: James Heider—(971) 673-0203

848-001-0000

Notice to Interested Persons on Any Proposal to Adopt, Amend, or Repeal Any Rule

Prior to the adoption, amendment, or repeal of any permanent rule, the Physical Therapist Licensing Board 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 twenty-one (21) days prior to the effective date.

(2) By providing a copy of the notice to persons on the Physical Therapist Licensing Board's mailing list established pursuant to ORS 183.335(8).

(3) By providing a copy of the notice to the following persons, organizations, or publications:

(a) Executive Secretary, Oregon Physical Therapy Association;

(b) Oregon Association of Hospitals.

(c) Oregon Physical Therapists in Independent Practice.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 688.145 & 688.160

Hist.: PT 8, f. & ef. 5-4-76; PTLB 1-2004, f. & cert. ef. 12-29-04; PTLB 2-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-001-0010

Time for Requesting a Contested Case Hearing

A request for a contested case hearing must be in writing and must be received by the Board within twenty-one (21) days from the date the proposed notice of disciplinary action was served.

Stat. Auth. ORS 688.160

Stats. Implemented: ORS 183 & 688.160

Hist.: PTLB 2-2001, f. & cert. ef. 1-4-01; Renumbered from 848-010-0115, PTLB 1-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-010-0015

Examinations

(1) Examinations for licensing of physical therapists and of physical therapist assistants shall be provided by an examination service approved by the Board. The overall passing score shall be based on a formula using the criterion-referenced scoring system. An applicant may sit for the examination a maximum of three times in any jurisdiction within a 12-month period, measured from the date of the first examination. Prior to a fourth attempt, the applicant must take and complete a refresher course approved by the Board. Applicant may test two times in any jurisdiction following completion of the refresher course. If applicant fails to pass the examination within two attempts following completion of the refresher course, applicant may not be licensed in Oregon.

(2) All completed applications for examination, the non-refundable examination fee and other necessary forms must be approved by the Board prior to the scheduling of each examination in Oregon. For applicants taking the examination in another state or territory of the United States, or other Board approved location, and applying to Oregon for licensure by examination, all completed applications, the non-refundable fee and other necessary forms must be approved by the Board prior to licensure.

(3) All foreign educated physical therapists must submit directly to the Board, prior to obtaining an application:

(a) A Credentials Evaluation Statement ("the Report") of professional education and training prepared by a Board-approved credentials evaluation agency. It is the applicant's responsibility to pay the expenses associated with the credentials evaluation.

(A) The Report must provide evidence and documentation that the applicant's education outside a state or territory of the United States is substantially equivalent to the education of a physical therapist who graduated from an accredited physical therapy education program approved by the Board pursuant to ORS 688.050(2).

(B) To determine substantial equivalency, the approved credentialing evaluation agency shall use the appropriate Course Work Tool ("CWT") adopted by the Federation of State Boards of Physical Therapy. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist graduated from their physical therapy program.

(b) English Language Proficiency

(A) Verification that English is the native language of the country of origin, and the physical therapy program employs English as the language of training; or

(B) Verification that the applicant has achieved a score of not less than 560 on the paper Test of English as a Foreign Language (TOEFL) or a score of not less than 220 on the computer Test of English as a Foreign Language (TOEFL), a score of not less than 50 on the Test of Spoken English (TSE) and a score of not less than 4.5 on the Test of Written English (TWE); or

(C) Verification that the applicant has achieved the following minimum scores for each category of the new internet based TOEFL (ibTOEFL) examination: writing, 24; speaking, 26; reading, 21; listening, 18; with an overall score of not less than 89.

(c) If applicant has taken a Board-approved national licensing examination prior to application for licensure in Oregon, a report of applicant's examination scores must be submitted to the Board directly from the Board-approved examination service.

(d) If applicant holds or has held a license in the country in which the applicant received their physical therapy education, the applicant must provide primary source verification of the license.

(e) For purposes of section (3) of this rule, the requirements and criteria considered for credentialing will be "as of" the date the most recent credentialing report was received by the Board from the Board-approved credentialing agency.

(4) The Examination must be given in the English language.

(5) No person shall be allowed to take the physical therapist examination or physical therapist assistant examination for licensure in Oregon until all academic requirements are completed.

(6) The examination will be administered at a location approved by the Board. Applicants taking the examination in Oregon must sit for the examination within 60 days from the date of the letter of authorization from the Board-approved examination service.

(7) Any applicant who has graduated from an approved school of physical therapy and passed a Board-approved examination or a Board-approved equivalent examination more than five years prior to application for licensure in the State of Oregon and who has not been actively licensed in any other state or territory of the United States for a five year period shall be required to complete a refresher course approved by the Board and to pass an examination approved by the Board as provided in this rule.

Stat. Auth.: ORS 688.160

Stats. Implemented: ORS 688.020, 688.040, 688.050, 688.055, 688.070 & 688.090

Hist.: PT 2, f. 8-22-74, ef. 9-25-74; PT 6, f. 12-20-74, ef. 1-11-75; PT 10, f. & ef. 10-21-77; PT 11, f. & ef. 12-28-77; PT 1-1979, f. & ef. 2-14-79; PT 1-1983, f. & ef. 1-5-83; PT 1-1984, f. & ef. 5-3-84; PT 1-1989, f. & cert. ef. 8-8-89; PT 1-1990 (Temp), f. & cert. ef. 7-16-90; PT 2-1990, f. & cert. ef. 10-2-90; PT 1-1996, f. 1-16-96, cert. ef. 2-1-96; PT 2-1996, f. & cert. ef. 9-5-96; PT 1-1997, f. & cert. ef. 2-4-97; PTLB 4-1999, f. 11-23-99, cert. ef. 12-1-99; PTLB 1-2000, f. & cert. ef. 5-4-00; PTLB 3-2003, f. & cert. ef. 8-22-03; PTLB 9-2004, f. & cert. ef. 12-29-04; PTLB 4-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-010-0033

Yearly Renewal Of License Required

(1) All physical therapist and physical therapist assistant licenses expire on March 31 of each calendar year, regardless of the initial issue date. Physical therapists and physical therapist assistants must annually renew their licenses to practice effective April 1 of each year. A license is considered lapsed if a completed renewal application is postmarked or received after March 31. A person whose license has lapsed must immediately stop practicing as a physical therapist or a physical therapist assistant and shall not practice until the license is renewed.

(2) During the first week in January of each year the Board mails a renewal application to each currently licensed physical therapist and physical therapist assistant at the licensee's mailing address on file with the Board.

(3) If the completed license renewal application is postmarked or actually received by the Board after March 31, the licensee is subject to a

lapsed license renewal fee as provided in OAR 848-005-0020(1)(e) in addition to the annual license renewal fee.

(4) A licensed physical therapist must complete the renewal application form furnished by the Board and pay the annual renewal fee provided in OAR 848-005-0020(1)(c).

(5) A licensed physical therapist assistant must complete the renewal application form furnished by the Board and pay the annual renewal fee provided in OAR 848-005-0020(1)(d).

(6) Each currently licensed physical therapist and physical therapist assistant must complete the continuing education as provided in Division 35 of these rules by March 31st of each even-numbered year.

Stat. Auth.: ORS 688.110
Stats. Implemented: ORS 688.110
Hist.: PTLB 9-2004, f. & cert. ef. 12-29-04; PTLB 4-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-010-0035
Renewal of Lapsed Licenses

(1) Any license that is not renewed before April 1 of each year shall automatically lapse. No person whose license has lapsed shall practice until the license is renewed. Failure to receive a renewal notice shall not excuse any licensee from the requirements of renewal. The Board may renew any lapsed license upon payment of all past unpaid renewal and delinquent fees, and documentation of completion of the continuing education requirements for the immediately prior certification period as provided in Division 35 of these rules. An applicant whose license has lapsed for non-completion of the continuing education requirements may reinstate the lapsed license upon completion of the requirements for the immediately prior certification period. Courses taken after March 31 of the even-numbered year to fulfill the requirements necessary to reinstate the lapsed license shall apply only to the prior certification period.

(2) In the event that an applicant's Oregon physical therapy license has lapsed for five or more consecutive years, the applicant must demonstrate competence to practice physical therapy. If the applicant fails to demonstrate competence, the Board may require the applicant to serve an internship under a restricted license or satisfactorily complete a refresher course approved by the Board, or both, at the discretion of the Board. The Board may also require the applicant to pass an examination approved by the Physical Therapist Licensing Board as provided in OAR 848-010-0015.

(3) If the applicant holds a current physical therapist or physical therapist assistant license in another state or jurisdiction and the applicant's Oregon license has lapsed for five or more consecutive years, the applicant may apply for a license by endorsement as provided in OAR 848-010-0020.

Stat. Auth: ORS 688.160
Stats. Implemented: ORS 688.100
Hist.: PT 2, f. 8-22-74, ef. 9-25-74; PT 10, f. & ef. 10-21-77; PT 1-1979, f. & ef. 2-14-79; PT 1-1989, f. & cert. ef. 8-8-89; PT 5-1996, f. & cert. ef. 9-5-96; PTLB 9-2004, f. & cert. ef. 12-29-04; PTLB 4-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-015-0010
Definitions

(1) Under ORS 688.010(4), a physical therapist assistant is defined as a person who assists a physical therapist in the administration of physical therapy. The physical therapist assistant's function is to assist the physical therapist in patient-related activities and to perform delegated procedures that are commensurate with the physical therapist assistant's education, training, experience, and skill.

(2) "Supervising physical therapist" means either the last physical therapist to see the patient, or the physical therapist designated as in charge of the patient on the day the patient is being treated.

Stat. Auth.: ORS 688.160 & 688.055
Stats. Implemented: ORS 688.020, 688.040, 688.055, 688.070, 688.080 & 688.090
Hist.: PTLB 3-2004, f. & cert. ef. 12-29-04; PTLB 5-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-015-0020
Scope of Practice

(1) For purposes of the provision of physical therapy services, a physical therapist assistant shall practice solely under the clinical supervision and direction of a physical therapist.

(2) A physical therapist assistant may provide physical therapy treatment only when a supervising physical therapist is available. As used in this rule "available" means that at all times a supervising physical therapist is readily accessible for consultation with the assistant, either in person or by means of telecommunications.

(3) A physical therapist assistant may provide physical therapy treatment only after a physical therapist has performed an initial evaluation and prepared a plan of care.

(4) A physical therapist assistant may prepare a final summary of a patient's physical therapy status upon discharge as provided in OAR 848-040-0165.

(5) A physical therapist assistant shall practice in compliance with the standards set out in Division 40 of these rules.

(6) If authorized by a supervising physical therapist, a physical therapist assistant may provide limited services to a student in a school setting for up to 10 school days after the date when a reassessment is required to be performed under OAR 848-0040-0155(2)(b) or (c). The services that may be provided under this paragraph are limited to coordinating with other persons and instructing a teacher or educational or instructional assistant or nursing aide in physical management strategies to insure that the student can access the classroom and related educational services in compliance with and continued implementation of the student's individualized education plan as defined in OAR 848-040-0100(3).

Stat. Auth.: ORS 688.160 & 688.055
Stats. Implemented: ORS 688.020, 688.040, 688.055, 688.070, 688.080 & 688.090
Hist.: PTLB 3-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-020-0000
Definitions

As used in this Division:

(1) "Physical therapist aide" or "aide" means a person who is not licensed as a physical therapist or physical therapist assistant, who aids a physical therapist or physical therapist assistant by performing treatment-related tasks or by performing non-treatment, patient-related tasks. Although they may be providing services to a patient pursuant to direction or instruction from a physical therapist or physical therapist assistant, the following persons are not considered physical therapist aides:

(a) Educational or instructional aides or assistants working in a school setting; or

(b) Nurses aides, restorative aides or personal care assistants. Persons performing facility maintenance, equipment assembly and maintenance, housekeeping, clerical, or other similar tasks are not considered aides.

(2) "Physical therapist" or "physical therapist assistant" includes a person who holds a temporary permit issued under OAR 848-010-0026.

(3) "Treatment-related task" means a physical therapy service rendered directly to a patient.

(4) "Non-treatment, patient-related task" means a task related to preparation of treatment areas, transport of patients, preparation of patients for treatment and other patient-related tasks.

(5) "Supervise" means to provide the amount of personal direction, assistance, advice and instruction necessary to reasonably assure that the supervisee provides the patient competent physical therapy services, given the supervisor's actual knowledge of the supervisee's ability, training and experiences. Additionally, supervision of:

(a) A treatment-related task requires that the supervising physical therapist or physical therapist assistant be in the same building and within sight or earshot of the aide who is performing the treatment-related task, such that the supervising physical therapist or physical therapist assistant is immediately available at all times to provide in person direction, assistance, advice, or instruction to the aide or the patient. A physical therapist may delegate supervision of an aide to a physical therapist assistant;

(b) A non-treatment, patient-related task requires that the supervising physical therapist or physical therapist assistant be within the building where the aide is performing the task.

(6) "Authentication" means the process by which the licensee reviews and validates the accuracy of the record entry. By authenticating a record entry, the licensee certifies that the services described were performed by the authenticating licensee or performed by a person under that licensee's supervision.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160 & 688.210
Hist.: PT 3-1994, f. & cert. ef. 7-29-94; PTLB 4-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0100
Definitions

As used in this Division:

(1) "Authentication" means the process by which the licensee reviews and validates the accuracy of the record entry. By authenticating a record entry, the licensee certifies that the services described were performed by the authenticating licensee or performed by a person under that licensee's supervision.

(2) "IDEiA" means Individuals with Disabilities Education Improvement Act.

(3) "IEP" means an Individualized Education Plan developed for a child/student qualified under the IDEiA program.

(4) "IFSP" means an Individualized Family Services Plan developed for a child qualified under the IDEiA Early Intervention Program.

(5) "Licensee" means a physical therapist or a physical therapist assistant and includes a temporary permit holder.

(6) "Patient" means one who seeks and receives physical therapy services. For purposes of these rules, patient may include a person receiving services in a home or clinical setting, a student in a school setting, a child receiving early intervention services, a resident of a care facility, or an animal.

(7) "Permanent Record" means the final version of the record of each evaluation, reassessment or treatment provided to a patient which becomes part of the patient's medical record.

(8) "Plan of care" means a written course of physical therapy treatment established by a physical therapist following an initial evaluation which integrates the evaluation data collected to determine the degree to which physical therapy interventions are likely to achieve anticipated goals and expected outcomes.

(9) "Record" means a written account of the detailed information gathered from each evaluation, reassessment, and the treatment provided to a patient. This documentation may be used to create the separate, permanent record, or it may serve as the permanent record.

(10) "Student" means a child ages 3 to 21 who is enrolled in an educational institution and who qualifies for services under IDEiA or Section 504 of the Rehabilitation Act, or other designated plan of care, or a child ages 0-2 who qualifies under the IDEiA Early Intervention Program.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010, 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0110
General Standards for Record Keeping

(1) The licensee who performs the physical therapy service shall prepare a complete and accurate record for every patient, regardless of whether compensation is given or received for the therapy services and regardless of whether the patient receives treatment pursuant to a referral or is self-referred.

(2) A record shall be prepared on the date a physical therapy service is provided.

(3) The permanent record shall contain information for every physical therapy service provided, the date the service was provided and the date the entry was made in the record. The permanent record of a physical therapy service shall be prepared within seven calendar days of the date the service was provided.

(4) The licensee who performs the physical therapy service shall authenticate the permanent record of the service that was performed. Authentication may be made by written signature or by computer. If authentication is by computer, the licensee shall not permit another person to use the licensee's password to authenticate the entry. Authentication may not be accomplished by the use of initials, except when a record entry identifying an error is authenticated. A rubber stamp may not be used to authenticate any entry in a patient record.

(5) Non-licensees, including physical therapist aides, may prepare physical therapy treatment-related entries for the permanent patient record for authentication by the treating licensee. The requirement for authentication shall not apply to records not related to physical therapy treatment.

(6) Either the permanent record or a record prepared on the date of service shall be readily accessible to a licensee prior to when that licensee provides subsequent treatment to the patient. "Readily accessible" means the authenticating licensee is able to produce the record immediately upon request.

(7) All entries shall be legible and permanent handwritten records shall be in ink.

(8) Abbreviations may be used if they are recognized standard physical therapy abbreviations or are approved for use in the specific practice setting.

(9) When an error in the permanent record is discovered, the error shall be identified and corrected. The erroneous entry shall be crossed out, dated and initialed or otherwise identified as an error in an equivalent written manner by the author of the erroneous entry.

(10) Late entries or additions to entries in the permanent record shall be documented when the omission is discovered with the following written at the beginning of the entry: "late entry for (date)" or "addendum for (date)" and authenticated;

(11) Documentation by a student physical therapist (SPT) shall be authenticated by the student and by a supervising physical therapist.

(12) Documentation by a student physical therapist assistant (SPTA) shall be authenticated by the student and by a supervising physical therapist or supervising physical therapist assistant.

(13) Documentation by a person who holds a physical therapist temporary permit issued under OAR 848-010-0026 (1)(a) or (1)(c) shall be authenticated by the permit holder and by a supervising physical therapist.

(14) Documentation by a person who holds a physical therapist assistant temporary permit issued under OAR 848-010-0026 (1)(a) shall be authenticated by the permit holder and by a supervising physical therapist or supervising physical therapist assistant.

(15) For purposes of the Board's enforcement of these rules, patient records shall be kept for a minimum of seven years measured from the date of the most recent entry.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 8-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0117
Standards For Authorization To Provide Physical Therapy Services

As a result of legislative changes effective January 1, 2006, physical therapists are no longer required to meet additional educational requirements in order to evaluate and treat a patient without a referral. The various circumstances, conditions and limitations under which a physical therapist may now evaluate and treat a patient are as follows in subsections (1), (2), (3), (4) and (5) of this rule.

(1) A physical therapist may initiate and provide physical therapy to a self-referred patient as follows:

(a) Treatment shall not continue past 30 days from the initial date of treatment unless the therapist receives a written or oral referral or authorization from a provider identified in ORS 688.132(1).

(b) If the therapist receives a referral or authorization after the initial 30 days, treatment may be provided in accordance with the referral or authorization. If the referral specifies or identifies specific physical therapy interventions, precautions or contraindications for therapy, physical therapy shall not be provided beyond those specifications or limitations without further authorization.

(c) As provided in ORS 688.132(2), a motor vehicle liability insurer is not required to pay personal injury protection benefits for physical therapy treatment provided to a self-referred patient.

(2) A physical therapist may initiate and provide physical therapy upon a written or oral referral or authorization from a provider identified in ORS 688.132(1) as follows:

(a) If the referral or authorization specifies or identifies specific physical therapy interventions, precautions, or contraindications for therapy, physical therapy shall not be provided beyond those specifications or limitations without further authorization.

(b) If a patient who is being treated pursuant to a referral or authorization requests treatment for a diagnosis or condition that is different and separate from the diagnosis or condition that is the subject of the referral, the physical therapist may initiate and provide treatment. In such case, the provisions of subsection (1)(a) of this rule shall apply.

(c) If a physical therapist receives a referral or authorization from a provider identified in ORS 688.132(1) at any time during the first 30 days of treatment, such referral or authorization shall satisfy the requirements of ORS 688.132(1)(b). If a referral or authorization specifies the number of treatments or a duration of treatment extending beyond 30 days, the physical therapist may treat the patient for that duration and may extend treatment for a reasonable period of time if necessary for the patient to receive all authorized treatments.

(3) A physical therapist may initiate physical therapy without a written or oral referral or authorization, and is not required to refer the patient after 30 days under ORS 688.132(1)(b), if the patient meets one of the following criteria:

(a) The individual is a child or a student eligible for special education, as defined by state or federal law, or eligible under Section 504 of the Federal Rehabilitation Act of 1973, and is being seen pursuant to the child's or the student's individual education plan, individual family service plan, 504 plan, or other designated plan of care;

(b) The individual is a student athlete at a public or private school, college or university and is seeking treatment in that role as athlete; or

(c) The individual is a resident of a long term care facility as defined in ORS 442.015, a residential facility as defined in ORS 443.400, an adult

foster home as defined in ORS 443.705 or an intermediate care facility for mental retardation pursuant to federal regulations.

(4) A physical therapist may provide physical therapy treatment to an animal under a referral from a veterinarian licensed under ORS chapter 686. The referral must be in writing and specify the treatment or therapy to be provided pursuant to ORS 686.040(4). The standard of care and documentation for physical therapy care to an animal shall be as provided for veterinarians under ORS chapter 686.

(5) Notwithstanding the provisions of this rule, and pursuant to ORS 656.250, a physical therapist shall not provide compensable services to injured workers governed by ORS chapter 656 except as allowed by a governing managed care organization contract or as authorized by the worker's attending physician.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010
Hist.: PTLB 8-2005, f. 12-29-05, cert. ef. 1-1-06; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0125
Standards For Initiation Of Physical Therapy

(1) Prior to initiating the first physical therapy treatment, a physical therapist shall perform an initial evaluation of each patient and determine a plan of care as provided in OAR 848-040-0135.

(2) In the course of performing an initial evaluation the physical therapist shall examine the patient, obtain a history, perform relevant system reviews, assess the patient's functional status, select and administer specific tests and measurements and formulate clinical judgments regarding the patient. A physical therapist may incorporate by reference medical history or system review information about the patient prepared by another licensed health care provider and available in the physical therapy treatment record, IEP, IFSP or other designated plan of care.

(3) Only a physical therapist may perform an initial evaluation. A physical therapist shall not delegate the performance of an initial evaluation to a physical therapist assistant or to an aide.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0130
Standards For The Documentation Of An Initial Evaluation

The permanent record of the initial evaluation shall include:

(1) Patient's full name, age and sex;

(2) Identification number, if appropriate;

(3) Referral source, including patient self-referral;

(4) Pertinent medical or physical therapy diagnoses, medications if not otherwise accessible in another part of the patient's medical record, history of presenting problem and current complaints and symptoms, including onset date;

(5) Prior or concurrent services related to the provision of physical therapy services;

(6) Any co-existing condition that affects either the goals or the plan of care;

(7) Precautions, special problems and contraindications;

(8) Subjective information (patient's knowledge of problem);

(9) Patient's goals (with family input or family goals, if appropriate). Goals may be as

provided in an applicable IEP, IFSP, or other designated plan of care; and

(10) Appropriate objective testing results, including but not limited to:

(a) Critical behavior/cognitive status;

(b) Physical status (e.g., pain, neurological, musculoskeletal, cardiovascular, pulmonary);

(c) Functional status (for Activities of Daily Living, work, school, home or sport performance); and

(d) Interpretation of evaluation results.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0135
Standards For The Plan of Care

(1) Prior to initiation of treatment, a physical therapy plan of care for the patient shall be determined by a physical therapist. As appropriate, a plan of care may include the IFSP, or, in a school setting, a plan of care may include the IEP for a student, or other designated plan of care.

(2) Only a physical therapist may develop a plan of care. A physical therapist shall not delegate the development of the plan of care to a physical therapist assistant or to an aide.

(3) A physical therapist shall identify appropriate treatment tasks to be delegated to a physical therapist assistant or aide.

(4) Only a physical therapist may modify a plan of care. However, a physical therapist assistant may make recommendations to the physical therapist in regards to revision of the plan of care for a patient for whom the physical therapist assistant has been providing treatment.

(5) A physical therapist shall make modifications to the plan of care any time there are significant changes in the patient's condition or status that would affect the physical therapy goals.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0140
Standards For The Documentation Of The Plan Of Care

(1) The permanent record of the plan of care shall include:

(a) Objectively measurable treatment goals that incorporate the patient's goals;

(b) Proposed treatment to accomplish the goals; and

(c) Proposed frequency and duration of treatment or number of visits.

(2) The permanent record of the plan of care shall be authenticated and dated by the physical therapist who developed the plan.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0145
Standards For Providing Treatment

(1) A licensee shall not permit an aide to administer a procedure or modality to a patient, unless a licensee has previously administered that procedure or modality to the patient.

(2) A physical therapist or physical therapist assistant shall perform, or attempt to perform techniques or procedures only with qualified education and experience.

(3) Except as provided in OAR 848-015-0020(6), a physical therapist or physical therapist assistant shall not continue to provide treatment to a patient unless a reassessment has been performed when required by OAR 848-040-0155. However, a physical therapist assistant may provide treatment on the day a reassessment is required, so long as during that treatment day a physical therapist performs the required reassessment.

(4) A physical therapist or physical therapist assistant shall provide treatment in accordance with the provisions of OAR 848-040-0105.

(5) At all times there shall be a physical therapist supervising the treatment provided by a physical therapist assistant as provided in OAR 848-015-0020(2) or an aide as provided in OAR 848-020-0000(5). "Supervising physical therapist" means either the last physical therapist to see the patient, or the physical therapist designated as in-charge of the patient on the day the patient is being treated.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0150
Standards For The Documentation of Treatment Provided

(1) The permanent record of treatment for each patient visit shall include at a minimum:

(a) Subjective status of patient;

(b) Specific treatments and education provided;

(c) Objective data from tests and measurements conducted;

(d) Assessment of the patient's response to treatment, including but not limited to:

(A) Patient status, progression or regression;

(B) Changes in objective and measurable findings as they relate to existing goals;

(C) Adverse reactions to treatment; and

(e) Changes in the plan of care.

(2) When treatment is provided by an aide, the aide may only document in the patient record objective information about the treatment provided by the aide. The aide shall authenticate the record entry. Authentication shall include the aide's full name and designation "aide". The aide shall not use the designations "physical therapist aide," "physical therapy aide" or "PT aide".

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0155
Standards For Performing The Required Reassessment

(1) A physical therapist shall perform a reassessment for each patient to update patient status, evaluate progress and to modify or re-direct physical therapy services. In the course of performing the required reassessment, the physical therapist shall personally examine the patient, assess the patient's functional status, select specific tests and measurements, and formulate clinical judgments regarding the patient. The physical therapist may delegate to a physical therapist assistant the gathering of data for the reassessment as provided in OAR 848-015-0030(1)(b).

(2) A physical therapist shall perform a reassessment for each patient:

(a) At least every 30 days, or at every visit if the patient is seen less frequently;

(b) At least every 60 school days if the student is being treated in an educational setting or at every visit if the student is seen less frequently; or

(c) Anytime there are significant changes in the patient's condition or status that would result in a change in the goals or the plan of care.

(3) Only a physical therapist may perform the required reassessment. A physical therapist shall not delegate the performance of a required reassessment to a physical therapist assistant or to an aide.

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

848-040-0160
Standards For The Documentation Of The Required Reassessment

The permanent record of each reassessment shall include at a minimum:

(1) Subjective status of patient;

(2) Objective data from tests and measurements conducted;

(3) Functional status of patient;

(4) Interpretation of above data;

(5) Any change in the plan of care; and

(6) Any change in physical therapy goals (including patient goals).

Stat. Auth.: ORS 688.160
Stats. Implemented: ORS 688.160, 688.010 & 688.210
Hist.: PTLB 6-2004, f. & cert. ef. 12-29-04; PTLB 1-2007, f. 3-13-07, cert. ef. 4-1-07

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Racing Commission
Chapter 462

Rule Caption: Horse medication and miscellaneous provisions.
Adm. Order No.: RC 1-2007
Filed with Sec. of State: 2-28-2007
Certified to be Effective: 3-7-07
Notice Publication Date: 11-1-06
Rules Adopted: 462-160-0100, 462-160-0110, 462-160-0120, 462-160-0130, 462-160-0140
Rules Repealed: 462-160-0010, 462-160-0020, 462-160-0030, 462-160-0100(T), 462-160-0110(T), 462-160-0120(T), 462-160-0130(T), 462-160-0140(T)
Subject: Rules regarding veterinary practices, prohibited practices, medications and prohibited substances, and testing procedures.
Rules Coordinator: Carol N. Morgan—(971) 673-0208

462-160-0100
Purpose

To describe requirements and procedures used to ensure the health and welfare of racehorses and to safeguard the interests of the public and the participants in racing.

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

462-160-0110
Veterinary Practices

(1) Veterinarians under Authority of Official Veterinarian:

(a) Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the official veterinarian and the stewards:

(b) The official veterinarian shall recommend to the stewards or the Commission the discipline that may be imposed upon a veterinarian who violates the rules.

(2) Treatment Restrictions:

(a) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the Commission may administer, via injection, topical application, inhalant, per os or per rectum, a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the Commission;

(b) This subsection does not apply to the administration of the following substances except in approved quantitative levels, if any, present in post-race samples or as they may interfere with post-race testing:

(A) A recognized non-injectable nutritional supplement or other substance approved by the official veterinarian;

(B) A non-injectable substance on the direction or by prescription of a licensed veterinarian; or

(C) A non-injectable non-prescription medication or substance.

(c) No person shall possess a hypodermic needle, syringe or injectable of any kind on association grounds, unless otherwise approved by the Commission. At any location under the jurisdiction of the Commission, veterinarians may use only one-time disposable needles, and shall dispose of them in a manner approved by the Commission. If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the Commission, that person may request permission of the stewards and/or the Commission in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe, and must comply with any conditions and restrictions set by the stewards and/or the Commission;

(d) Veterinarians shall not have contact with an entered horse 24-hours prior to post time of which the horse is entered except for the administration of permitted medication and/or furosemide under the guidelines set forth in OAR 462-160-0130(8) unless approved by the official veterinarian. Contact shall be defined as any direct or indirect physical proximity or examination;

(e) Any horse entered for racing must be present on the grounds 5-hours prior to the post time of the race they are entered in unless that horse is not entered to race with furosemide in which case that horse must be on the grounds no later than one hour prior to the post time of the race for which the horse is entered.

(3) Veterinarians' Reports:

(a) Every veterinarian who treats a racehorse at any location under the jurisdiction of the Commission shall, in writing on the Medication Report Form prescribed by the Commission, report to the official veterinarian or other commission designee at the racetrack where the horse is entered to run or as otherwise specified by the commission, the name of the horse treated, any medication, drug, substance, or procedure administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested by the official veterinarian;

(b) The Medication Report Form shall be signed by the practicing veterinarian;

(c) The Medication Report Form must be filed by the treating veterinarian within 24-hours of any treatments in section (a) and not later than post time of the race for which the horse is entered. Any such report is confidential and its content shall not be disclosed except in the course of an investigation of a possible violation of these rules or in a proceeding before the stewards or the Commission, or to the trainer or owner of record at the time of treatment;

(d) A timely and accurate filing of a Medication Report Form that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent, if any, of a rules violation.

(4) Veterinary Licenses. Any veterinarian licensed by the Oregon Racing Commission to practice veterinary medicine on a racecourse shall be prohibited from concurrently holding any other license at any location under the jurisdiction of the Commission.

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

462-160-0120
Prohibited Practices

The following are considered prohibited practices:

(1) The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or,

(2) The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the Commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in (human or animal) is forbidden without prior permission of the Commission or its designee.

(3) The possession and/or use of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the Commission is forbidden:

(a) Erythropoietin;

(b) Darbepoetin;

(c) Oxyglobin®; and

(d) Hemopure®.

(4) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

(a) Any treated horse shall not be permitted to race for a minimum of 10 days following treatment;

(b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the Commission;

(c) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the Commission or its designee before use; and

(d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian.

(5) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24-hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or his/her designee.

(6) No medication may be taken into a stall where a horse is stabled unless it is intended for use on that horse. Any medication or substance that is found in a stall or on a person within a stall with a horse shall be prima facia evidence that it is intended to be administered to that horse.

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

462-160-0130
Medications and Prohibited Substances

(1) No horse may be administered any substance, other than foods, by any route or method after entry except: phenylbutazone, flunixin, or ketoprofen (in the manner described in these rules), furosemide (by the manner described in these rules), select antiulcer medication (in the manner described in these rules), or electrolytes (by feed or paste) unless approved by the commission veterinarian:

(a) Any licensee of the commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer;

(b) The licensed trainer is responsible for notifying the licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding of any hearings and any resulting action. In addition their presence may be required at any and all hearings relative to the case;

(c) Any veterinarian found to be involved in the administration of any drug with an RCI Classification of 1, 2, or 3, involved in a prohibited practice as outlined in 0AR 462-160-0120, or involved in an ORS 462 violation shall be referred to the State Licensing Board of Veterinary Medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the stewards or the commission;

(d) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission in no way prohibits a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the commission;

(e) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

(2) Medication Restrictions:

(a) A finding by the commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

(A) Drugs or medications for which no acceptable threshold concentration has been established;

(B) Therapeutic medications in excess of established threshold concentrations;

(C) Substances present in the horse in excess of concentrations at which such substances could occur naturally; and

(D) Substances foreign to a horse at concentrations that cause interference with testing procedures.

(b) Except as otherwise provided by this chapter, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this chapter after entry and before post time for the race in which the horse is entered.

(3) Medical Labeling:

(a) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection;

(b) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

(A) The name of the product;

(B) The name, address and telephone number of the veterinarian prescribing or dispensing the product;

(C) The name of each patient (horse) for whom the product is intended/prescribed;

(D) The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

(E) The name of the person (trainer) to whom the product was dispensed.

(4) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs):

(a) The use of one of three approved NSAIDs shall be permitted under the following conditions:

(A) The approved NSAIDs shall be authorized medication at race meets at which the average daily gross mutuel wagering during the preceding year exceeded $150,000. If a race meet with average daily gross mutuel wagering during the preceding year of $150,000 or less desires NSAIDs be authorized medications at their race meet they may petition the commission to approve the use of permitted NSAIDs at their race meet. The commission may approve the use of permitted NSAIDs at such race meet, if in the opinion of the commission the race meet can provide for the necessary qualified staffing, security and for the additional laboratory analysis costs and any other controls necessary to administer the program adequately. Horses on any permitted NSAID will be designated on the overnight and the daily racing program with an "M";

(B) No horse utilizing a permitted NSAID may be entered into a race unless the presence of the specific NSAID is stated on the entry form at the time of entry. Errors may be corrected up until scratch time. If no scratch time is used, the stewards may designate a time until which errors may be corrected;

(C) Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24-hours before the post time for the race in which the horse is entered:

(i) Phenylbutazone (or its metabolite oxyphenylbutazone) — 5 micrograms per milliliter;

(ii) Flunixin — 25 nanograms per milliliter;

(iii) Ketoprofen — 10 nanograms per milliliter.

(D) These or any other NSAID are prohibited to be administered within the 24-hours before post time for the race in which the horse is entered;

(E) A test sample with a phenylbutazone to oxyphenylbutazone ratio of greater than 3:1 shall be a presumption of administration less than 24-hours before scheduled post time;

(F) The presence of more than one of the three approved NSAIDs in urine or any unapproved NSAID in the post-race serum, plasma or urine sample is not permitted. The use of all but one of the approved NSAIDs

shall be discontinued at the close of entries for the day in which the horse is entered.

(b) Any horse to which a NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s);

(c) When listed to race on a permitted NSAID, the approved laboratory must be able to detect the presence of a permitted NSAID in serum, plasma or urine by the routine methods of detection;

(d) If a permitted NSAID is detected in the urine or in any other specimen taken from a horse not stated to have permitted medication in its system on the entry form and/or program, the violation will result in a penalty to the horse's trainer and may result in loss of purse;

(e) If the same horse has three (3) overages of any permitted NSAID during a 365 day period the commission veterinarian shall rule the horse off all NSAIDs for a period of one year (365 days);

(f) The decision of whether to scratch a horse which has been entered incorrectly or is incorrectly treated shall be left to the discretion of the commission veterinarian.

(5) Furosemide:

(a) The commission may approve the use of furosemide at any race meet, if in the opinion of the commission the race meet can provide the necessary qualified staffing, security and for the additional laboratory analysis costs and any other controls necessary to administer a Furosemide program;

(b) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed:

(A) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide they shall notify the official veterinarian or his/her designee, using the prescribed form, that they wish the horse to be put on the Furosemide List;

(B) The form must be received by the official veterinarian or his/her designee by the proper time deadlines so as to ensure public notification;

(C) A horse placed on the official Furosemide List must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or his/her designee, on the proper form, no later than the time of entry;

(D) After a horse has been removed from the Furosemide List, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide List a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days;

(E) Furosemide shall only be administered on association grounds;

(F) Upon the request of the regulatory agency designee, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication which may then be submitted for testing.

(c) Horses to run with furosemide must be so noted on the entry form at the time of entry. Errors may be corrected up until scratch time. If no scratch time is used, the stewards may designate a time until which errors may be corrected:

(A) Horses entered to race with furosemide will be designated on the overnight and the daily racing program with a "Lasix®" or "L". If the race is the first race the horse is to run in on furosemide, it shall be designated in the daily racing program with a "1-L". If the race is the first race the horse runs without furosemide after running one or more races with furosemide it shall be designated in the program by "O-L' or "L-X";

(B) When discovered prior to the race, errors in the listing of furosemide treatments in the program shall be announced to the public.

(d) The use of furosemide shall be permitted under the following circumstances:

(A) Furosemide shall be administered no more than five hours but not less than four hours prior to the scheduled post time for the race for which the horse is entered;

(B) The furosemide dosage administered shall not exceed 500 mg. nor be less than 150 mg;

(C) Furosemide shall be administered by a single, intravenous injection;

(D) The trainer of the treated horse shall cause to be delivered to the official veterinarian no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the Commission:

(i) The name of the horse, racetrack name, the date and time the furosemide was administered to the entered horse;

(ii) The dosage amount of furosemide administered to the entered horse; and

(iii) The printed name and signature of the attending licensed veterinarian who administered the furosemide;

(iv) Violations of this subsection (subsection (d)) shall result in a fine and scratch from the race the horse was entered to run. Violations may also result in the commission veterinarian ordering the loss of furosemide privileges.

(e) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample. If furosemide is not detected in a post-race sample, a penalty may be imposed upon the horse's trainer without loss of purse:

(A) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed;

(B) Quantitation of furosemide in serum or plasma shall be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(f) Unauthorized use of furosemide shall result in a penalty to the horse's trainer;

(g) The decision of whether to scratch a horse which has been entered incorrectly or is incorrectly treated shall be left to the discretion of the commission veterinarian;

(h) The commission veterinarian may rule a horse off furosemide if in his/her opinion it is in the horse's best interest, the interest of the citizens of the state or the best interest of horse racing.

(6) Bleeder List:

(a) The official veterinarian shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official veterinarian;

(b) Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to enter for the following time periods:

(A) First incident — 14 days;

(B) Second incident within 365 day period — 30 days;

(C) Third incident within 365 day period — 180 days;

(D) Fourth incident within 365-day period — barred for racing lifetime.

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period;

(d) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy;

(e) A horse may be removed from the Bleeder List only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal;

(f) A horse which has been placed on a Bleeder List in another jurisdiction pursuant to these rules shall be placed on a Bleeder List in this jurisdiction.

(7) Anti-Ulcer Medications. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to 24-hours prior to the race in which the horse is entered:

(a) Cimetidine — 8-20 mg/kg PO BID-TID; and

(b) Omeprazole — 2.2 grams PO SID.

(8) Environmental Contaminants and Substances of Human Use:

(a) The following substances can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases;

(b) The following drugs are recognized as substances of human use and addiction and which could be found in the horse due to its close association with humans;

(c) Regulatory thresholds have been set for the following substances: Caffeine — 100 nanograms of caffeine per milliliter of serum or plasma

(d) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer.

(9) Dimethylsulfoxide (DMSO): The use of DMSO shall be permitted under the following conditions:

(a) It is only administered as an external topical application;

(b) A test sample shall not exceed 10 micrograms / ml. in serum of DMSO or its analogs.

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

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.

(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. The cost incurred by this additional testing, in addition to any fines and penalties, shall be borne by the licensee. 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 statues of rules. Non-interfering level shall be considered to be anything less the 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

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Rule Caption: Charges for laboratory alternate testing procedures.
Adm. Order No.: RC 2-2007(Temp)
Filed with Sec. of State: 2-28-2007
Certified to be Effective: 3-7-07 thru 8-31-07
Notice Publication Date:
Rules Amended: 462-160-0140
Subject: Deletes portion of rule which states cost incurred for additional testing shall be borne by the licensee in instances 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.

(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 statues of rules. Non-interfering level shall be considered to be anything less the 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

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Real Estate Agency
Chapter 863

Rule Caption: Property management agreements, trust accounts, production and storage of records; written policies.
Adm. Order No.: REA 1-2007
Filed with Sec. of State: 3-12-2007
Certified to be Effective: 3-12-07
Notice Publication Date: 10-01-06
Rules Adopted: 863-025-0080
Rules Amended: 863-025-0005, 863-025-0010, 863-025-0015, 863-025-0020, 863-025-0025, 863-025-0030, 863-025-0035, 863-025-0040, 863-025-0045, 863-025-0050, 863-025-0055, 863-025-0060, 863-025-0065, 863-025-0070
Subject: This rulemaking minimizes the current significant fiscal impact of printing and storing records; reflects the current use of electronic transactions and recordkeeping; allows for off-site storage of records; places the responsibilities of property managers in the property management agreements; eliminates specific methods of recordkeeping; places the burden of producing all required record in a timely manner on the property manager; and provides the Real Estate Agency the ability to perform efficient audits in a timely manner. The property management rules affect approximately 6,750 property management clients' trust accounts.
Rules Coordinator: Laurie Skillman—(503) 378-4170 ext. 237

863-025-0005
Application and Purpose

(1) OAR 863-025-0010 to 863-025-0080 apply to the activities of a real estate property manager in the management of rental real estate.

(2) The purposes of OAR 863-025-0010 to 863-025-0080 are:

(a) To specify requirements for the management of rental real estate as defined in ORS 696.010(9);

(b) To protect owners and tenants of rental real estate; and

(c) To make the real estate property manager responsible for establishing a system of recordkeeping that

(A) Provides the Agency with access to the records of the real estate property manager; and

(B) Complies with OAR 863-025-0010 to 863-025-0080 and ORS Chapter 696.

(3) The goal of the Agency is to encourage real estate property managers to comply with the applicable statutes and rules through education and, if necessary, through the use of progressive discipline as defined in OAR 863-015-0230.

(4) Section (3) of this rule does not limit the Agency's authority to reprimand, suspend or revoke a real estate property manager license under ORS 696.301.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.361
Hist.: REA 3-1987, f. 12-3-87, ef. 1-1-88; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0207; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0010
Definitions

In addition to the definitions used in ORS 696.010 and 863-015-0120, as used in OAR 863-025-0015 to 863-025-0080, unless the context requires otherwise:

(1) "Bank account" means an account in this state established by a property manager for receiving, holding and disbursing trust funds in a bank as defined in ORS 696.010(3).

(2) "Clients' Trust Account" means a bank account labeled as "Clients' Trust Account" on all bank records and checks that is established and maintained by a property manager, acting on behalf of an owner under a property management agreement, for depositing, holding and disbursing funds received by the property manager on behalf of an owner, including application fees and application screening fees.

(3) "Employee" means a non-licensed individual employed by a property manager for wages or a salary.

(4) "Identifying code" means a unique series of letters and/or numbers assigned by a property manager to a property management agreement at the time the agreement is signed by the parties and used on all transactions and records to reference the agreement.

(5) "Owner" means a person or persons who own rental real estate that is managed by a property manager.

(6) "Property manager" means a real estate licensee authorized to engage in management of rental real estate as defined in ORS 696.010(9).

(7) "Records" and "property management records" mean a complete and adequate documentation of the management of rental real estate.

(8) "Security Deposit" means a conditionally refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement.

(9) "Security Deposits Account" means a clients' trust account labeled as "Clients' Trust Account—Security Deposits" on all bank records and checks that is established and maintained by a property manager, acting in a fiduciary capacity on behalf of an owner under a property management agreement, for depositing, holding and disbursing security deposit funds.

(10) "Sufficient funds" or "sufficient credit balance" means an amount of funds on an owner's ledger or a tenant's ledger that is enough to meet the amount of a planned disbursement from a clients' trust account or a security deposits account but which shall not include any security deposits in a clients' trust account that are required to be held pending a termination of a rental agreement. Only funds belonging to the owner or tenant on whose behalf the disbursement is planned may be considered in determining if there are sufficient funds or a sufficient credit balance.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0015
Agency Relationships; Disclosures; Written Company Policy

(1) Each property manager shall develop, maintain and follow written policies for persons and activities under this rule.

(2) Each policy shall state the effective date of the policy.

(3) Policies must specify the duties, responsibilities, supervision and authority, including any authority to handle funds in a clients' trust account or security deposits account, for the following persons:

(a) A licensed property manager employed by the property manager, including any authority to negotiate tenant rental and lease agreements;

(b) An active real estate licensee engaged in the management of rental real estate under the supervision and control of a principal broker, including any authority to sign property management agreements under OAR 863-025-0020(6) and tenant rental and lease agreements under OAR 863-025-0045(2); and

(c) An employee of the property manager, including any authority to:

(A) Negotiate tenant rental or lease agreements under OAR 863-025-0045(2);

(B) Check applicant or tenant references, including credit references;

(C) Physically maintain the real estate of an owner;

(D) Conduct tenant relations;

(E) Collect rent and other payments;

(F) Supervise premise managers; or

(G) Discuss financial matters relating to management of the real estate with the owner; and

(d) Contractors.

(4) Policies must include provisions that ensure the protection and confidentiality of the owner's financial information, except as required under subpoena or court order or by applicable law, and except as permitted by the owner, even after the termination of the property management agreement.

(5) Policies must include provisions that specify the production and maintenance of all reports, records and documents required under this division.

(6) The following delegations of the property manager's authority must be in writing, dated and signed by the property manager, and kept with written policies:

(a) Negotiate and sign property manager agreements under OAR 863-025-0020(6);

(b) Review and approve reconciliations and receive and disburse funds under OAR 863-025-0025(21); and

(c) Review, approve and accept tenant rental and lease agreements under OAR 863-025-0045(2).

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0020
Property Management Agreements

(1) A property manager shall not engage in the management of rental real estate without a written property management agreement between the owner and the property manager.

(2) A property management agreement shall include, but not be limited to:

(a) The address or legal description of the owner's rental real estate;

(b) The duties and responsibilities of the property manager and the owner;

(c) The authority and powers given by the owner to the property manager;

(d) The term of the agreement and the method for termination;

(e) The terms and conditions of the agreement;

(f) The management fees, application fees, screening fees, rebates, discounts, overrides and any other form of compensation to be received by the property manager for management of rental real estate including when such compensation shall be earned and when it shall be paid;

(g) A description of the monthly statements of accounting the property manager shall provide to the owner;

(h) The disposition of the records of the management of the owner's rental real estate after termination of the agreement;

(i) Disclosures of the use of any employees or a business in which the property manager has a pecuniary interest, that will perform work on the property;

(j) A statement that the property manager shall disclose to the owner in writing and in a timely manner, any use of employees or a business in which the property manager has a pecuniary interest, to perform work on the property;

(k) An identifying code;

(L) Signatures of the property manager or other person authorized in section (5) of this rule and the owner; and

(m) The date of the agreement.

(3) If the property manager and owner agree to any of the following terms, such provisions must be included in the property management agreement:

(a) Payment of a referral fee, rent credit or other compensation to a tenant as allowed under ORS 696.290(2);

(b) Placement of trust funds received by a property manager in a federally insured interest-bearing clients' trust account or security deposits account as allowed under ORS 696.241(5), including provisions specifying to whom the interest earnings inure; and

(A) If the interest earnings inure to the benefit of the owner, when such interest earnings will be disbursed; and

(B) If the interest earnings inure to the benefit of the property manager, that such interest shall be disbursed to the property manager within three banking days from the date earned as provided in OAR 863-0025-0025(7).

(4) Any amendment or addendum to the property management agreement must be in writing and include the identifying code, the date of the amendment, the signature of the property manager and the signatures of all owners who signed the initial property manager agreement.

(5) Only a principal real estate broker or real estate broker may enter into an agreement, which must be separate from the property management agreement, authorizing the real estate broker to represent an owner in the purchase, sale, lease-option or exchange of the rental real estate that shall include:

(a) The scope of the professional real estate activity;

(b) The term of the agreement;

(c) The compensation to be paid by the owner to the broker;

(d) Signatures of the real estate broker and the owner; and

(e) The date of the separate agreement.

(6) A property manager must negotiate and sign a property management agreement, except that a principal real estate broker engaging in the management of rental real estate may delegate such authority under OAR 863-025-0015(6) to a real estate licensee under the supervision and control of the principal real estate broker.

(7) The property manager shall promptly deliver a legible copy of the fully executed property management agreement, and any addenda or amendments, to the owner.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.361 & 696.280
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0025
Property Management Client Trust Account Requirements

(1) A property manager shall open and maintain at least one clients' trust account as defined in OAR 863-025-0010.

(2) Only the following funds may be held in a clients' trust account:

(a) Funds received by the property manager on behalf of an owner; and

(b) Interest earned, but only if the account is a federally insured interest-bearing account and the property management agreement complies with OAR 863-025-0020(3)(b).

(3) Except as provided in section (6) of this rule, a property manager who receives security deposits on behalf of an owner shall open and maintain a security deposits account as defined in OAR 863-025-0010, that is separate from the property manager's clients' trust account.

(4) Except as provided in section (6) of this rule and OAR 863-025-0030, a property manager who receives a security deposit on behalf of an owner shall deposit the security deposit into the property manager's security deposits account within five banking days after receipt.

(5) Only the following funds may be held in a security deposits account:

(a) Security deposits as defined in OAR 863-0025-0010; and

(b) Interest earned, but only if the account is a federally insured interest-bearing account and the property management agreement complies with OAR 863-025-0020(3)(b).

(6) When a property management agreement and a corresponding lease or rental agreement provide that the security deposit shall be transferred to and held by the owner, the security deposit funds shall be deposited in the clients' trust account and disbursed to the owner in the month in which they are received.

(7) If interest earned in a clients' trust account under section (2)(b) of this rule or in a security deposits account under section (5)(b) of this rule inures to the benefit of the property manager, such interest must be disbursed to the property manager within three banking days of the date the interest is earned.

(8) Funds in a clients' trust account or security deposit account may not be deposited, held or disbursed by an owner.

(9) A property manager shall be an authorized signer on each client's trust account and any security deposits account and is solely responsible for the receipts and disbursements on each bank account.

(10) A property manager shall maintain and account for all checks used for a clients' trust account or security deposits account, including but not limited to voided checks. All such checks shall:

(a) Include the account number;

(b) Be pre-numbered or, if checks are computer-generated, must be numbered consecutively;

(c) If the account is a clients' trust account, include the words "clients' trust account," but may include additional identifying language; and

(d) If the account is a security deposits account, include the words "clients' trust account—security deposits," but may include additional identifying language.

(11) A property manager shall not disburse funds from a clients' trust account or security deposits account unless there are sufficient funds, as defined in OAR 863-025-0010, in the ledger account against which the disbursement is made.

(12) A property manager may only transfer funds from an owners' ledger account to one or more different owners' ledger accounts if:

(a) Each of the affected owners authorizing the transfer have signed and dated an agreement authorizing such transfer that is separate from any property management agreements;

(b) At the time of the transfer, the property manager enters the transfer information on each affected owners' ledger account, including but not limited to the amount of the transfer, date of the transfer and the source or destination of the transferred funds, as appropriate; and

(c) The property manager gives each owner a separate monthly accounting on the transfer or includes the accounting of the transfer activity in the regular monthly report to the owner.

(13) A property manager may only transfer funds between two or more owner's ledger accounts maintained for the same owner if:

(a) The owner has given the property manager prior written approval in the property management agreement or in an addendum to the agreement; and

(b) At the time of the transfer, the property manager enters the transfer information in each of the owner's affected ledger accounts including, but not limited to, the amount of the transfer, date of the transfer and the source or destination of the transferred funds, as appropriate.

(14) A property manager shall disburse earned management fees from the client's trust account at least once each month, unless a different schedule of disbursement is specified in the property management agreement and only if sufficient funds are available.

(15) The monthly cycle for a clients' trust account or security deposits account may begin and end on a stipulated date every month, if the date is consistent from month to month.

(16) A property manager shall not disburse funds from a clients' trust account or security deposits account based upon a wire or electronic funds transfer deposited into the account, until the deposit has been verified by the property manager. The property manager shall arrange with the account depository and other entities for written verification of when funds are received or disbursed by wire or electronic transfer.

(17) Upon request by the commissioner or an authorized representative of the commissioner, a property manager shall demonstrate that a sufficient credit balance, as defined in OAR 863-025-0010, existed in a ledger account at the time of a disbursement is made from a clients' trust account or security deposits account by producing financial records showing that such disbursement did not involve the use of any other owner's or tenant's trust funds.

(18) A property manager shall not utilize any form of debit card issued by financial institutions on a client trust account or security deposits account.

(19) A property manager shall reconcile each clients' trust account at least once a month and property managers with more than one clients' trust account may reconcile these accounts on different dates if the reconciliations maintain an adequate audit trail; and

(a) The property manager shall preserve and file the bank statements and monthly reconciliations in monthly sequence;

(b) The reconciliation shall demonstrate that the following balances are equal, and if not equal, the reconciliation shall contain full and complete explanations for any discrepancies:

(A) The reconciled bank balance of the clients' trust account;

(B) The balance in the check register or the record of receipts and disbursements;

(C) The total of all positive owners' ledgers; and

(c) The property manager shall date and sign the completed reconciliation.

(20) A property manager shall reconcile each security deposits account at least once a month and property managers with more than one security deposits account may reconcile these accounts on different dates if the reconciliations maintain an adequate audit trail; and

(a) The property manager shall preserve and file the bank statements and monthly reconciliations in monthly sequence;

(b) The reconciliation shall demonstrate that the following balances are equal, and if not equal, the reconciliation shall contain full and complete explanations for any discrepancies:

(A) The reconciled bank balance of the security deposits account;

(B) The balance in the check register or the record of receipts and disbursements;

(C) The total of all positive tenants' ledgers; and

(c) The property manager shall date and sign the completed reconciliation.

(21) A property manager may delegate the property manager's authority to review and approve reconciliations and to receive and disburse funds for a clients' trust account or security deposits account to another person if the property manager complies with the provisions of OAR 863-025-0015; however, the property manager remains solely responsible for all funds and transactions.

(22) Security deposits received by a property manager may be placed in a federally insured interest-bearing security deposits account only if:

(a) The property management agreement includes a provision for such an account under OAR 863-025-0020(3)(b);

(b) The tenant or tenants whose security deposits are deposited into such account have provided written approval for such an account; and

(c) The provisions in subsections (a) and (b) of this rule specify to whom and under what circumstances the interest earnings shall accrue and be disbursed.

(23) The property manager's interest in or disbursement to the property manager of interest earnings from a clients' trust account or security deposits account is not a commingling of trust funds with a licensee's personal funds.

(24) A property manager shall record the transfer of any funds from a clients' trust account or security deposits account by a check, by written proof of transmittal or receipt retained in the property manager's records. The property manager shall record the transfer of other documents by written proof of transmittal or receipt retained in the property manager's records. A property manager may transfer funds electronically via the Internet or Automated Clearing House (ACH) software from a client's trust account to a bank account maintained by the owner and a property manager may make payments electronically to a vendor's account for expenses relating to the owner's property. If the software program used for the transfer does not automatically update the owner's ledger, the property manager shall manually record the transfer in the owner's ledger. At the time the transfer is made, the property manager shall print and preserve a hard copy of the electronic record of the transfer.

(25) A property manager may use a bank lockbox process in which the bank collects payments from tenants, creates an electronic record of the transaction, and deposits the payments into the appropriate clients' trust account by following the written instructions of the property manager only if the lockbox process is authorized in a property management agreement and:

(a) The property manager is responsible for determining that the lockbox process and lockbox software program provide controls adequate to ensure the security of the funds and to provide an accurate accounting for them;

(b) For the purposes of this rule, the bank is considered an agent of the property manager; and

(c) The software program for the lockbox process must permit monthly reconciliations of the accounts into which the deposits are made and printing of daily deposit records for the period of time required for retention of other records.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.241, 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0030
Tenant Security Deposits

(1) Except as provided in OAR 863-025-0025, all tenants' security deposits received by a property manager shall be deposited and maintained in a security deposits account as defined in OAR 863-025-0010. All tenants' security deposits shall be maintained until:

(a) The forwarding of the tenant's security deposit by the property manager to the owner of the property according to the terms of the tenant's rental or lease agreement and the property management agreement;

(b) The expenditure of the tenant's security deposit for purposes authorized by the tenant's rental or lease agreement and the applicable property management agreement;

(c) The refund of any deposit to the tenant according to the terms of the tenant's rental or lease agreement or the property management agreement; or

(d) The transfer of the tenant's deposit to the owner, another property manager or to an escrow agent upon the termination of the property management agreement, based upon the prior written instructions by the owner to the terminating property manager authorizing the transfer.

(2) If a security deposit is received as part of a larger check containing funds other than security deposits, the property manager may deposit the check into a clients' trust account of the property manager. However, the portion of the funds constituting security deposits shall be deposited into the security deposits account within three (3) banking days after deposit of the check containing the security deposit.

(3) When a clients' trust account is established for a single property and the property management agreement and the applicable lease or rental agreement provide that the security deposit shall be transferred to the owner, the funds may be deposited in the clients' trust account for the property and then disbursed to the owner in the month in which they are received and upon availability of the funds.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.241, 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0035
Records; Required Records; Maintenance; Production

(1) The property manager's records of the management of rental real estate will be considered complete and adequate if they contain, at least, the following:

(a) A legible copy of each executed property management agreement, and legible copies of any executed amendments to that agreement;

(b) Client trust account and security deposit account records;

(c) An owner's ledger maintained for each property management agreement;

(d) A record of receipts and disbursements maintained for each property management agreement;

(e) A legible copy of each tenant agreement;

(f) A tenant's ledger maintained for each tenant;

(g) A record of all cash receipts;

(h) Records of the reconciliation of each clients' trust account and security deposits account;

(i) A property manager shall maintain all cancelled checks with the bank statements to which the checks pertain; and

(j) A record of all deposits for each clients' trust account and security deposits account.

(2) If a property manager uses a computerized system for creating, maintaining and producing required records and reports:

(a) The property manager shall back up any data that is stored in the computerized system at least once every month; and

(b) Posting of owner ledgers, record of receipts and disbursements, tenant ledgers and manipulation of information and documents shall be maintained in a format that will readily enable tracing and reconciliation.

(3) A property manager shall maintain all records required under section (1) of this rule for a period of six years following the date on which such agreement or document is superseded, terminated, has expired or otherwise ceased to be used in the management of rental real estate.

(4) A property manager may maintain all records under section (1) of this rule within this state at a location other than the property manager's licensed business location, if the property manager first:

(a) Notifies the Commissioner in writing of the intended removal of such records from the property manager's licensed business location and states the address of the location and the date the records will be relocated; and

(b) Provides written authorization to the Commissioner to inspect such records at the new location which includes the name and telephone number of any necessary contact person and the means of gaining access to the records.

(5) A property manager shall produce records required under section (1) of this rule for inspection by the Agency as follows:

(a) When the Agency makes a request for production of property management records, the property manager shall provide such records within no less than five business days; and

(b) If the Agency has reasonable grounds to believe that funds of an owner or tenant may be missing or misappropriated or that the property manager is engaging in fraudulent activity, any records demanded or requested by the Agency must be provided to the Agency immediately; and

(c) Failure to produce such records within the timelines stated in subsection (a) or (b) of this rule is a violation of ORS 696.301.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0040
Record of Receipts and Disbursements

(1) A property manager shall prepare and maintain, at least monthly, a chronological record of receipts and disbursements or a check register for each client's trust account in which the manager must record each receipt of funds and each disbursement of client trust account funds made by the manager under a property management agreement. If a property manager maintains a separate client's trust account for a property management agreement involving only one owner, the property manager may maintain either a Record of Receipts and Disbursements or an Owner's Ledger.

(2) When there is more than one property in a client trust account, each entry for a receipt or a disbursement shall be identified with the applicable owner's identifying code assigned by the property manager to the corresponding property management agreement with the owner and shall set forth the following information:

(a) Date of deposit;

(b) Amount of deposit and identify from whom deposit received;

(c) Date of each related disbursement;

(d) Check number of each related disbursement;

(e) Amount and identity of payee for each related disbursement;

(f) If applicable, the dates and amounts of interest earned and credited to the account; and

(g) A record of the daily balance shall be made available to the Commissioner or to the Commissioner's authorized representatives.

(3) Upon any activity, the property manager shall post the record of receipts and disbursements or the check register and each owner's ledger account showing all receipts and disbursements made by the property manager in accordance with the property management agreement for an owner since the last posting of the record, register or account.

(4) In maintaining a balance for each record of receipts and disbursements, the property manager may aggregate receipts and disbursements affecting the balance of the record on a daily basis. The property manager may adjust the balance in the record reflecting the change in the balance from the aggregated individual receipts and disbursements. If the property manager posts the record using an aggregated total of receipts and disbursements, the property manager shall maintain account detail in another report showing the nature and amount of each receipt and disbursement as otherwise required, and make such detail available to the Commissioner or the Commissioner's authorized representatives upon request. The property manager shall preserve the record detail as required records of the property manager's licensed activity.

(5) Notwithstanding OAR 863-025-0025, a negative balance in a Client Trust Account may occur during the course of the day if, except in the case of a check returned for insufficient funds, the account is not negative at the close of the day.

(6) A property manager shall retain all paid bills and receipts explaining the amount of and purpose for the receipt or disbursement entered in the record of receipts and disbursements.

(7) A property manger may engage in electronic banking transactions, including the use of the Internet or by telephone, if a record of the transaction, sufficient to establish an audit trail, is created and maintained by:

(a) Printing a copy of the Internet transaction that includes the date, time, and nature of the transaction; or

(b) Making a written notation of the telephone transaction including the date, time, and nature of the transaction; or

(c) Creating an electronic document that readily relates to the transaction containing the information in (a) or (b) of this section.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0045
Tenant Agreements

(1) Residential. The property manager shall file and maintain legible copies of all tenant rental or lease agreements for the time period required by these rules. Each tenant rental or lease agreement prepared by a property manager for residential real estate shall contain, in addition to and not in lieu of any applicable requirements of the Residential Landlord and Tenant Act, the following:

(a) The licensed name and business address of the property manager and the name and address of the tenant. If a real estate licensee executes the

rental or lease agreement on behalf of the licensee's principal real estate broker, the name of the real estate licensee acting for the principal real estate broker in executing the agreement;

(b) The mailing address or unit number of property being rented or leased, the amount and payment conditions of the rental or lease, and the rental or lease term; and

(c) The amount of and the reason for all funds paid by the tenant to the property manager including, but not limited to, funds for rent, conditionally refundable security deposits, and any fees or other charges.

(2) Residential and Non-Residential. The property manager shall file and maintain legible copies of all tenant's rental or lease agreements for the time period required by these rules. A property manager shall review each tenant rental or lease agreement generated by the property manager; however, a property manager may authorize in writing another individual who is licensed to or employed by the property manager to review and approve and accept tenant rental and lease agreements on behalf of the property manager. In case of such authorization, the property manager remains responsible for each tenant rental and lease agreement approved or accepted by such real estate licensee or employee. The property manager must produce the written authorization at the request of the Commissioner or the Commissioner's authorized representative.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0050
Tenant's Ledger

(1) Except as provided in section (3) of this rule, a property manager shall prepare and maintain at least one tenant's ledger for each tenant or individual from whom the property manager has received any funds under a property management agreement, whether or not the tenant has executed a written rental or lease agreement at the time of the payment of funds to the property manager. A tenant's ledger shall be identified by tenant and the property including, but not limited to, the mailing address of the rental unit or the applicable unit number or designation.

(2) The balances of tenant security deposits in individual tenant's ledgers shall be used in the monthly reconciliation of the security deposits account as described in OAR 863-025-0025.

(3) To record the receipt of funds from prospective tenants who are not tenants at the time of paying the funds to the property manager, who do not pay the funds for a particular rental unit and who do not become tenants after such payment, a property manager shall prepare and maintain a separate tenants' ledger.

(4) The property manager shall post a tenant's ledger with an entry for each receipt of the funds from the tenant and for each disbursement of funds. Each entry shall contain the amount of the funds received, the amount and designation of any tenant's security deposits received, the date of receipt of the funds and the number of the receipt prepared for cash funds received. Each entry for a disbursement shall contain the date of disbursement, the payee of the check, the check number and the amount of the disbursement;

(5) If a property manager receives a check from a tenant or prospective tenant for rent, tenant's security deposits or fees and the tenancy fails for any reason within three banking days following receipt of the check, the property manager may return the check to the tenant or prospective tenant without first depositing and processing the check through the property manager's client trust account. The property manager shall retain a photocopy of the check and a dated receipt for the check in the required records of property management activity. The property manager shall note the amount of the check, the dates of receipt and return of the check.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0055
Owner's Ledger

(1) A property manager shall prepare and maintain at least one separate owner's ledger for each property management agreement, for all monies received and disbursed.

(2) All owner ledgers shall be identified with the identifying code assigned by the property manager to the corresponding property management agreement and each entry shall set forth the following information:

(a) Date of receipt and disbursement of any funds made in accordance with the property management agreement.

(b) Date of deposit;

(c) Amount of deposit and identify from whom the deposit was received;

(d) Date of each related disbursement;

(e) Check number of each related disbursement;

(f) Amount and identify of payee for each related disbursement;

(g) If applicable, the dates and amounts of interest earned and credited to the account; and

(h) A balance after posting each entry.

(3) A record of the running daily balance shall be made available to the Commissioner or to the Commissioner's authorized representatives on demand.

(4) A property manager shall report in writing to each owner any change in the owner's ledger. A monthly report, showing all receipts and disbursements for the account of the owner during the prior monthly period, is sufficient under this section. A copy of each such report shall be preserved and filed in the property manager's records. If an annual report contains information not required to be provided by the property manager under these rules, the property manager shall set forth such information separately.

(5) A property manager shall retain all paid bills and receipts explaining the amount of and purpose for the receipt or disbursement entered in the owner's ledger.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0060
Cash Receipts

(1) A property manager shall prepare a legible written receipt for any cash funds received under a property management agreement.

(2) Cash receipts prepared shall be consecutively pre-numbered, be printed in at least duplicate form and shall contain:

(a) The date of receipt of the cash funds;

(b) The amount of the funds;

(c) The reason for payment of the funds received;

(d) The identifying code of the owner on whose behalf the cash funds were received;

(e) The tenant's name; and

(f) The name of the individual who actually received the cash and prepared the receipt.

(3) A copy of the receipt shall be maintained in the property manager's records.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0065
Deposits

(1) All funds, whether in the form of money, checks, or money orders belonging to others and accepted by any property manager while engaged in property management activity, shall be deposited prior to the close of business of the fifth banking day following the date of the receipt of the funds into a clients' trust account or security deposits account as defined in OAR 863-025-0010 and established by the property manager under ORS 696.241. The property manager shall account for all funds received.

(2) Any person employed by the property manager shall promptly transmit to the property manager any money, checks, money orders, or other consideration and any documents received while engaged in property management activity.

(3) A property manager shall not deposit any funds received on behalf of an owner from others in the property manager's personal account or commingle the funds received from others with personal funds of the property manager.

(4) Except for funds received pursuant to OAR 863-025-0050(3) and 863-025-0025(16), every deposit made under ORS 696.241, shall be made with deposit slips identifying each entry by a written notation of the owner's identifying code assigned to the property management agreement.

(5) A property manager shall maintain a complete record of all funds or other consideration received in the property manager's property management activity. This record shall show from whom the funds or other consideration was received, the date of the receipt, the place and date of deposit, and, the final disposition of the funds or other consideration.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0070
Termination, Transfer of Property Management

If a property management agreement is terminated for any reason, the property manager shall:

(1) Terminate the property management activity conducted pursuant to the agreement in the manner provided by the terms of the agreement;

(2) Notify the owner and any tenants of the property of the termination;

(3) Not later than 60 days after the effective date of the termination, provide the owner with any unobligated funds due to the owner under the agreement;

(4) Not later than 90 days after the effective date of the termination, provide the owner with:

(a) A final accounting of the owner's ledger account:

(b) The amount of any obligated funds held in the property manager's clients' trust account under the property management agreement;

(c) A statement of why the obligated funds are being held by the property manager; and

(d) A statement of when and to whom the obligated funds will be disbursed by the property manager;

(5) Only disburse any unobligated funds to the owner or, with the prior written authorization of the owner, to another property manager designated in writing by the owner;

(6) Immediately notify each such tenant for whom the property manager holds a security deposit that:

(a) The security deposit will be transferred to the owner or to a new property manager; and

(b) The name and address of the owner or the name and address of the new property manager to whom these deposits will be transferred;

(7) Not expend any tenant security deposits for payment of any expenses or fees not otherwise allowed by the tenant's rental or lease agreement; and

(8) Complete any final accounting, inspection or other procedures required by the tenant rental or lease agreement, by the Residential Landlord Tenant Act, or by the property management agreement, unless the owner otherwise directs in writing, if a tenant's termination of tenancy occurs simultaneously with or prior to termination of the management of the rented or leased premises.

(9) As part of the final accounting sent to the owner under this rule, include a notice that the required records of the property management performed by the property manager for the owner may be destroyed after six years; and

(10) Transfer and assign by agreement the interest of the property manager in rental or lease agreements, if any, to the owner or to a new property manager.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 3-1987, f. 12-3-87, ef. 1-1-88; REA 3-1989, f. 12-13-89, cert. ef. 2-1-90; REA 2-1991, f. 11-5-91, cert. ef. 1-1-92; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0225; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 1-2007, f. & cert. ef. 3-12-07

863-025-0080
Audits and Compliance Reviews

(1) Unless the Agency has reasonable grounds to believe that the funds of an owner or tenant are missing or have been misappropriated, the Agency shall provide a property manager with at least five business days' written notice before the agency conducts a compliance review and audit of the property manager.

(2) After a compliance review and audit of a property manager under section (1) of this rule, if the Agency determines that a property manager is not in compliance with ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870, or OAR chapter 863, the Agency shall allow the property manager at least 30 days to cure the noncompliance without sanction unless the Agency has reasonable grounds to believe that the funds of an owner or tenant are missing or have been misappropriated.

Stat. Auth.: ORS 183.335 & 696.385
Stats. Implemented: ORS 696.280 & 696.361
Hist.: REA 2-2006(Temp), f. 9-11-06, cert. ef. 9-15-06 thru 3-12-07; REA 1-2007, f. & cert. ef. 3-12-07

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Travel Information Council
Chapter 733

Rule Caption: Clarify definitions and qualifications for Tourist Attraction Logo signs and related highway sign rules.
Adm. Order No.: TIC 1-2007
Filed with Sec. of State: 3-1-2007
Certified to be Effective: 3-1-07
Notice Publication Date: 1-1-07
Rules Amended: 733-030-0011, 733-030-0016, 733-030-0021, 733-030-0026, 733-030-0036, 733-030-0045, 733-030-0050, 733-030-0055, 733-030-0090, 733-030-0100, 733-030-0105, 733-030-0110
Subject: The Travel Information Council held a quarterly meeting on November 17, 2006. The Council proposed rule changes to adopt changes under highway sign rules to more clearly define terms for Tourist Attraction, region, regional significance, and cultural district; and to create consistent language and correct cross-references between rule sections. Having reviewed written comments and holding a public hearing, the Council voted to adopt the changes at the February 23, 2007 meeting.
Rules Coordinator: Diane Cheyne—(503) 378-4508

733-030-0011
Definitions

As used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) "Sign Panel" includes "motorist information signs," "specific informational panel" and "logo signs." "Sign Panel" means a panel bearing separately affixed individual logos for "GAS," "FOOD," and "LODGING," and "CAMPING," and "TOURIST ATTRACTION" erected in advance of exit ramps, interchanges or intersections with a state highway system. A sign panel includes the words "GAS," "FOOD," "LODGING," "CAMPING," "TOURIST ATTRACTION," directional information, and one or more logos.

(2) "Business Sign" (LOGO) means a separately attached sign mounted on the sign panel to show the brand, symbol, trademark or name, or combination of these, for a motorist service available on a crossroad at or near an interchange or an intersection. The wording and design of a logo must be approved by the Council.

(3) "Interstate System" or "Interstate Highway" means every state highway that is a part of a national system of interstate and defense highways established pursuant to 23 U.S.C. Section 103(b). This definition also includes fully controlled access freeways on the primary state highway system.

(4) "Primary System" means all parts of the primary state highway system exclusive of the "interstate system" as defined in section (3) of this rule.

(5) "Qualified Motorist Business" means a business furnishing gas, food, lodging, or camping, which has met the requirements of these regulations for the placement of a logo on a sign panel or supplemental sign panel.

(6) "Exit Ramp Signs" (supplemental sign panel) means a sign panel located on, opposite or at the terminus of an exit ramp from the interstate system or an exit ramp at an interchange on an expressway bearing logos for a qualified motorist business and directional information.

(7) "Main Traveled Way" means through traffic lanes of said system exclusive of frontage roads, auxiliary lanes and ramps.

(8) "Owner" means a holder of fee title, or holder of leasehold estates from the owner of real property.

(9) "Responsible Operator" means a person or entity other than an owner who operates a motorist business and who has authority to enter into an agreement relative to matters covered by these regulations.

(10) "Council" means the Travel Information Council created by ORS 377.835.

(11) "Commission" means the Oregon Transportation Commission.

(12) "Department" means the Oregon Department of Transportation.

(13) "Engineer" means the State Traffic Engineer.

(14) "Expressway" means a highway which has full access control with access allowed only at interchanges and intersections.

(15) "Applicant" means a business applying for a permit to place logo(s) on a panel(s) or supplemental sign panel(s).

(16) "Secondary System" means all highways on the secondary state system.

(17) "Trailblazer" means a small sign panel with a type of service (GAS, FOOD, LODGING, CAMPING or TOURIST ATTRACTION) and the name, direction and distance to the qualified motorist business.

(18) "Urban" means an area that can include but is not limited to, business districts, sections of highway with contiguous sidewalks and/or traffic control device congestion where spacing does not meet approval of the engineer.

(19) "Business District" means the territory contiguous to a highway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides, is occupied by buildings used for business.

(20) "Sidewalk" means a walkway with a hard, smooth surface, separated form the roadway with a curb, built for use by pedestrians, including persons in wheelchairs.

(21) "Traffic Control Devices" means any sign, signal, marking or device placed, operated or erected by authority under ORS 810.210, for the purpose of guiding, directing, warning or regulating traffic.

(22) "Tourist Attraction" means any facility or qualified cultural district of regional significance that provides the general public with a cultural, historical, recreational, or educational activity, or a unique or unusual commercial activity or non-profit activity. Common retail outlets and facilities qualified for other logo service types are not eligible for Tourist Attraction signing. A Tourist Attraction facility must prove that a majority of its income or visitors is derived from motorists residing farther than 50 miles, or one hour of travel time from the location of the facility being signed.

(23) "Cultural" means a facility reflecting the customs, products and arts of the region where the facility is signed. Such facilities may include, but are not limited to: Science/Nature, Wineries and Art.

(24) "Historical" means a facility reflecting the past events of the region where the facility is signed. Such facilities or areas may include, but are not limited to: Historical museums, historic sites, or historic tours.

(25) "Recreational" means any facility offering a form of leisure, amusement or relaxation. Such facilities may include, but are not limited to: amusement parks, golf courses, jet boats, scenic cruises or rides.

(26) "Educational" means a facility that provides enhanced knowledge of an industry, culture, historical or other genre that is unique to the region where the facility is being signed.

(27) "Visitor Center" means a facility designated by the local community to offer tourism literature (maps, brochures, and guidebooks) to visitors as their primary business.

(28) "Region" means the area surrounding a facility to a distance of 50 miles, or one hour of travel time.

(29) "Regional significance" means the level of a facility's importance to area visitor interests and the tourism industry that is determined after consultation with local tourism associations and the Regional Destination Marketing Organization where the facility is located.

(30) "Cultural district" means a cluster of like facilities in a concentrated area of no less than six city blocks in size and with no less than four like facilities. Examples of cultural districts include antique districts and art gallery districts.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0016
Location

(1) Sign panels are intended for use primarily in rural areas. Any installation of sign panels outside rural areas shall be consistent with the state signing policy criteria contained in rule 733-030-0055.

(2) Sign panels should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs within the highway right of way. Unprotected sign panel supports located within the clear zone shall be of a breakaway design.

(3) In the direction of traffic, successive sign panels shall be those for "TOURIST ATTRACTION," "CAMPING," "LODGING," "FOOD," and "GAS" — in that order. There shall be a maximum of four logo sign panels at any given interchange. If all five service types exist at one interchange, one logo sign panel must combine two service types.

(4) A maximum of two logos for each of three different types of services may be combined on the same sign panel.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0021
Criteria for Specific Information Permitted

(1) Each qualified motorist business identified on a sign panel shall have given written assurance to the Council of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, age, sex, or national origin, meet all applicable Federal and State ADA guidelines, and shall not be in breach of that assurance. Each qualified business will offer services to all citizens.

(2)(a) If the qualified motorist business is a gas, food, lodging, or Tourist Attraction facility, it must be located within one mile of the interchange or intersection measured by vehicle distance from the center point of the terminus of the exit ramp on an interchange and from the center of an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any qualified motorist business set out in this section location within nine miles of an interchange or intersection, but more than one mile from the interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060;

(b) Facilities requesting signing from an Interstate or Expressway interchange and located within a city with a population of 15,000 or more and where there are sufficient numbers of services within one mile of that interchange or intersection, are not eligible for a mileage waiver and shall be located within one mile of the interchange or intersection. If there is not a sufficient amount of services available at any given interchange or intersection in a city with a population of 15,000 or more, then any qualified motorist business set out in this section located within two miles of an interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060. A maximum of two supplemental signs per facility shall be allowed within urban areas. A facility has the right to appeal the conditions set forth in this paragraph through a waiver to the Council. A seven-year review will be conducted for those logo signs installed following the rule adoption.

(3) If the qualified motorist business is a camping facility, it must be located within three miles of the interchange measured by vehicle distance from the center point of the terminus of the exit ramp of an interchange or the center of an intersection at an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any qualified motorist business set out in this paragraph located within 15 miles of an interchange or intersection, but more than three miles from an interchange or intersection, may apply to the Council for a waiver under the provisions of rule 733-030-0060.

(4) The types of service permitted shall be limited to "GAS", "FOOD," "LODGING," "CAMPING" or "TOURIST ATTRACTION". To qualify for displaying a logo on a sign panel all services must display permanent on premise signing which is visible from the roadway and sufficient to direct motorists to the appropriate entrance from the roadway. The on premise signing shall display the Registered Business Name as stated on logo plaques. Facilities that operate under and/or provide service using more than one brand name shall be limited to displaying not more than two brand names per plaque:

(a) "GAS" shall include:

(A) Vehicle services, including gas and/or alternative fuels, oil, and water;

(B) Restroom facilities and drinking water;

(C) Continuous operation at least 16 hours per day, 7 days a week for businesses located on the interstate system and expressways and continuous operation at least 12 hours per day, 7 days a week on the primary and secondary system; and

(D) Telephone service;

(E) FOOD services located within GAS facilities, that meet all requirements under 733-030-0021(4)(b) except for (E), may display their logo on the logo plaque for the GAS facility in which they are located. Each GAS plaque shall be limited to the addition of only one FOOD service. Brand names that are reflected as part of the GAS facility's registered business name may be included on the logo plaque.

(b) "FOOD" shall include:

(A) Appropriate business & health department licensing for the providing of meals; facilities are required to maintain a valid health permit or license for the type of facility operated;

(B) Continuous operation to serve at least two meals per day, at least 6 days per week;

(C) Telephone service and restroom facilities;

(D) The primary business operation is the providing of meals; and

(E) Indoor Seating for at least 20 people. FOOD facilities that have two distinct brand name restaurants in one building may display the logos of both FOOD services on one FOOD logo plaque. FOOD facilities located within GAS facilities, which do not meet FOOD seating requirements, may be displayed on the GAS logo for that facility. See 733-030-0021(4)(a)(E).

(c) "LODGING" shall include:

(A) Licensing where required;

(B) Adequate sleeping accommodations;

(C) Telephone services and restroom facilities.

(D) Bed & Breakfast facilities, provided they maintain valid food and lodging health department licenses.

(d) "CAMPING" shall include:

(A) Licensing where required;

(B) Adequate parking accommodations;

(C) Modern sanitary facilities and drinking water.

(e) "TOURIST ATTRACTION" shall include:

(A) Adequate parking;

(B) Restrooms provided;

(C) Drinking water required;

(D) Facility be reasonably close to a public telephone;

(E) Open at least six hours a day; six days a week of continuous operation during its normal business season.

(F) Licensing where required;

(G) Attendant/Docent/Guide on duty during all operating hours;

(H) Attractions involving manufacturing or production, such as industrial facilities or wineries must meet all conditions under (e)(A)–(G) and must provide the opportunity for visitors to observe the production or manufacturing process or facilities;

(I) Historical facilities and visitor centers must meet all conditions under (e)(A)–(G) and must provide:

(i) Documentation showing that the facility meets the definition of the authorizing state agency that develops criteria for these facilities;

(ii) Historical tour routes may qualify with a waiver given by the Council if such a tour route is sufficiently signed to guide the motorist safely and conveniently through the tour;

(iii) Historical sites must be listed on the National Register of Historic Places.

(J) Like facilities creating a Cultural District must individually meet all conditions under (e)(A)–(G).

(5) Historical museum offerings must:

(a) Exist on a permanent basis for essentially aesthetic or educational purposes;

(b) Offerings must be the primary source of business of the requesting facility;

(c) Museum offerings must be exhibited to the public on a regular basis through buildings owned and operated by the museum.

(6) The number of sign panels permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of logos permitted on a sign panel is limited to six.

(7) A qualified motorist business, which fails to meet the requirements of section (4) of this rule, may request a waiver from the Council under the provision of 733-030-0060.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1984, f. & ef. 1-13-84; TIC 3-1985, f. & ef. 6-4-85; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00: TIC 2-2000, f. 10-13-00, cert. ef. 11-1-00; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05; TIC 2-2004, f. & cert. ef. 11-12-04; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0026
Composition

(1) Sign panel shall have a blue background with a white reflectorized border. The size of the sign panel shall not exceed the minimum size necessary to accommodate the maximum number of logos permitted using the required legend, size and height and interline and edge spacing specified in the **Manual on Uniform Traffic Control Devices**.

(2) Logo sign panels shall have a blue background with a white legend and border. The principal legend should be at least equal in height to the directional legend on the sign panel. Where business identification symbols or trademark are used alone for a logo on the logo plaque, the border may be omitted. The symbol or trademark shall be reproduced in the colors and general shape consistent with on-premise signing, and any integral legend shall be in proportionate size. The registered business name, in whole or in part, is the only wording allowed on the logo plaque. Messages, symbols, and trademarks which resemble any official traffic control device are prohibited. The vertical and horizontal spacing between logo plaques on sign panels shall not exceed eight inches and 12 inches, respectively. Typical sign locations prepared from these standards are shown in **Exhibit 1**, attached hereto and by this reference made a part hereof.

(3) All directional arrows and all letters and numbers used in the name of the type of service and the directional legend shall be white and reflectorized.

(4) If the qualified motorist service business is a gas facility applying for highway signing for a standard gas service station and a card-lock service, the plaque shall reflect the standard station's registered business name and the trademark along with the card-lock service's registered business name and/or trademark on the same plaque.

[ED. NOTE: Exhibits & Publications referenced are available from the agency.]
Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0036
Special Requirements — Interstate Highways and Expressways

(1) Location:

(a) Except as provided in rule 733-030-0016 and in paragraph (2)(b) and (c) of this rule a separate sign panel shall be provided for each type of service for which logos are displayed;

(b) The proposed location must be reviewed and approved by the engineer to determine that no conflict resulting in unsafe driving conditions will exist with other official traffic control devices;

(c) Sign panels shall not be erected at an interchange where the motorist cannot conveniently re-enter the highway and continue in the same direction of travel or at interchanges between an interstate highway and a fully access controlled freeway or an interchange between interstate highways;

(d) At single-exit interchanges where service facilities are not visible from a ramp terminal, supplemental sign panels shall be installed along the ramp or at the ramp terminal, and may be provided along the crossroad. These supplemental sign panels shall be duplicates of the corresponding sign panels along the main traveled way but reduced in size. GAS supplemental sign panels for facilities that also display a FOOD service on their logo plaque, shall only display their GAS logo on their supplemental sign panels. The supplemental sign panels shall include the distances to the business and directional arrows in lieu of words. The minimum letter height should be four inches except that any legend on a symbol shall be proportionate to the size of the symbol. Supplemental sign panels may be used on ramps and crossroads at double exit interchanges. There shall be no more than 18 plaques total being displayed along any one-exit ramp. Of those 18, a maximum of ten can be for one type of service. A maximum of six plaques per type of facility shall be displayed per direction being signed. Maximum board size shall be eight spaces. On channelized off-ramps, supplemental logo signs should be placed in advance of the channelized markings. Separate signs, for the same type of service, may be installed on opposite sides of the ramp to direct motorists into the proper lane for those facilities displayed on the board. [Exhibit not included. See ED. NOTE.]

(2) Composition:

(a) Single exit interchanges. The name of the type of service followed by the exit number shall be displayed in one line above the business signs. This does not apply to sign panels already erected at the time these rules are adopted. At unnumbered interchanges the directional legend NEXT RIGHT (LEFT) shall be substituted for the exit number. "GAS," "FOOD," "LODGING," "CAMPING," and "TOURIST ATTRACTION sign panels shall be limited to six logos each;

(b) Double exit interchanges. Sign panels shall consist of two sections, one for each exit. The top section shall display the logo for the first exit and the lower section shall display the logo for the second exit. The name of the type of service followed by the exit number shall be displayed in a line above the logos in each section. The exit number requirements of this section do not apply to sign panels erected at the time these rules are adopted. At unnumbered interchanges, the legends NEXT RIGHT (LEFT) shall be substituted for the exit numbers. Where a type of motorist service is to be signed for at only one exit, one section of the sign panel may be omitted or a single exit interchange sign panel may be used. The number of logos on the sign panel (total of both sections) shall be limited to six for "GAS," "FOOD," "LODGING," and "CAMPING" and "TOURIST ATTRACTION;"

(c) Remote rural interchanges. In remote rural areas, where not more than two qualified motorist businesses are available for each of two or more types of services, logos for two types of service shall be displayed in combination on a sign panel. The name of each type of service shall be displayed in combination on a sign panel. The name of each type of service shall be displayed above its respective logo, and the exit number shall be displayed above the name of the type of services. The exit number requirements of this paragraph do not apply to sign panels erected at the time these rules are adopted. At unnumbered interchanges, the legend NEXT RIGHT (LEFT) shall be substituted for the exit number.

(3) Size:

(a) Logos: each logo plaque shall not exceed 60 inches in width and 36 inches in height, including border;

(b) Legends. All letters used in the name of type of service and the directional legend shall be 10-inch capital letters. Numbers shall be 10 inches in height.

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

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0045

Special Requirements — Primary and Secondary System

(1) Location:

(a) The proposed location must be reviewed and approved by the engineer to determine that no conflict resulting in unsafe driving conditions will exist with other official traffic control devices. In urban areas, no more than two supplemental signs per facility will be allowed;

(b) Intersections. Logos shall not be displayed for any business if its building or on-premise signing is visible and/or recognizable on the traveled way for a distance of 300 feet or more from the intersection. Increased distances may be allowed for businesses providing camping or repair services to Recreational Vehicles (RV) where issues of safety and RV maneuvering are concerned. Visibility and recognition are determined by being able to recognize the facility by observing the building or existing signing adjacent to or attached to the facility, as to the type of service (Gas, Food, Lodging, Camping) for which it has applied. A facility that is visible within 300 feet or more, but is not recognizable, may qualify for signing if a favorable determination is made by the Travel Information Council. However, in rural towns with a population of 500 persons or less, where there are minimal services meeting eligibility criteria, and where the nearest available services are at least 25 miles from that town, the Council, upon consultation with the Engineer, may consider installing logo signs in cases where the business is visible on the traveled way the last 300 feet from the intersection. Supplemental sign panels similar to those as described in OAR 733-030-0036(1)(d) may be provided on the crossroad.

(2) Composition. A maximum of six logos for each type of service shall be displayed along each approach to the intersection. A maximum of two logos for each of three different types of services may be combined on the same sign panel. The name of each type of service shall be displayed above its logo together with an appropriate legend such as NEXT RIGHT (LEFT) or a directional arrow.

(3) Size:

(a) Each logo shall be contained within a 24-inch-wide and 18-inch-high rectangular background area, including border;

(b) Legends: All letters used in the name of the type of service on the sign panel shall be six-inch capital letters.

(4) Combination services signing (i.e., legend reading "FOOD/LODGING," displaying one facility's logo plaque) will be allowed in rural locations only. The customer applying for signing is the only facility available in the geographical area. Approval for Dual Services Signing will be under an agreement between TIC and the customer/facility. If another qualified facility is built in the area, the facility with the dual services signing will be required to display their plaques on two logo boards, one for each service. Facilities approved for Dual Services Signing will be required to pay 1-1/3 the annual fee for a facility in their area.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2005(Temp), f. & cert. ef. 3-14-05 thru 9-9-05; TIC 2-2005, f. & cert. ef. 6-16-05; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0050

General Provisions

Upon selection by the Council and subject to the approval of the State Traffic Engineer or the Oregon Department of Transportation of an interchange or intersection for installation of a sign panel, and upon approval of proper application for a permit from one or more qualified motorist services businesses at or conveniently accessible from the interchange or intersection, a single sign panel shall be erected in advance of the interchange or intersection in each direction of travel, for each type of business or a combination of not more than three types of motorist services provided space is available for the erection of the sign panel or if a sign panel is already erected space is available on the exiting sign panel.

Stat Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0055

State Sign Policy

(1) Logo sign panels are primarily intended for installation at rural interchanges where motorist services are available. Logo sign panels may be considered within other areas if the Council determines that the area does not appear to be urban in character.

(2) Sign panels erected at intersections on an expressway shall be of the same size as sign panels at interchanges on an expressway. The logos shall conform to the size specifications in rule 733-030-0036(3)(a). The legends shall conform to the requirements of rule 733-030-0036(3)(b).

(3) Where any qualified motorist service business whose logo is placed on a sign panel is not visible from any part of the exit ramp on the interstate system or expressway, a supplemental sign panel bearing the logo of that business, together with a directional arrow, and mileage where needed, shall be placed on the exit ramp or at its terminus. Such supplemental sign panels shall be placed at such locations as will best serve the motoring public and be commensurate with traffic safety as shall be determined by the engineer. If a qualified motorist services business is visible from any part of the exit ramp or the terminus of the exit ramp, it shall not be entitled to apply for a supplemental sign panel unless such supplemental sign panel is determined by the Council and the engineer to be necessary in order to direct the traveling public to such qualified motorist service business in order to avoid a traffic hazard or misdirection of the traveling public because of the complexity of the particular interchange.

(4) Supplemental sign panels shall bear the legend "GAS," "FOOD," "LODGING," "CAMPING" or "TOURIST ATTRACTION" and one or more horizontal rows of logos with a directional arrow as appropriate. Standards for supplemental sign panels shall be adopted by the engineer.

(5) A trailblazer may be installed upon the recommendations of the Council and approval of the engineer at intersections of state highways or intersections of state highways and county roads or city streets if it can be placed on state highway right of way. The lettering on a trailblazer shall conform to the requirements of the Manual on Uniform Traffic Control Devices. Standards for trailblazers shall be adopted by the engineer.

(6) Subject to the approval of the Council, and if spaces are available, the logo of an eligible qualified motorist service may, upon proper application, be placed on a supplemental sign panel if one is erected, although its logo cannot be placed on a sign panel in advance of the interchange because permits have already been issued for the maximum number of logos of qualified motorist service businesses, for the particular sign panel.

(7) If the gas, food or lodging facilities existing within one mile of the interchange which are eligible, up to a maximum of six for gas and four for food and lodging facilities, have not applied for a permit for placement of logos on sign panels at an interchange, then the otherwise eligible qualified motorist business that is located within three miles from any interchange, may apply for a permit. If the otherwise eligible business is within three miles but more than one mile from the interchange, it must obtain a waiver as provided in rule 733-030-0060. If camping facilities existing with three miles of the interchange which are eligible, up to a maximum of four, have not applied for permit for placement of logos on the sign panel at an interchange, then the otherwise eligible camping facility located close to, but within 15 miles from the interchange, may apply for a permit. If the camping facility is within 15 miles but more than 3 miles from the interchange, it must obtain a waiver as provided in rule 733-030-0060.

(8)(a) If applications are received for any one interchange for more than the maximum allowable logos to be placed on any one sign panel, the order of priority shall be based on the date of the properly completed application received by the Travel Information Council;

(b) A qualified motorist business applying for logo signing on more than one state highway may apply for logos on each state highway adjacent to that business; and

(c) Any qualified motorist business shall have one logo in each direction of travel for each type of service on any state highway.

(9) The owner or responsible operator of a business must file an application for placement of its logo sign on a sign panel, on a form specified by the Council, and tender the permit fee and rental for the first year. The applicant must also agree to furnish the necessary logos to be affixed to the sign panel(s) or where applicable supplemental sign panels.

(10) Eligibility of qualified motorist service businesses for continued placement of their logo on a sign panel may be reviewed by the Travel Information Council at any time to assess whether the motorist service business and/or the logo signing location meets present guidelines. If the

review finds that the motorist service business and/or the signing location does not meet all applicable rules and laws, the signing may be removed. If payment is not received for a renewal permit on or before the payment due date stated in the Council's invoice, the logo may be removed. The logo space made available after the removal of a logo due to nonpayment of fees shall be offered to the next qualified motorist service business on a waiting list for that sign panel. Should space continue to be available and the removed motorist service business desires to have its logo reinstalled, the Council may require a new review to be performed prior to approving the reinstallation. If approved for reinstallation the business must pay the fees due and reinstallation fee prior to installation of logo signing.

(11) Notwithstanding section (10) of this rule, the granting of a new or renewed permit shall entitle the applicant to continuance of its logo sign for one year from the date of placement or renewal.

(12) Notwithstanding section (10) of this rule, the logo of a motorist service business shall be removed from a sign panel and may be replaced by another qualified applicant for failure to comply with subsections (a)–(d) of this section as hereafter set out:

(a) If the qualified motorist business fails on a sufficient number of occasions or over a sufficient period of time to provide all of the services required by rule 733-030-0021(4) so as to justify a finding by the Council that the business is not in substantial compliance with these regulations;

(b) If the qualified motorist business fails to open for business for more than seven consecutive days or for more than 10 days cumulatively, during any one-year period, unless the Council finds that closure for such period was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances;

(c) If it fails to comply with OAR 733-030-0021(1)except in isolated instances without the knowledge of the owner, responsible operator or manager of the business, or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur; and

(d) The logo is not kept in a proper state of repair or is non-reflective, peeling, fading, chipping or otherwise unattractive.

(13) If due to fire, accident or similar causes, a qualified motorist service business becomes inoperable for extended period of time, exceeding seven days, but not more than 90 days, its logo shall be temporarily removed from all sign panels, but the business shall not lose its priority, nor be required to reapply prior to the formal time of a renewal application. Further extension may be granted on good cause shown. However, failure of the owner or responsible operator to proceed with necessary repairs as rapidly as possible shall cause loss of the right to continued placement of the logo and require a new application.

(14) Notwithstanding the fact that a motorist service business meets all of the other eligibility requirements of these regulations, an application may be denied by the Council if it is determined by the Council after investigation by the engineer that adequate direction to the business cannot be given by a reasonable number of allowable supplemental sign panels or trailblazers.

(15) If a sign panel is removed due to reconstruction at any given interchange, and one legend may be retained, the Council shall survey the immediate area of that interchange to assess availability of specific services. The services not available within the immediate area, but located at the interchange to be removed, will have legends retained to meet motorist needs. If all legends are fairly represented in the immediate area, legends at that interchange will be retained by giving priority to the date of application of the first business of all legends installed. In consideration for the Council's grant of a new permit or renewal permit, the qualified motorist service business waives any claim it may have against the State of Oregon, the Council, their officers, employees or agents that may arise from the removal, relocation, displacement, destruction of or damage to the sign, sign panel, supplemental sign panel or logo due to any cause, including but not limited to highway construction work, highway re-design or reconfiguration, vehicular collision, accident, vandalism, forces of nature or other acts of God. It is provided, however, that if a sign panel, supplemental sign panel or logo affected by any of the foregoing events is not replaced, repaired or relocated to a reasonably comparable location (as determined by the Council) within ten working days of the qualified motorist service business's delivery to the Council of notice that the panel or logo has been so affected, the permit fee for any months or major portion (16 days or more) of a month after the date of the Council's receipt of the qualified motorist service business's notice and during which the sign does not display the logo to the traveling public shall be refunded. If the sign panel, supplemental sign panel or logo cannot be re-erected, replaced, reasonably relocated (as determined by the Council) or repaired within ten working days and upon receipt of the replacement logo plaque, then the permit fee for any months or major portion (16 days or more) of a month remaining from the date of the Council's receipt of the qualified motorist service business's notice until the anniversary of the date of placement of the logo shall be refunded. The qualified motorist service business agrees that this claim for a refund of the permit fee shall be its sole and exclusive remedy against the State of Oregon, the Council, and their officers, employees or agents for any removal, relocation, displacement, destruction of or damage to a sign or logo. No claim for a refund of the permit fee shall be valid, and the Council will pay no refund, unless the qualified motorist service business has provided the Council notice required by this subsection. No claim for a refund of the permit fee shall be valid, and the Council will pay no refund, in any case in which the removal, relocation, displacement, destruction of or damage to the sign, sign panel, supplemental sign panel or logo arises from the acts of the qualified motorist service business, its officers, employees or agents. As provided in subsection (11) of this rule, no new or renewed permit shall entitle the qualified motorist service business to any rights or expectations in the continued use of a logo sign that extend beyond one year from the date of placement of the logo or the date of renewal.

(16) Any qualified motorist business that changes ownership and the registered business name on a sign panel with a waiting list, forfeits the right to the logo space and the logos are removed. The next business on the waiting list shall be notified of available space.

(17) Seasonal facilities must notify the Council of their seasonal dates at the time of application and of any changes in seasonal dates during the duration of the sign permit. Logo plaques for seasonal facilities shall be removed and reinstalled during the period of seasonal closure.

[Publications: Publications & forms referenced are available from the agency.]
Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1983(Temp), f. & ef. 7-21-83; TIC 5-1983, f. & ef. 8-26-83; TIC 2-1987(Temp), f. & cert. ef. 8-4-87; TIC 3-1988, f. & cert. ef. 12-23-88; TIC 1-1989, f. & cert. ef. 6-9-89; TIC 2-1989, f. & cert. ef. 10-27-89; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 1-1995, f. & cert. ef. 5-17-95; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0090
Definitions

As used in these rules, the following definitions shall apply unless the context indicates otherwise:

(1) "Tourist Oriented Directional Signs" means a sign panel with the name of a qualified tourist oriented business, service or activity or qualified historical feature or qualified cultural feature together with directional information erected in advance of or at intersections on the state highway system.

(2) "Directional Information" means the name of the business, service or activity, qualified historical feature or qualified cultural feature and other necessary information to direct the motoring public to the business, service, activity, qualified historical feature or qualified cultural feature placed on a tourist oriented directional sign.

(3) "Interstate System" or "Interstate Highway" means every state highway that is a part of a national system of interstate and defense highways established pursuant to section 103(b), title 23, United States Code. It also includes fully controlled access freeways on the primary and secondary state highway system.

(4) "Primary System" means all parts of the primary state highway system exclusive of the "interstate system" as defined in section (3) of this rule.

(5) "Qualified Tourist Oriented Business" means any legal cultural, historical, recreational, educational or entertaining activity or a unique or unusual commercial or non-profit activity the major portion of whose income or visitors are derived during its normal business season from motorists not residing in the immediate area of the activity.

(6) "Qualified Cultural Feature" means a museum approved by the Engineer after consulting with the Oregon Historical Society and the Oregon Museum Association.

(7) "Qualified Historical Feature" means a district or property currently listed in the National Register of Historic Places or designated as nationally significant by the United States Department of the Interior.

(8) "Main Traveled Way" means through traffic lanes of said systems exclusive of frontage roads, auxiliary lanes and ramps.

(9) "Owner" means a holder of fee title, or lessee.

(10) "Responsible Operator" means a person or entity other than an owner who operates a qualified tourist oriented business and who has

authority to enter into an agreement relative to matters covered by these regulations.

(11) "Commission" means the Oregon Transportation Commission.

(12) "ODOT" means the Oregon Department of Transportation.

(13) "Engineer" means the State Traffic Engineer.

(14) "Expressway" means a highway which has full access control with access allowed only at interchanges or intersections.

(15) "Applicant" means a person applying for a permit for a tourist oriented directional sign.

(16) "Secondary System" means all highways on the secondary state highway system.

(17) "Logo sign" means a panel bearing separately affixed individual logos for "GAS," "FOOD," "LODGING" and "CAMPING" erected in advance of or at intersections on the state highway system in accordance with this division.

(18) "Urban" means an area that can include but is not limited to, business districts, sections of highway with contiguous sidewalks and/or traffic control device congestion where spacing does not meet OAR 733-030-0095(3).

(19) "Business District" means the territory contiguous to a highway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides, is occupied by buildings used for business.

(20) "Sidewalk" means a walkway with a hard, smooth surface, separated from the roadway with a curb, built for use by pedestrians, including persons in wheelchairs.

(21) "Traffic Control Devices" means any sign, signal, marking or device placed, operated or erected by authority under ORS 810.210, for the purpose of guiding, directing, warning or regulating traffic.

(22) "Interchange" means the system of interconnecting ramps between two or more intersecting highways, that are grade separated.

(23) "Council" means, the Travel Information Council created by ORS 377.835.

(24) "Immediate Area" means the region around a facility to a distance of 50 miles, or one hour of travel time.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0100
Criteria for Information Permitted

(1) Each qualified tourist oriented business identified on a tourist oriented directional sign shall have given written assurance to the Travel Information Council of its conformity with all applicable laws concerning the provisions of public accommodations without regard to race, religion, age, color, sex, or national origin, meet all applicable Federal and State ADA guidelines, and shall not be in breach of that assurance. Each qualified business will offer services to all citizens.

(2) If the business is qualified as a tourist oriented business it must be located within one mile of the intersection where the tourist oriented directional signs must be installed measured by vehicle distance from the center point of the intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any qualified tourist oriented business set out in this section located within 15 miles of an intersection, but more than one mile from an intersection may apply to the Travel Information Council for a waiver under the provisions of rules 733-030-0120(3) and 733-030-0130.

(3) Except for undeveloped cultural and historic features a qualified tourist oriented business shall have:

(a) Restroom facilities and drinking water available;

(b) Continuous operation at least six hours per day six days a week during its normal business season; and

(c) Licensing where required;

(d) Adequate parking accommodations.

(4) Qualified undeveloped cultural and historic features shall include:

(a) Adequate parking accommodations; and

(b) An informational device to provide public knowledge of the feature.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83 TIC 1-1994, f. & cert. 6-1-94; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0105
Composition

(1) Tourist oriented directional signs shall have a blue reflectorized background with a white reflectorized border and message. Typical sign designs are shown on **Exhibit 4**, and by this reference made part of. The content of the legend shall be limited to the registered business name, in whole or in part. Intersection tourist oriented directional signs shall be the same as the advance tourist oriented directional sign except that in lieu of the directional word information the sign shall include a separate direction arrow and the distance to the facility to the nearest one-quarter mile, as may be required. Messages, symbols and trademarks which resemble any official traffic control devices are prohibited. Typical sign locations prepared from these standards are shown on **Exhibit 3**, and by this reference made part of. All tourist oriented directional signs shall conform to applicable portions of the **Manual On Uniform Traffic Control Devices** including but not limited to size, location and spacing.

(2) All directional arrows, letters and numbers used in the name of the type of service and the directional legend shall be white and reflectorized.

[ED. NOTE: Exhibits referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 2-1988, f. & cert. ef. 11-1-88; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-2007, f. & cert. ef. 3-1-07

733-030-0110
Special Requirements — Primary and Secondary Systems

(1) Location. Intersection signs are optional at all locations only but cannot be used unless the qualifying business also has an advance sign.

(2) Sign panels shall not be displayed for any business if it's building or on-premise signing is visible and/or recognizable on the traveled way for a distance of 300 feet or more from the intersection. Visibility and identification are determined by being able to recognize the facility, by observing the building itself or existing signing adjacent to or attached to the facility, as the type of tourist oriented business for which signing has been requested. A facility that is visible within 300 feet or more, but is not recognizable, may qualify for signing if such a favorable determination is made by the Travel Information Council. Intersection and advance tourist oriented directional signs shall be as described in rule 733-030-0105. The option of using intersection tourist oriented directional sign panels at all locations shall be determined on the basis of an engineering study.

(3) Composition. A maximum of four tourist oriented directional business signs may be displayed at each location. A maximum of three locations may be utilized at any intersection and a maximum of three locations may be utilized in advance of an intersection.

(4) Size:

(a) Intersections. Signs located at intersections shall conform to size specifications in rule 733-030-0105(1); and

(b) Advance locations. Signs located in advance of the intersection shall conform to size specifications in rule 733-030-0105(1).

(5) Any intersection tourist oriented directional sign erected or pending as the primary sign before September 19, 1988, may be maintained.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 2-1988, f. & cert. ef. 11-1-88; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2007, f. & cert. ef. 3-1-07

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101-040-0080	11-28-06	Amend	1-1-07
123-065-0000	1-8-07	Amend(T)	2-1-07
123-065-0010	1-8-07	Amend(T)	2-1-07
123-065-0049	1-8-07	Suspend	2-1-07
123-065-0057	1-8-07	Adopt(T)	2-1-07
123-065-0080	1-8-07	Amend(T)	2-1-07
123-065-0090	1-8-07	Amend(T)	2-1-07
123-065-0100	1-8-07	Amend(T)	2-1-07
123-065-0140	1-8-07	Amend(T)	2-1-07
123-065-0200	1-8-07	Amend(T)	2-1-07
123-065-0210	1-8-07	Amend(T)	2-1-07
123-065-0240	1-8-07	Amend(T)	2-1-07
123-065-0310	1-8-07	Amend(T)	2-1-07
123-065-0320	1-8-07	Amend(T)	2-1-07
123-065-0330	1-8-07	Amend(T)	2-1-07
123-065-0350	1-8-07	Amend(T)	2-1-07
123-065-1050	1-8-07	Amend(T)	2-1-07
123-065-1060	1-8-07	Adopt(T)	2-1-07
123-065-1070	1-8-07	Adopt(T)	2-1-07
123-065-1080	1-8-07	Adopt(T)	2-1-07
123-065-1500	1-8-07	Amend(T)	2-1-07
123-065-1520	1-8-07	Amend(T)	2-1-07
123-065-1530	1-8-07	Amend(T)	2-1-07
123-065-1540	1-8-07	Amend(T)	2-1-07
123-065-1553	1-8-07	Amend(T)	2-1-07
123-065-1590	1-8-07	Amend(T)	2-1-07
123-065-1600	1-8-07	Amend(T)	2-1-07
123-065-1620	1-8-07	Amend(T)	2-1-07
123-065-1710	1-8-07	Amend(T)	2-1-07
123-065-1720	1-8-07	Amend(T)	2-1-07
123-065-1740	1-8-07	Amend(T)	2-1-07
123-065-2520	1-8-07	Amend(T)	2-1-07
123-065-2530	1-8-07	Amend(T)	2-1-07
123-065-2550	1-8-07	Amend(T)	2-1-07
123-065-3000	1-8-07	Amend(T)	2-1-07
123-065-3030	1-8-07	Amend(T)	2-1-07
123-065-3130	1-8-07	Amend(T)	2-1-07
123-065-3200	1-8-07	Amend(T)	2-1-07
123-065-3230	1-8-07	Amend(T)	2-1-07
123-065-3300	1-8-07	Amend(T)	2-1-07
123-065-3330	1-8-07	Amend(T)	2-1-07
123-065-3400	1-8-07	Amend(T)	2-1-07
123-065-3480	1-8-07	Amend(T)	2-1-07
123-065-3850	1-8-07	Amend(T)	2-1-07
123-065-4020	1-8-07	Amend(T)	2-1-07
123-065-4260	1-8-07	Amend(T)	2-1-07
123-065-4310	1-8-07	Amend(T)	2-1-07
123-065-4323	1-8-07	Amend(T)	2-1-07
123-065-4328	1-8-07	Amend(T)	2-1-07
123-065-4380	1-8-07	Amend(T)	2-1-07
123-065-4440	1-8-07	Amend(T)	2-1-07
123-065-4450	1-8-07	Amend(T)	2-1-07
123-065-4470	1-8-07	Amend(T)	2-1-07
123-065-4550	1-8-07	Amend(T)	2-1-07
123-065-4610	1-8-07	Amend(T)	2-1-07
123-065-4970	1-8-07	Amend(T)	2-1-07
123-065-4980	1-8-07	Amend(T)	2-1-07
123-065-4990	1-8-07	Amend(T)	2-1-07
123-065-7200	1-8-07	Amend(T)	2-1-07
123-065-7300	1-8-07	Amend(T)	2-1-07
123-065-7400	1-8-07	Amend(T)	2-1-07
123-065-7500	1-8-07	Amend(T)	2-1-07
123-065-8200	1-8-07	Amend(T)	2-1-07
123-065-8300	1-8-07	Amend(T)	2-1-07
123-065-8400	1-8-07	Amend(T)	2-1-07
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125-007-0210	12-28-06	Amend	2-1-07
125-007-0210(T)	12-28-06	Repeal	2-1-07
125-007-0220	12-28-06	Amend	2-1-07
125-007-0220(T)	12-28-06	Repeal	2-1-07
125-007-0230	12-28-06	Amend	2-1-07
125-007-0230(T)	12-28-06	Repeal	2-1-07
125-007-0240	12-28-06	Amend	2-1-07
125-007-0240(T)	12-28-06	Repeal	2-1-07
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125-007-0250(T)	12-28-06	Repeal	2-1-07
125-007-0260	12-28-06	Amend	2-1-07
125-007-0260(T)	12-28-06	Repeal	2-1-07
125-007-0270	12-28-06	Amend	2-1-07
125-007-0270(T)	12-28-06	Repeal	2-1-07
125-007-0280	12-28-06	Amend	2-1-07
125-007-0280(T)	12-28-06	Repeal	2-1-07
125-007-0290	12-28-06	Amend	2-1-07
125-007-0290(T)	12-28-06	Repeal	2-1-07
125-007-0300	12-28-06	Amend	2-1-07
125-007-0300(T)	12-28-06	Repeal	2-1-07
125-007-0310	12-28-06	Amend	2-1-07
125-007-0310(T)	12-28-06	Repeal	2-1-07
125-007-0320	12-28-06	Amend	2-1-07
125-007-0320(T)	12-28-06	Repeal	2-1-07
125-007-0330	12-28-06	Amend	2-1-07
125-007-0330(T)	12-28-06	Repeal	2-1-07
125-145-0020	12-6-06	Amend(T)	1-1-07
125-145-0040	12-6-06	Amend(T)	1-1-07
125-800-0005	12-28-06	Adopt	2-1-07
125-800-0010	12-28-06	Adopt	2-1-07
125-800-0020	12-28-06	Adopt	2-1-07
137-025-0060	1-1-07	Amend	1-1-07
137-025-0090	1-1-07	Amend	1-1-07
137-025-0150	1-1-07	Amend	1-1-07
137-025-0210	1-1-07	Amend	1-1-07
137-025-0280	1-1-07	Amend	1-1-07
137-025-0410	1-1-07	Amend	1-1-07
137-025-0415	1-1-07	Amend	1-1-07
137-025-0480	1-1-07	Amend	1-1-07
137-025-0530	1-1-07	Amend	1-1-07
137-055-1020	1-2-07	Amend	2-1-07
137-055-1100	1-2-07	Amend	2-1-07
137-055-1120	1-2-07	Amend	2-1-07

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137-055-4320	1-2-07	Amend	2-1-07
137-055-5510	1-2-07	Amend	2-1-07
137-055-6010	1-2-07	Adopt	2-1-07
137-055-6020	1-2-07	Amend	2-1-07
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150-305.220(1)	1-1-07	Amend	2-1-07
150-305.220(2)	1-1-07	Amend	2-1-07
150-305.230	1-1-07	Amend	2-1-07
150-307.080	1-1-07	Adopt	2-1-07
150-308.875-(A)	1-1-07	Amend	2-1-07
150-308A.253	1-1-07	Amend	2-1-07
150-309.024	1-1-07	Amend	2-1-07
150-309.026(2)-(A)	1-1-07	Amend	2-1-07
150-309.067(1)(b)	1-1-07	Amend	2-1-07
150-309.100(2)-(B)	1-1-07	Amend	2-1-07
150-309.100(3)-(C)	1-1-07	Amend	2-1-07
150-311.672(1)(a)	1-1-07	Amend	2-1-07
150-311.708	1-1-07	Amend	2-1-07
150-314.385(1)-(B)	1-1-07	Amend	2-1-07
150-314.385(3)	1-1-07	Amend	2-1-07
150-314.415	1-1-07	Am. & Ren.	2-1-07
150-314.415(1)(a)	1-1-07	Repeal	2-1-07
150-314.415(5)(a)	1-1-07	Amend	2-1-07
150-314.665(3)	1-1-07	Adopt	2-1-07
150-314.665(4)	1-1-07	Amend	2-1-07
150-315.068	1-1-07	Amend	2-1-07
150-315.156	1-1-07	Amend	2-1-07
150-315.511(6)	1-1-07	Repeal	2-1-07
150-316.007-(B)	1-1-07	Amend	2-1-07
150-316.153	1-1-07	Adopt	2-1-07
150-316.162(2)(j)	2-1-07	Amend	3-1-07
150-316.212	1-1-07	Amend	2-1-07
150-317.090	11-21-06	Amend(T)	1-1-07
150-317.090	1-1-07	Amend	2-1-07
150-317.705(3)(a)	1-1-07	Amend	2-1-07
150-318.020(2)	1-1-07	Amend	2-1-07
150-318.060	1-1-07	Adopt	2-1-07
150-334.400	1-1-07	Repeal	2-1-07
150-401.794	1-1-07	Am. & Ren.	2-1-07
150-457.450	1-1-07	Amend	2-1-07
150-670.600	2-1-07	Adopt	3-1-07
160-100-0010	3-1-07	Amend	3-1-07
161-003-0020	2-9-07	Amend	3-1-07
161-010-0020	2-9-07	Amend	3-1-07
161-010-0025	2-9-07	Amend	3-1-07
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165-012-0050	12-29-06	Amend	2-1-07
165-012-0230	1-1-07	Repeal	2-1-07
165-013-0010	12-29-06	Amend	2-1-07
166-150-0065	12-15-06	Amend	1-1-07
177-040-0000	1-1-07	Amend	2-1-07
177-040-0010	3-4-07	Amend	4-1-07
177-040-0017	2-4-07	Amend	3-1-07
177-040-0061	2-4-07	Amend	3-1-07
250-014-0001	7-1-07	Amend	1-1-07
250-014-0002	7-1-07	Amend	1-1-07
250-014-0003	7-1-07	Amend	1-1-07
250-014-0004	7-1-07	Amend	1-1-07
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250-014-0040	7-1-07	Amend	1-1-07
250-014-0041	7-1-07	Amend	1-1-07
250-014-0080	7-1-07	Amend	1-1-07
250-018-0010	1-9-07	Amend(T)	2-1-07
250-018-0020	1-9-07	Amend(T)	2-1-07
250-018-0040	1-9-07	Amend(T)	2-1-07
250-018-0050	1-9-07	Amend(T)	2-1-07
250-018-0060	1-9-07	Amend(T)	2-1-07
250-018-0080	1-9-07	Amend(T)	2-1-07
250-018-0090	1-9-07	Amend(T)	2-1-07
250-018-0110	1-9-07	Adopt(T)	2-1-07
255-032-0022	2-1-07	Adopt(T)	3-1-07
255-032-0025	2-1-07	Amend(T)	3-1-07
255-032-0027	2-1-07	Adopt(T)	3-1-07
255-032-0029	2-1-07	Adopt(T)	3-1-07
255-032-0030	2-1-07	Adopt(T)	3-1-07
255-032-0031	2-1-07	Adopt(T)	3-1-07
255-032-0032	2-1-07	Adopt(T)	3-1-07
255-070-0003	2-1-07	Amend	3-1-07
257-030-0060	11-22-06	Amend	1-1-07
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257-030-0070	11-22-06	Amend	1-1-07
257-030-0070(T)	11-22-06	Repeal	1-1-07
257-030-0075	11-22-06	Repeal	1-1-07
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257-030-0120	11-22-06	Adopt	1-1-07
257-030-0120(T)	11-22-06	Repeal	1-1-07
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257-030-0140(T)	11-22-06	Repeal	1-1-07
257-030-0150	11-22-06	Adopt	1-1-07
257-030-0150(T)	11-22-06	Repeal	1-1-07
257-030-0160	11-22-06	Adopt	1-1-07
257-030-0160(T)	11-22-06	Repeal	1-1-07
257-030-0170	11-22-06	Adopt	1-1-07
257-030-0170(T)	11-22-06	Repeal	1-1-07
259-008-0005	1-12-07	Amend	2-1-07
259-008-0011	1-12-07	Amend	2-1-07
259-008-0025	1-12-07	Amend	2-1-07
259-008-0064	1-12-07	Amend	2-1-07
259-008-0065	1-12-07	Amend	2-1-07
259-008-0065(T)	1-12-07	Repeal	2-1-07
259-008-0085	1-12-07	Amend	2-1-07
259-009-0005	1-12-07	Amend	2-1-07
259-009-0062	11-20-06	Amend	1-1-07
259-009-0062	1-12-07	Amend	2-1-07
259-009-0067	3-14-07	Amend	4-1-07
259-012-0005	11-20-06	Amend	1-1-07
259-012-0005(T)	11-20-06	Repeal	1-1-07
259-012-0010	11-20-06	Amend	1-1-07
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259-012-0030	11-20-06	Repeal	1-1-07
259-012-0035	11-20-06	Amend	1-1-07
259-012-0035	2-15-07	Amend(T)	3-1-07
259-012-0035(T)	11-20-06	Repeal	1-1-07
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259-060-0060	2-15-07	Amend	3-1-07
259-060-0065	2-15-07	Amend	3-1-07
259-060-0075	2-15-07	Amend	3-1-07
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259-070-0010	1-12-07	Amend	2-1-07
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291-017-0010	1-31-07	Repeal	3-1-07
291-017-0015	1-31-07	Repeal	3-1-07
291-017-0017	1-31-07	Repeal	3-1-07
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291-100-0130	2-1-07	Amend	3-1-07
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291-143-0130	12-18-06	Amend(T)	2-1-07
291-143-0140	12-18-06	Amend(T)	2-1-07
325-015-0001	1-1-07	Adopt	2-1-07
325-015-0005	1-1-07	Adopt	2-1-07
325-015-0010	1-1-07	Adopt	2-1-07
325-015-0015	1-1-07	Adopt	2-1-07
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325-015-0025	1-1-07	Adopt	2-1-07
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325-020-0055	3-7-07	Adopt	4-1-07
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330-070-0013	1-1-07	Amend	2-1-07
330-070-0020	1-1-07	Amend	2-1-07
330-070-0026	1-1-07	Amend	2-1-07
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330-070-0060	1-1-07	Amend	2-1-07
330-070-0064	1-1-07	Amend	2-1-07
330-070-0070	1-1-07	Amend	2-1-07
330-070-0073	1-1-07	Amend	2-1-07
330-090-0110	12-1-07	Amend	1-1-07
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331-120-0020	12-1-06	Amend	1-1-07
331-125-0010	12-1-06	Amend	1-1-07
331-135-0000	12-1-06	Amend	1-1-07
333-002-0010	11-16-06	Amend	1-1-07
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333-002-0140	11-16-06	Amend	1-1-07
333-002-0150	11-16-06	Amend	1-1-07
333-002-0160	11-16-06	Amend	1-1-07
333-002-0170	11-16-06	Amend	1-1-07
333-002-0210	11-16-06	Amend	1-1-07

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333-002-0230	11-16-06	Amend	1-1-07
333-004-0010	4-1-07	Amend(T)	4-1-07
333-004-0080	4-1-07	Amend(T)	4-1-07
333-004-0110	4-1-07	Amend(T)	4-1-07
333-011-0200	12-1-06	Adopt	1-1-07
333-012-0270	1-16-07	Amend	3-1-07
333-018-0005	1-16-07	Amend	3-1-07
333-018-0018	12-18-06	Amend	1-1-07
333-018-0030	1-16-07	Amend	3-1-07
333-054-0000	12-27-06	Amend	2-1-07
333-054-0010	12-27-06	Amend	2-1-07
333-054-0020	12-27-06	Amend	2-1-07
333-054-0020(T)	12-27-06	Repeal	2-1-07
333-054-0025	12-27-06	Adopt	2-1-07
333-054-0030	12-27-06	Amend	2-1-07
333-054-0030(T)	12-27-06	Repeal	2-1-07
333-054-0040	12-27-06	Amend	2-1-07
333-054-0050	12-27-06	Amend	2-1-07
333-054-0060	12-27-06	Amend	2-1-07
333-054-0070	12-27-06	Amend	2-1-07
333-060-0020	12-13-06	Amend	1-1-07
333-100-0001	3-1-07	Amend	4-1-07
333-100-0005	3-1-07	Amend	4-1-07
333-100-0010	3-1-07	Amend	4-1-07
333-100-0015	3-1-07	Amend	4-1-07
333-100-0020	3-1-07	Amend	4-1-07
333-100-0025	3-1-07	Amend	4-1-07
333-100-0030	3-1-07	Amend	4-1-07
333-100-0035	3-1-07	Amend	4-1-07
333-100-0040	3-1-07	Amend	4-1-07
333-100-0045	3-1-07	Amend	4-1-07
333-100-0050	3-1-07	Amend	4-1-07
333-100-0055	3-1-07	Amend	4-1-07
333-100-0057	3-1-07	Amend	4-1-07
333-100-0060	3-1-07	Amend	4-1-07
333-100-0065	3-1-07	Amend	4-1-07
333-100-0070	3-1-07	Amend	4-1-07
333-100-0080	3-1-07	Amend	4-1-07
333-102-0001	3-1-07	Amend	4-1-07
333-102-0005	3-1-07	Amend	4-1-07
333-102-0010	3-1-07	Amend	4-1-07
333-102-0015	3-1-07	Amend	4-1-07
333-102-0020	3-1-07	Amend	4-1-07
333-102-0025	3-1-07	Amend	4-1-07
333-102-0030	3-1-07	Amend	4-1-07
333-102-0035	3-1-07	Amend	4-1-07
333-102-0040	3-1-07	Amend	4-1-07
333-102-0075	3-1-07	Amend	4-1-07
333-102-0101	3-1-07	Amend	4-1-07
333-102-0103	3-1-07	Amend	4-1-07
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333-102-0115	3-1-07	Amend	4-1-07
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333-102-0125	3-1-07	Amend	4-1-07
333-102-0130	3-1-07	Amend	4-1-07
333-102-0135	3-1-07	Amend	4-1-07
333-102-0190	3-1-07	Amend	4-1-07
333-102-0200	3-1-07	Amend	4-1-07
333-102-0203	3-1-07	Amend	4-1-07
333-102-0235	3-1-07	Amend	4-1-07
333-102-0245	3-1-07	Amend	4-1-07
333-102-0247	3-1-07	Amend	4-1-07
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333-102-0255	3-1-07	Amend	4-1-07
333-102-0260	3-1-07	Amend	4-1-07
333-102-0265	3-1-07	Amend	4-1-07
333-102-0270	3-1-07	Amend	4-1-07
333-102-0275	3-1-07	Amend	4-1-07
333-102-0285	3-1-07	Amend	4-1-07
333-102-0290	3-1-07	Amend	4-1-07
333-102-0293	3-1-07	Amend	4-1-07
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333-102-0305	3-1-07	Amend	4-1-07
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333-102-0345	3-1-07	Amend	4-1-07
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333-105-0050	3-1-07	Amend	4-1-07
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333-105-0440	3-1-07	Amend	4-1-07
333-105-0450	3-1-07	Amend	4-1-07
333-105-0460	3-1-07	Amend	4-1-07
333-105-0470	3-1-07	Amend	4-1-07

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333-105-0530	3-1-07	Amend	4-1-07
333-105-0540	3-1-07	Amend	4-1-07
333-105-0550	3-1-07	Amend	4-1-07
333-105-0560	3-1-07	Amend	4-1-07
333-105-0570	3-1-07	Amend	4-1-07
333-105-0580	3-1-07	Amend	4-1-07
333-105-0590	3-1-07	Amend	4-1-07
333-105-0600	3-1-07	Amend	4-1-07
333-105-0610	3-1-07	Amend	4-1-07
333-105-0620	3-1-07	Amend	4-1-07
333-105-0630	3-1-07	Amend	4-1-07
333-105-0640	3-1-07	Amend	4-1-07
333-105-0650	3-1-07	Amend	4-1-07
333-105-0660	3-1-07	Amend	4-1-07
333-105-0670	3-1-07	Amend	4-1-07
333-105-0680	3-1-07	Amend	4-1-07
333-105-0690	3-1-07	Amend	4-1-07
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333-105-0740	3-1-07	Amend	4-1-07
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333-113-0135	3-1-07	Amend	4-1-07
333-113-0140	3-1-07	Amend	4-1-07
333-113-0145	3-1-07	Amend	4-1-07
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333-116-0027	3-1-07	Amend	4-1-07
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333-116-0055	3-1-07	Amend	4-1-07
333-116-0057	3-1-07	Amend	4-1-07
333-116-0059	3-1-07	Amend	4-1-07
333-116-0090	3-1-07	Amend	4-1-07
333-116-0100	3-1-07	Amend	4-1-07
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333-116-0107	3-1-07	Amend	4-1-07
333-116-0110	3-1-07	Amend	4-1-07
333-116-0120	3-1-07	Amend	4-1-07
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333-116-0250	3-1-07	Amend	4-1-07
333-116-0255	3-1-07	Amend	4-1-07
333-116-0260	3-1-07	Amend	4-1-07
333-116-0280	3-1-07	Amend	4-1-07
333-116-0290	3-1-07	Amend	4-1-07
333-116-0300	3-1-07	Amend	4-1-07
333-116-0310	3-1-07	Amend	4-1-07
333-116-0320	3-1-07	Amend	4-1-07
333-116-0330	3-1-07	Amend	4-1-07
333-116-0340	3-1-07	Amend	4-1-07
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333-116-0360	3-1-07	Amend	4-1-07
333-116-0370	3-1-07	Amend	4-1-07
333-116-0380	3-1-07	Amend	4-1-07
333-116-0390	3-1-07	Amend	4-1-07
333-116-0400	3-1-07	Amend	4-1-07
333-116-0405	3-1-07	Amend	4-1-07
333-116-0410	3-1-07	Amend	4-1-07
333-116-0420	3-1-07	Amend	4-1-07
333-116-0425	3-1-07	Amend	4-1-07
333-116-0430	3-1-07	Amend	4-1-07
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333-116-1000	3-1-07	Amend	4-1-07
333-116-1010	3-1-07	Amend	4-1-07
333-116-1015	3-1-07	Amend	4-1-07
333-116-1030	3-1-07	Amend	4-1-07
333-118-0010	3-1-07	Amend	4-1-07
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333-118-0160	3-1-07	Amend	4-1-07
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333-120-0110	3-1-07	Amend	4-1-07
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333-120-0160	3-1-07	Amend	4-1-07
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333-120-0190	3-1-07	Amend	4-1-07
333-120-0200	3-1-07	Amend	4-1-07
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333-120-0410	3-1-07	Amend	4-1-07
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333-120-0440	3-1-07	Amend	4-1-07
333-120-0450	3-1-07	Amend	4-1-07
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333-120-0560	3-1-07	Amend	4-1-07
333-120-0600	3-1-07	Amend	4-1-07
333-120-0610	3-1-07	Amend	4-1-07
333-120-0620	3-1-07	Amend	4-1-07
333-120-0630	3-1-07	Amend	4-1-07
333-120-0640	3-1-07	Amend	4-1-07
333-120-0650	3-1-07	Amend	4-1-07
333-120-0660	3-1-07	Amend	4-1-07
333-120-0670	3-1-07	Amend	4-1-07
333-120-0680	3-1-07	Amend	4-1-07
333-120-0690	3-1-07	Amend	4-1-07
333-120-0700	3-1-07	Amend	4-1-07
333-120-0710	3-1-07	Amend	4-1-07
333-120-0720	3-1-07	Amend	4-1-07
333-120-0730	3-1-07	Amend	4-1-07
333-120-0740	3-1-07	Amend	4-1-07
333-250-0000	2-1-07	Amend	3-1-07
333-250-0010	2-1-07	Amend	3-1-07
333-250-0020	2-1-07	Amend	3-1-07
333-250-0030	2-1-07	Amend	3-1-07
333-250-0040	2-1-07	Amend	3-1-07
333-250-0041	2-1-07	Amend	3-1-07
333-250-0042	2-1-07	Amend	3-1-07
333-250-0043	2-1-07	Amend	3-1-07
333-250-0044	2-1-07	Amend	3-1-07
333-250-0045	2-1-07	Amend	3-1-07
333-250-0046	2-1-07	Amend	3-1-07
333-250-0047	2-1-07	Amend	3-1-07
333-250-0048	2-1-07	Amend	3-1-07
333-250-0049	2-1-07	Amend	3-1-07
333-250-0050	2-1-07	Amend	3-1-07
333-250-0060	2-1-07	Amend	3-1-07
333-250-0070	2-1-07	Amend	3-1-07
333-250-0080	2-1-07	Amend	3-1-07
333-250-0090	2-1-07	Repeal	3-1-07
333-250-0100	2-1-07	Amend	3-1-07
333-255-0000	2-1-07	Amend	3-1-07
333-255-0010	2-1-07	Amend	3-1-07
333-255-0020	2-1-07	Amend	3-1-07
333-255-0030	2-1-07	Amend	3-1-07
333-255-0040	2-1-07	Amend	3-1-07
333-255-0050	2-1-07	Amend	3-1-07
333-255-0060	2-1-07	Amend	3-1-07
333-255-0070	2-1-07	Amend	3-1-07
333-255-0071	2-1-07	Amend	3-1-07
333-255-0072	2-1-07	Amend	3-1-07
333-255-0073	2-1-07	Amend	3-1-07
333-255-0079	2-1-07	Amend	3-1-07
333-255-0080	2-1-07	Amend	3-1-07
333-255-0081	2-1-07	Amend	3-1-07
333-255-0082	2-1-07	Amend	3-1-07
333-255-0090	2-1-07	Amend	3-1-07
333-255-0091	2-1-07	Amend	3-1-07
333-255-0092	2-1-07	Amend	3-1-07
333-255-0093	2-1-07	Amend	3-1-07
333-265-0130	2-1-07	Amend	3-1-07
335-001-0000	2-9-07	Amend	3-1-07
335-001-0005	2-9-07	Amend	3-1-07
335-005-0030	2-9-07	Amend	3-1-07
335-010-0060	2-1-07	Amend	3-1-07
335-010-0070	2-1-07	Amend	3-1-07
335-060-0005	2-1-07	Amend	3-1-07
335-070-0020	2-1-07	Amend	3-1-07
335-070-0030	2-1-07	Amend	3-1-07
335-070-0040	2-1-07	Amend	3-1-07
335-070-0050	2-1-07	Amend	3-1-07
335-070-0055	2-1-07	Amend	3-1-07
335-095-0050	2-1-07	Amend	3-1-07
335-095-0060	2-1-07	Amend	3-1-07
337-010-0010	1-1-07	Amend	1-1-07
337-010-0011	1-1-07	Adopt	1-1-07
337-010-0012	1-1-07	Amend	1-1-07
337-010-0030	1-1-07	Amend	1-1-07
337-010-0031	1-1-07	Amend	1-1-07
337-010-0055	1-1-07	Amend	1-1-07
339-010-0040	12-28-06	Amend	2-1-07
339-010-0055	12-28-06	Amend	2-1-07
340-041-0002	3-15-07	Amend	4-1-07
340-041-0004	3-15-07	Amend	4-1-07
340-041-0007	3-15-07	Amend	4-1-07
340-041-0016	3-15-07	Amend	4-1-07
340-041-0021	3-15-07	Amend	4-1-07
340-041-0028	3-14-07	Amend	4-1-07
340-041-0028	3-15-07	Amend	4-1-07
340-041-0032	3-15-07	Amend	4-1-07
340-041-0046	3-15-07	Amend	4-1-07
340-041-0053	3-14-07	Amend	4-1-07
340-041-0053	3-15-07	Amend	4-1-07
340-041-0104	3-15-07	Amend	4-1-07
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340-041-0175	3-15-07	Amend	4-1-07
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340-041-0195	3-14-07	Amend	4-1-07
340-041-0201	3-15-07	Amend	4-1-07
340-041-0235	3-15-07	Amend	4-1-07
340-041-0260	3-15-07	Amend	4-1-07
340-041-0271	3-15-07	Amend	4-1-07
340-041-0300	3-15-07	Amend	4-1-07
340-041-0315	3-15-07	Amend	4-1-07
340-041-0320	3-15-07	Amend	4-1-07
340-041-0340	3-15-07	Amend	4-1-07
340-041-0345	3-15-07	Amend	4-1-07
340-041-0350	3-15-07	Amend	4-1-07
340-228-0300	12-22-06	Amend	2-1-07
340-228-0600	12-22-06	Adopt	2-1-07
340-228-0602	12-22-06	Adopt	2-1-07

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340-228-0605	12-22-06	Adopt	2-1-07
340-228-0606	12-22-06	Adopt	2-1-07
340-228-0608	12-22-06	Adopt	2-1-07
340-228-0610	12-22-06	Adopt	2-1-07
340-228-0612	12-22-06	Adopt	2-1-07
340-228-0614	12-22-06	Adopt	2-1-07
340-228-0616	12-22-06	Adopt	2-1-07
340-228-0618	12-22-06	Adopt	2-1-07
340-228-0620	12-22-06	Adopt	2-1-07
340-228-0622	12-22-06	Adopt	2-1-07
340-228-0624	12-22-06	Adopt	2-1-07
340-228-0626	12-22-06	Adopt	2-1-07
340-228-0628	12-22-06	Adopt	2-1-07
340-228-0630	12-22-06	Adopt	2-1-07
340-228-0632	12-22-06	Adopt	2-1-07
340-228-0634	12-22-06	Adopt	2-1-07
340-228-0636	12-22-06	Adopt	2-1-07
340-228-0638	12-22-06	Adopt	2-1-07
340-228-0640	12-22-06	Adopt	2-1-07
340-228-0642	12-22-06	Adopt	2-1-07
340-228-0644	12-22-06	Adopt	2-1-07
340-228-0646	12-22-06	Adopt	2-1-07
340-228-0648	12-22-06	Adopt	2-1-07
340-228-0650	12-22-06	Adopt	2-1-07
340-228-0652	12-22-06	Adopt	2-1-07
340-228-0654	12-22-06	Adopt	2-1-07
340-228-0656	12-22-06	Adopt	2-1-07
340-228-0658	12-22-06	Adopt	2-1-07
340-228-0660	12-22-06	Adopt	2-1-07
340-228-0662	12-22-06	Adopt	2-1-07
340-228-0664	12-22-06	Adopt	2-1-07
340-228-0666	12-22-06	Adopt	2-1-07
340-228-0668	12-22-06	Adopt	2-1-07
340-228-0670	12-22-06	Adopt	2-1-07
340-228-0671	12-22-06	Adopt	2-1-07
340-228-0672	12-22-06	Adopt	2-1-07
340-228-0673	12-22-06	Adopt	2-1-07
340-228-0674	12-22-06	Adopt	2-1-07
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340-244-0040	12-22-06	Amend	2-1-07
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407-020-0010	2-1-07	Adopt	3-1-07
407-020-0015	2-1-07	Adopt	3-1-07
407-030-0010	3-1-07	Am. & Ren.	4-1-07
407-030-0020	3-1-07	Am. & Ren.	4-1-07
407-030-0030	3-1-07	Am. & Ren.	4-1-07
407-030-0040	3-1-07	Am. & Ren.	4-1-07
409-021-0010	2-1-07	Amend	3-1-07
409-021-0115	2-1-07	Am. & Ren.	3-1-07
409-021-0120	2-1-07	Am. & Ren.	3-1-07
409-021-0130	2-1-07	Am. & Ren.	3-1-07
409-021-0140	2-1-07	Am. & Ren.	3-1-07
409-021-0150	2-1-07	Adopt	3-1-07
409-022-0010	1-1-07	Adopt	1-1-07
409-022-0020	1-1-07	Adopt	1-1-07
409-022-0030	1-1-07	Adopt	1-1-07
409-022-0040	1-1-07	Adopt	1-1-07
409-022-0050	1-1-07	Adopt	1-1-07
409-022-0060	1-1-07	Adopt	1-1-07
409-022-0070	1-1-07	Adopt	1-1-07
409-022-0080	1-1-07	Adopt	1-1-07
409-030-0000	11-28-06	Amend(T)	1-1-07
409-030-0005	11-28-06	Amend(T)	1-1-07
409-030-0020	11-28-06	Amend(T)	1-1-07
409-030-0050	11-28-06	Amend(T)	1-1-07
410-120-0000	1-1-07	Amend	1-1-07
410-120-1280	1-1-07	Amend	1-1-07
410-120-1295	1-1-07	Amend(T)	1-1-07
410-120-1340	1-1-07	Amend	1-1-07
410-120-1380	1-1-07	Amend	1-1-07
410-120-1390	1-1-07	Amend	1-1-07
410-120-1960	1-1-07	Amend	1-1-07
410-121-0030	1-1-07	Amend	2-1-07
410-121-0040	1-1-07	Amend	1-1-07
410-121-0149	1-1-07	Amend	1-1-07
410-121-0157	1-1-07	Amend	2-1-07
410-121-0300	1-1-07	Amend	2-1-07
410-121-0320	1-1-07	Amend	2-1-07
410-122-0000	1-1-07	Repeal	2-1-07
410-122-0020	1-1-07	Amend	1-1-07
410-122-0055	1-1-07	Amend	1-1-07
410-122-0080	1-1-07	Amend	1-1-07
410-122-0085	1-1-07	Repeal	1-1-07
410-122-0182	1-1-07	Amend	1-1-07
410-122-0184	1-1-07	Amend	1-1-07
410-122-0186	1-1-07	Amend	1-1-07
410-122-0190	1-1-07	Repeal	1-1-07
410-122-0202	1-1-07	Amend	1-1-07
410-122-0203	1-1-07	Amend	1-1-07
410-122-0204	1-1-07	Amend	1-1-07
410-122-0205	1-1-07	Amend	1-1-07
410-122-0207	1-1-07	Amend	1-1-07
410-122-0208	1-1-07	Amend	1-1-07
410-122-0209	1-1-07	Amend	1-1-07
410-122-0210	1-1-07	Amend	1-1-07
410-122-0240	1-1-07	Amend	1-1-07
410-122-0280	1-1-07	Amend	1-1-07
410-122-0320	1-1-07	Amend	1-1-07
410-122-0325	1-1-07	Amend	1-1-07
410-122-0340	1-1-07	Amend	1-1-07
410-122-0360	1-1-07	Amend	1-1-07
410-122-0365	1-1-07	Amend	1-1-07
410-122-0375	1-1-07	Amend	1-1-07

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410-122-0400	1-1-07	Amend	1-1-07
410-122-0420	1-1-07	Amend	1-1-07
410-122-0500	1-1-07	Amend	1-1-07
410-122-0510	1-1-07	Amend	1-1-07
410-122-0530	1-1-07	Repeal	1-1-07
410-122-0580	1-1-07	Amend	1-1-07
410-122-0600	1-1-07	Amend	1-1-07
410-122-0620	1-1-07	Amend	1-1-07
410-122-0660	1-1-07	Amend	1-1-07
410-122-0678	1-1-07	Amend	1-1-07
410-122-0700	1-1-07	Amend	1-1-07
410-122-0720	1-1-07	Amend	1-1-07
410-125-0146	1-1-07	Amend	1-1-07
410-125-0195	1-1-07	Amend	1-1-07
410-127-0000	1-1-07	Repeal	2-1-07
410-127-0065	1-1-07	Adopt	1-1-07
410-129-0010	1-1-07	Repeal	2-1-07
410-129-0080	1-1-07	Amend	1-1-07
410-131-0020	1-1-07	Repeal	2-1-07
410-131-0080	1-1-07	Amend	1-1-07
410-132-0000	1-1-07	Repeal	2-1-07
410-136-0020	1-1-07	Repeal	2-1-07
410-141-0000	1-1-07	Amend	1-1-07
410-141-0060	1-1-07	Amend	1-1-07
410-141-0070	1-1-07	Amend	1-1-07
410-141-0080	1-1-07	Amend	1-1-07
410-141-0220	1-1-07	Amend	1-1-07
410-141-0420	1-1-07	Amend(T)	2-1-07
410-141-0480	1-1-07	Amend	1-1-07
410-141-0520	1-1-07	Amend	1-1-07
410-142-0000	1-1-07	Repeal	2-1-07
410-142-0225	1-1-07	Adopt	1-1-07
410-143-0000	1-1-07	Repeal	2-1-07
410-147-0120	1-1-07	Amend	1-1-07
410-147-0320	1-1-07	Amend	1-1-07
410-147-0365	1-1-07	Amend	1-1-07
410-147-0460	1-1-07	Amend	1-1-07
410-147-0480	1-1-07	Amend	1-1-07
410-147-0620	1-1-07	Amend	1-1-07
410-148-0260	1-1-07	Amend	2-1-07
411-020-0002	12-21-06	Amend	2-1-07
411-020-0020	12-21-06	Amend	2-1-07
411-020-0100	12-21-06	Amend	2-1-07
411-020-0120	12-21-06	Amend	2-1-07
411-026-0000	12-1-06	Amend	1-1-07
411-026-0010	12-1-06	Amend	1-1-07
411-026-0020	12-1-06	Amend	1-1-07
411-026-0030	12-1-06	Amend	1-1-07
411-026-0040	12-1-06	Amend	1-1-07
411-026-0050	12-1-06	Amend	1-1-07
411-026-0060	12-1-06	Amend	1-1-07
411-026-0070	12-1-06	Amend	1-1-07
411-026-0080	12-1-06	Amend	1-1-07
411-050-0400	1-1-07	Amend	2-1-07
411-050-0401	1-1-07	Amend	2-1-07
411-050-0405	1-1-07	Amend	2-1-07
411-050-0408	1-1-07	Amend	2-1-07
411-050-0410	1-1-07	Amend	2-1-07
411-050-0412	1-1-07	Amend	2-1-07
411-050-0415	1-1-07	Amend	2-1-07
411-050-0420	1-1-07	Amend	2-1-07
411-050-0430	1-1-07	Amend	2-1-07
411-050-0435	1-1-07	Amend	2-1-07
411-050-0437	1-1-07	Repeal	2-1-07
411-050-0440	1-1-07	Amend	2-1-07
411-050-0441	1-1-07	Repeal	2-1-07
411-050-0442	1-1-07	Repeal	2-1-07
411-050-0443	1-1-07	Amend	2-1-07
411-050-0444	1-1-07	Adopt	2-1-07
411-050-0445	1-1-07	Amend	2-1-07
411-050-0447	1-1-07	Amend	2-1-07
411-050-0450	1-1-07	Amend	2-1-07
411-050-0455	1-1-07	Amend	2-1-07
411-050-0460	1-1-07	Amend	2-1-07
411-050-0465	1-1-07	Amend	2-1-07
411-050-0480	1-1-07	Amend	2-1-07
411-050-0481	1-1-07	Amend	2-1-07
411-050-0483	1-1-07	Amend	2-1-07
411-050-0485	1-1-07	Amend	2-1-07
411-050-0487	1-1-07	Amend	2-1-07
411-050-0491	1-1-07	Adopt	2-1-07
411-070-0130	3-13-07	Amend	4-1-07
411-335-0010	1-1-07	Amend	2-1-07
411-335-0020	1-1-07	Amend	2-1-07
411-335-0030	1-1-07	Amend	2-1-07
411-335-0050	1-1-07	Amend	2-1-07
411-335-0060	1-1-07	Amend	2-1-07
411-335-0070	1-1-07	Amend	2-1-07
411-335-0080	1-1-07	Amend	2-1-07
411-335-0090	1-1-07	Amend	2-1-07
411-335-0100	1-1-07	Amend	2-1-07
411-335-0110	1-1-07	Amend	2-1-07
411-335-0120	1-1-07	Amend	2-1-07
411-335-0130	1-1-07	Amend	2-1-07
411-335-0140	1-1-07	Amend	2-1-07
411-335-0150	1-1-07	Amend	2-1-07
411-335-0160	1-1-07	Amend	2-1-07
411-335-0170	1-1-07	Amend	2-1-07
411-335-0190	1-1-07	Amend	2-1-07
411-335-0200	1-1-07	Amend	2-1-07
411-335-0210	1-1-07	Amend	2-1-07
411-335-0220	1-1-07	Amend	2-1-07
411-335-0230	1-1-07	Amend	2-1-07
411-335-0240	1-1-07	Amend	2-1-07
411-335-0270	1-1-07	Amend	2-1-07
411-335-0300	1-1-07	Amend	2-1-07
411-335-0320	1-1-07	Amend	2-1-07
411-335-0330	1-1-07	Amend	2-1-07
411-335-0340	1-1-07	Amend	2-1-07
411-335-0350	1-1-07	Amend	2-1-07
411-335-0360	1-1-07	Amend	2-1-07

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413-100-0130	2-7-07	Amend(T)	3-1-07
413-100-0135	2-7-07	Amend(T)	3-1-07
413-120-0020	2-26-07	Amend(T)	4-1-07
413-120-0040	2-26-07	Amend(T)	4-1-07
413-120-0075	2-26-07	Amend(T)	4-1-07
414-350-0050	12-1-06	Amend	1-1-07
414-350-0100	12-1-06	Amend	1-1-07
414-350-0110	12-1-06	Amend	1-1-07
414-350-0120	12-1-06	Amend	1-1-07
415-056-0000	3-8-07	Amend	4-1-07
415-056-0005	3-8-07	Amend	4-1-07
415-056-0010	3-8-07	Amend	4-1-07
415-056-0015	3-8-07	Amend	4-1-07
415-056-0020	3-8-07	Amend	4-1-07
415-056-0025	3-8-07	Amend	4-1-07
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416-115-0010	2-13-07	Adopt	3-1-07
416-115-0020	2-13-07	Adopt	3-1-07
416-115-0030	2-13-07	Adopt	3-1-07
416-115-0040	2-13-07	Adopt	3-1-07
416-115-0050	2-13-07	Adopt	3-1-07
416-115-0060	2-13-07	Adopt	3-1-07
416-115-0070	2-13-07	Adopt	3-1-07
416-115-0080	2-13-07	Adopt	3-1-07
416-115-0090	2-13-07	Adopt	3-1-07
416-115-0100	2-13-07	Adopt	3-1-07
416-115-0110	2-13-07	Adopt	3-1-07
416-115-0120	2-13-07	Adopt	3-1-07
416-115-0130	2-13-07	Adopt	3-1-07
416-115-0140	2-13-07	Adopt	3-1-07
416-115-0150	2-13-07	Adopt	3-1-07
416-115-0160	2-13-07	Adopt	3-1-07
416-115-0170	2-13-07	Adopt	3-1-07
416-115-0180	2-13-07	Adopt	3-1-07
416-115-0190	2-13-07	Adopt	3-1-07
416-115-0200	2-13-07	Adopt	3-1-07
416-115-0210	2-13-07	Adopt	3-1-07
416-115-0220	2-13-07	Adopt	3-1-07
416-115-0230	2-13-07	Adopt	3-1-07
416-115-0240	2-13-07	Adopt	3-1-07
416-115-0250	2-13-07	Adopt	3-1-07
416-115-0260	2-13-07	Adopt	3-1-07
416-115-0270	2-13-07	Adopt	3-1-07
416-115-0280	2-13-07	Adopt	3-1-07
423-010-0024	2-12-07	Amend	3-1-07
423-045-0005	2-16-07	Amend(T)	4-1-07
423-045-0010	2-16-07	Amend(T)	4-1-07
423-045-0015	2-16-07	Amend(T)	4-1-07
423-045-0101	2-12-07	Adopt	3-1-07
423-045-0105	2-12-07	Adopt	3-1-07
423-045-0110	2-12-07	Adopt	3-1-07
423-045-0112	2-12-07	Adopt	3-1-07
423-045-0115	2-12-07	Adopt	3-1-07
423-045-0120	2-12-07	Adopt	3-1-07
423-045-0125	2-12-07	Adopt	3-1-07
423-045-0130	2-12-07	Adopt	3-1-07
423-045-0135	2-12-07	Adopt	3-1-07
423-045-0140	2-12-07	Adopt	3-1-07
423-045-0150	2-12-07	Adopt	3-1-07
423-045-0155	2-12-07	Adopt	3-1-07
423-045-0160	2-12-07	Adopt	3-1-07
423-045-0165	2-12-07	Adopt	3-1-07
423-045-0170	2-12-07	Adopt	3-1-07
423-045-0175	2-12-07	Adopt	3-1-07
423-045-0185	2-12-07	Adopt	3-1-07
436-170-0002	2-1-07	Adopt	3-1-07
436-170-0100	2-1-07	Adopt	3-1-07
436-170-0200	2-1-07	Adopt	3-1-07
436-170-0300	2-1-07	Adopt	3-1-07
437-002-0120	11-30-06	Amend	1-1-07
437-002-0360	11-30-06	Amend	1-1-07
437-003-0001	11-30-06	Amend	1-1-07
437-004-1041	11-30-06	Amend	1-1-07
437-005-0001	11-30-06	Amend	1-1-07
437-005-0001	1-16-07	Amend	2-1-07
438-005-0046	3-1-07	Amend	3-1-07
438-022-0005	3-1-07	Amend	3-1-07
441-730-0000	12-21-06	Amend	2-1-07
441-730-0010	12-21-06	Amend	2-1-07
441-730-0015	12-21-06	Am. & Ren.	2-1-07
441-730-0025	12-21-06	Adopt	2-1-07
441-730-0050	12-21-06	Amend	2-1-07
441-730-0080	12-21-06	Amend	2-1-07
441-730-0120	12-21-06	Amend	2-1-07
441-730-0255	12-21-06	Adopt	2-1-07
441-730-0320	12-21-06	Amend	2-1-07
441-860-0010	1-17-07	Amend	3-1-07
441-860-0020	1-17-07	Amend	3-1-07
441-860-0030	1-17-07	Amend	3-1-07
441-860-0040	1-17-07	Amend	3-1-07
441-860-0060	1-17-07	Amend	3-1-07
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459-005-0110	2-21-07	Amend	4-1-07
459-005-0120	2-21-07	Repeal	4-1-07
459-005-0130	2-21-07	Amend	4-1-07
459-005-0140	2-21-07	Amend	4-1-07
459-005-0150	2-21-07	Amend	4-1-07
459-005-0591	2-16-07	Amend(T)	4-1-07
459-005-0595	2-16-07	Amend(T)	4-1-07
459-005-0599	2-16-07	Amend(T)	4-1-07
459-007-0025	1-23-07	Amend	3-1-07
459-007-0300	1-23-07	Amend	3-1-07
459-009-0084	11-24-06	Amend	1-1-07
459-009-0085	11-24-06	Amend	1-1-07
459-009-0090	11-24-06	Adopt	1-1-07

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459-016-0100	11-24-06	Amend	1-1-07
459-050-0025	1-23-07	Amend	3-1-07
459-050-0037	5-1-07	Adopt	3-1-07
459-050-0070	1-23-07	Amend	3-1-07
459-050-0077	5-1-07	Adopt	3-1-07
459-050-0090	2-16-07	Amend(T)	4-1-07
459-050-0150	1-23-07	Amend	3-1-07
459-080-0100	11-24-06	Amend	1-1-07
461-001-0000	1-1-07	Amend	2-1-07
461-001-0015	1-1-07	Adopt	2-1-07
461-001-0020	1-1-07	Adopt	2-1-07
461-105-0010	1-1-07	Amend	2-1-07
461-110-0110	1-1-07	Repeal	2-1-07
461-110-0115	1-1-07	Am. & Ren.	2-1-07
461-110-0370	1-1-07	Amend	2-1-07
461-110-0410	1-1-07	Amend	2-1-07
461-110-0510	1-1-07	Repeal	2-1-07
461-110-0530	1-1-07	Amend	2-1-07
461-110-0610	1-1-07	Repeal	2-1-07
461-110-0630	1-1-07	Amend	2-1-07
461-110-0720	1-1-07	Repeal	2-1-07
461-110-0750	1-1-07	Amend	2-1-07
461-115-0010	1-1-07	Amend	2-1-07
461-115-0050	1-1-07	Amend	2-1-07
461-115-0510	1-1-07	Am. & Ren.	2-1-07
461-115-0530	1-1-07	Amend	2-1-07
461-115-0540	1-1-07	Amend	2-1-07
461-115-0651	1-1-07	Amend	2-1-07
461-115-0705	1-1-07	Amend	2-1-07
461-120-0005	1-1-07	Repeal	2-1-07
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461-120-0610	1-1-07	Repeal	2-1-07
461-125-0370	1-1-07	Amend	2-1-07
461-130-0310	1-1-07	Amend	2-1-07
461-130-0315	1-1-07	Amend	2-1-07
461-130-0325	1-1-07	Amend	2-1-07
461-130-0327	1-1-07	Amend	2-1-07
461-130-0335	1-1-07	Amend	2-1-07
461-135-0010	1-1-07	Amend	2-1-07
461-135-0070	1-1-07	Amend	2-1-07
461-135-0075	1-1-07	Amend	2-1-07
461-135-0210	1-1-07	Amend	2-1-07
461-135-0400	1-1-07	Amend	2-1-07
461-135-0475	1-1-07	Amend	2-1-07
461-135-0506	1-1-07	Amend	2-1-07
461-135-0510	1-1-07	Amend	2-1-07
461-135-0520	1-1-07	Amend	2-1-07
461-135-0708	1-1-07	Amend	2-1-07
461-135-0725	1-1-07	Amend	2-1-07
461-135-0750	1-1-07	Amend	2-1-07
461-135-0780	1-1-07	Amend	2-1-07
461-135-0950	1-1-07	Amend	2-1-07
461-135-0960	1-1-07	Amend	2-1-07
461-140-0210	1-1-07	Amend	2-1-07
461-140-0220	1-1-07	Amend	2-1-07
461-140-0242	1-1-07	Amend	2-1-07
461-140-0242	1-1-07	Amend	2-1-07
461-140-0270	1-1-07	Amend	2-1-07
461-140-0296	1-1-07	Amend	2-1-07
461-140-0300	1-1-07	Amend	2-1-07
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461-145-0022	1-1-07	Amend	2-1-07
461-145-0025	1-1-07	Amend	2-1-07
461-145-0055	1-1-07	Amend	2-1-07
461-145-0108	1-1-07	Amend	2-1-07
461-145-0130	1-1-07	Amend	2-1-07
461-145-0140	1-1-07	Amend	2-1-07
461-145-0175	1-1-07	Amend	2-1-07
461-145-0185	1-1-07	Adopt	2-1-07
461-145-0220	1-1-07	Amend	2-1-07
461-145-0250	1-1-07	Amend	2-1-07
461-145-0280	1-1-07	Amend	2-1-07
461-145-0310	1-1-07	Amend	2-1-07
461-145-0330	1-1-07	Amend	2-1-07
461-145-0340	1-1-07	Amend	2-1-07
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461-145-0440	1-1-07	Amend	2-1-07
461-145-0470	1-1-07	Amend	2-1-07
461-145-0505	1-1-07	Amend	2-1-07
461-145-0540	1-1-07	Amend	2-1-07
461-145-0540	1-1-07	Amend	2-1-07
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461-150-0010	1-1-07	Repeal	2-1-07
461-150-0055	1-1-07	Amend	2-1-07
461-150-0070	1-1-07	Amend	2-1-07
461-150-0080	1-1-07	Amend	2-1-07
461-155-0180	1-24-07	Amend	3-1-07
461-155-0225	1-1-07	Amend	2-1-07
461-155-0235	1-24-07	Amend	3-1-07
461-155-0250	1-1-07	Amend	2-1-07
461-155-0250	3-1-07	Amend(T)	4-1-07
461-155-0250	3-9-07	Amend(T)	4-1-07
461-155-0250(T)	3-9-07	Suspend	4-1-07
461-155-0270	1-1-07	Amend	2-1-07
461-155-0290	3-1-07	Amend(T)	4-1-07
461-155-0291	3-1-07	Amend(T)	4-1-07
461-155-0295	3-1-07	Amend(T)	4-1-07
461-155-0300	1-1-07	Amend	2-1-07
461-155-0660	1-1-07	Amend	2-1-07
461-160-0010	1-1-07	Amend	2-1-07
461-160-0015	1-1-07	Amend	2-1-07
461-160-0020	1-1-07	Repeal	2-1-07
461-160-0055	1-1-07	Amend	2-1-07
461-160-0090	1-1-07	Amend	2-1-07
461-160-0400	1-1-07	Amend	2-1-07
461-160-0415	1-1-07	Amend	2-1-07
461-160-0430	1-1-07	Amend	2-1-07
461-160-0500	1-1-07	Amend	2-1-07

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461-160-0610	1-1-07	Amend	2-1-07
461-160-0620	1-1-07	Amend	2-1-07
461-160-0780	1-1-07	Amend	2-1-07
461-165-0180	1-1-07	Amend	2-1-07
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461-175-0030	1-1-07	Repeal	2-1-07
461-175-0250	1-1-07	Amend	2-1-07
461-180-0044	1-1-07	Amend	2-1-07
461-180-0085	1-1-07	Amend	2-1-07
461-180-0090	1-1-07	Amend	2-1-07
461-185-0050	1-1-07	Amend	2-1-07
461-190-0110	1-1-07	Am. & Ren.	2-1-07
461-190-0161	1-1-07	Repeal	2-1-07
461-190-0197	1-1-07	Amend	2-1-07
461-190-0310	1-1-07	Amend	2-1-07
461-195-0301	1-1-07	Amend	2-1-07
461-195-0305	1-1-07	Amend	2-1-07
461-195-0310	1-1-07	Amend	2-1-07
461-195-0325	1-1-07	Amend	2-1-07
461-195-0511	1-1-07	Amend	2-1-07
461-195-0541	1-1-07	Amend	2-1-07
461-195-0611	1-1-07	Amend	2-1-07
462-160-0010	3-7-07	Repeal	4-1-07
462-160-0020	3-7-07	Repeal	4-1-07
462-160-0030	3-7-07	Repeal	4-1-07
462-160-0100	3-7-07	Adopt	4-1-07
462-160-0100(T)	3-7-07	Repeal	4-1-07
462-160-0110	3-7-07	Adopt	4-1-07
462-160-0110(T)	3-7-07	Repeal	4-1-07
462-160-0120	3-7-07	Adopt	4-1-07
462-160-0120(T)	3-7-07	Repeal	4-1-07
462-160-0130	3-7-07	Adopt	4-1-07
462-160-0130(T)	3-7-07	Repeal	4-1-07
462-160-0140	3-7-07	Adopt	4-1-07
462-160-0140	3-7-07	Amend(T)	4-1-07
462-160-0140(T)	3-7-07	Repeal	4-1-07
471-030-0074	12-3-06	Amend(T)	1-1-07
471-030-0074	1-29-07	Amend	3-1-07
471-030-0075	12-3-06	Amend(T)	1-1-07
471-030-0075	1-29-07	Amend	3-1-07
471-031-0181	2-1-07	Adopt	3-1-07
471-040-0010	12-3-06	Amend	1-1-07
471-040-0040	12-3-06	Amend	1-1-07
471-040-0041	12-3-06	Adopt	1-1-07
571-004-0016	2-14-07	Amend(T)	3-1-07
571-011-0015	3-1-07	Amend	4-1-07
571-021-0005	2-14-07	Suspend	3-1-07
571-021-0009	2-14-07	Suspend	3-1-07
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571-021-0019	2-14-07	Suspend	3-1-07
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571-021-0029	2-14-07	Suspend	3-1-07
571-021-0030	2-14-07	Suspend	3-1-07
571-021-0035	2-14-07	Suspend	3-1-07
571-021-0038	2-14-07	Suspend	3-1-07
571-021-0040	2-14-07	Suspend	3-1-07
571-021-0045	2-14-07	Suspend	3-1-07
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571-021-0056	2-14-07	Suspend	3-1-07
571-021-0057	2-14-07	Suspend	3-1-07
571-021-0060	2-14-07	Suspend	3-1-07
571-021-0064	2-14-07	Suspend	3-1-07
571-021-0068	2-14-07	Suspend	3-1-07
571-021-0070	2-14-07	Suspend	3-1-07
571-021-0072	2-14-07	Suspend	3-1-07
571-021-0073	2-14-07	Suspend	3-1-07
571-021-0100	2-14-07	Adopt(T)	3-1-07
571-021-0105	2-14-07	Adopt(T)	3-1-07
571-021-0110	2-14-07	Adopt(T)	3-1-07
571-021-0115	2-14-07	Adopt(T)	3-1-07
571-021-0120	2-14-07	Adopt(T)	3-1-07
571-021-0125	2-14-07	Adopt(T)	3-1-07
571-021-0130	2-14-07	Adopt(T)	3-1-07
571-021-0140	2-14-07	Adopt(T)	3-1-07
571-021-0150	2-14-07	Adopt(T)	3-1-07
571-021-0160	2-14-07	Adopt(T)	3-1-07
571-021-0165	2-14-07	Adopt(T)	3-1-07
571-021-0200	2-14-07	Adopt(T)	3-1-07
571-021-0205	2-14-07	Adopt(T)	3-1-07
571-021-0210	2-14-07	Adopt(T)	3-1-07
571-021-0215	2-14-07	Adopt(T)	3-1-07
571-021-0220	2-14-07	Adopt(T)	3-1-07
571-021-0230	2-14-07	Adopt(T)	3-1-07
571-021-0240	2-14-07	Adopt(T)	3-1-07
571-021-0250	2-14-07	Adopt(T)	3-1-07
571-023-0000	2-14-07	Adopt(T)	3-1-07
571-023-0005	2-14-07	Amend(T)	3-1-07
571-023-0010	2-14-07	Suspend	3-1-07
571-023-0015	2-14-07	Suspend	3-1-07
571-023-0020	2-14-07	Suspend	3-1-07
571-023-0025	2-14-07	Amend(T)	3-1-07
571-023-0030	2-14-07	Suspend	3-1-07
571-023-0035	2-14-07	Suspend	3-1-07
571-023-0040	2-14-07	Suspend	3-1-07
571-023-0100	2-14-07	Adopt(T)	3-1-07
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571-023-0110	2-14-07	Adopt(T)	3-1-07
571-023-0115	2-14-07	Adopt(T)	3-1-07
571-023-0120	2-14-07	Adopt(T)	3-1-07
571-040-0010	2-14-07	Adopt(T)	3-1-07
571-040-0015	2-14-07	Adopt(T)	3-1-07
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571-040-0070	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0080	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0100	2-14-07	Adopt(T)	3-1-07
571-040-0201	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0220	2-14-07	Suspend	3-1-07
571-040-0240	2-14-07	Suspend	3-1-07
571-040-0251	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0253	2-14-07	Suspend	3-1-07
571-040-0261	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0280	2-14-07	Suspend	3-1-07
571-040-0380	2-14-07	Amend(T)	3-1-07
571-040-0382	2-14-07	Amend(T)	3-1-07
571-040-0390	2-14-07	Amend(T)	3-1-07
571-040-0400	2-14-07	Adopt(T)	3-1-07
571-040-0410	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0420	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0430	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0440	2-14-07	Am. & Ren.(T)	3-1-07
571-040-0450	2-14-07	Am. & Ren.(T)	3-1-07
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571-040-0460	2-14-07	Am. & Ren.(T)	3-1-07
571-060-0005	2-22-07	Amend	4-1-07
571-060-0005	3-12-07	Amend	4-1-07
571-100-0000	2-20-07	Adopt(T)	4-1-07
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571-100-0020	2-20-07	Adopt(T)	4-1-07
571-100-0030	2-20-07	Adopt(T)	4-1-07
571-100-0040	2-20-07	Adopt(T)	4-1-07
571-100-0050	2-20-07	Adopt(T)	4-1-07
571-100-0060	2-20-07	Adopt(T)	4-1-07
571-100-0070	2-20-07	Adopt(T)	4-1-07
571-100-0080	2-20-07	Adopt(T)	4-1-07
571-100-0090	2-20-07	Adopt(T)	4-1-07
571-100-0100	2-20-07	Adopt(T)	4-1-07
571-100-0110	2-20-07	Adopt(T)	4-1-07
571-100-0120	2-20-07	Adopt(T)	4-1-07
571-100-0130	2-20-07	Adopt(T)	4-1-07
571-100-0140	2-20-07	Adopt(T)	4-1-07
571-100-0150	2-20-07	Adopt(T)	4-1-07
571-100-0160	2-20-07	Adopt(T)	4-1-07
574-050-0005	3-5-07	Amend	4-1-07
577-031-0140	1-5-07	Amend	2-1-07
577-070-0005	1-5-07	Amend	2-1-07
577-070-0010	1-5-07	Amend	2-1-07
577-070-0015	1-5-07	Amend	2-1-07
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580-023-0025	11-29-06	Adopt	1-1-07
580-023-0030	11-29-06	Adopt	1-1-07
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581-001-0005	2-21-07	Amend	4-1-07
581-011-0077	12-12-06	Amend	1-1-07
581-011-0131	1-26-07	Adopt	3-1-07
581-021-0061	12-12-06	Amend	1-1-07
581-021-0062	12-12-06	Adopt	1-1-07
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581-021-0250	3-1-07	Amend	4-1-07
581-021-0255	3-1-07	Adopt	4-1-07
581-021-0260	3-1-07	Amend	4-1-07
581-021-0265	3-1-07	Adopt	4-1-07
581-021-0270	3-1-07	Amend	4-1-07
581-021-0330	3-1-07	Amend	4-1-07
581-021-0340	3-1-07	Amend	4-1-07
581-021-0350	3-1-07	Amend	4-1-07
581-021-0360	3-1-07	Amend	4-1-07
581-021-0371	3-1-07	Adopt	4-1-07
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581-021-0391	3-1-07	Adopt	4-1-07
581-021-0400	3-1-07	Amend	4-1-07
581-021-0410	3-1-07	Amend	4-1-07
581-021-0440	3-1-07	Repeal	4-1-07
581-022-0613	3-1-07	Adopt(T)	4-1-07
581-022-1060	2-21-07	Amend	4-1-07
581-022-1065	2-21-07	Adopt	4-1-07
581-022-1130	12-12-06	Amend	1-1-07
581-023-0006	2-21-07	Amend	4-1-07
581-023-0035	1-26-07	Amend	3-1-07
581-045-0001	1-1-07	Amend	1-1-07
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581-045-0028	1-1-07	Renumber	1-1-07
581-045-0032	1-1-07	Amend	1-1-07
581-045-0036	1-1-07	Am. & Ren.	1-1-07
581-045-0037	1-1-07	Am. & Ren.	1-1-07
581-045-0038	1-1-07	Adopt	1-1-07
581-045-0060	1-1-07	Amend	1-1-07
581-045-0061	1-1-07	Amend	1-1-07
581-045-0062	1-1-07	Amend	1-1-07

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584-048-0042	11-22-06	Repeal	1-1-07
584-048-0065	11-22-06	Amend	1-1-07
584-048-0067	11-22-06	Amend	1-1-07
584-048-0070	11-22-06	Amend	1-1-07
584-048-0085	11-22-06	Amend	1-1-07
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584-080-0022	11-22-06	Adopt	1-1-07
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584-100-0006	11-22-06	Amend	1-1-07
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603-011-0371	12-4-06	Amend	1-1-07
603-027-0105	2-2-07	Amend	3-1-07
603-027-0170	2-2-07	Amend	3-1-07
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603-095-0320	12-21-06	Amend	2-1-07
603-095-0340	12-21-06	Amend	2-1-07
603-095-0360	12-21-06	Repeal	2-1-07
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603-100-0040	1-2-07	Adopt	2-1-07
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603-110-0600	11-20-06	Adopt	1-1-07
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629-021-0600	11-21-06	Adopt	1-1-07
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629-022-0310	1-11-07	Repeal	2-1-07
629-022-0320	1-11-07	Amend	2-1-07
629-022-0330	1-11-07	Repeal	2-1-07
629-022-0340	1-11-07	Repeal	2-1-07
629-022-0350	1-11-07	Repeal	2-1-07
629-022-0360	1-11-07	Repeal	2-1-07
629-022-0370	1-11-07	Repeal	2-1-07
629-022-0380	1-11-07	Amend	2-1-07
629-022-0390	1-11-07	Amend	2-1-07
629-022-0410	1-11-07	Amend	2-1-07
629-600-0100	1-8-07	Amend	2-1-07
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629-606-1000	11-21-06	Repeal	1-1-07
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629-640-0110	1-8-07	Amend	2-1-07
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635-004-0009	1-12-07	Amend	2-1-07
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635-004-0018(T)	1-12-07	Repeal	2-1-07
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635-004-0033	1-12-07	Amend	2-1-07
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635-005-0031	2-14-07	Amend	3-1-07
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635-006-1015	2-14-07	Amend	3-1-07
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635-006-1065	1-12-07	Amend(T)	2-1-07
635-006-1065	2-14-07	Amend	3-1-07
635-006-1075	1-12-07	Amend	2-1-07
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635-017-0095	2-1-07	Amend(T)	3-1-07
635-019-0090	3-1-07	Amend(T)	4-1-07
635-023-0095	1-1-07	Amend(T)	2-1-07
635-023-0095	2-1-07	Amend(T)	3-1-07
635-023-0095	2-14-07	Amend	3-1-07
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635-023-0125	2-14-07	Amend	3-1-07
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635-042-0010	3-6-07	Amend(T)	4-1-07
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635-042-0022	3-6-07	Amend(T)	4-1-07
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635-042-0110	2-14-07	Amend	3-1-07
635-042-0130	1-1-07	Amend(T)	2-1-07
635-042-0130	3-6-07	Amend(T)	4-1-07
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635-042-0133	2-14-07	Amend	3-1-07
635-042-0135	1-1-07	Amend(T)	2-1-07
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635-042-0135	2-14-07	Amend	3-1-07
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635-042-0160	2-14-07	Amend	3-1-07
635-042-0160	3-6-07	Amend(T)	4-1-07
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635-042-0180	2-14-07	Amend	3-1-07
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635-045-0002	1-1-07	Amend	1-1-07
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635-060-0046	1-1-07	Amend	1-1-07
635-060-0055	4-1-07	Amend	1-1-07
635-065-0001	1-1-07	Amend	1-1-07
635-065-0401	1-1-07	Amend	1-1-07
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635-068-0000	3-1-07	Amend	1-1-07
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635-090-0140	12-15-06	Amend(T)	1-1-07
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644-010-0010	1-1-07	Amend	1-1-07
660-041-0000	12-4-06	Adopt(T)	1-1-07
660-041-0000	2-9-07	Adopt	3-1-07
660-041-0000(T)	2-9-07	Repeal	3-1-07
660-041-0010	12-4-06	Adopt(T)	1-1-07
660-041-0010	2-9-07	Adopt	3-1-07
660-041-0020	12-4-06	Adopt(T)	1-1-07
660-041-0020	2-9-07	Adopt	3-1-07
660-041-0020(T)	2-9-07	Repeal	3-1-07
660-041-0030	12-4-06	Adopt(T)	1-1-07
660-041-0030	2-9-07	Adopt	3-1-07
660-041-0030(T)	2-9-07	Repeal	3-1-07
660-041-0040	2-9-07	Adopt	3-1-07
660-041-0050	2-9-07	Adopt	3-1-07
690-385-0100	1-5-07	Amend	2-1-07
690-385-3100	1-5-07	Amend	2-1-07
690-385-3145	1-5-07	Adopt	2-1-07
690-385-3200	1-5-07	Amend	2-1-07
690-385-3500	1-5-07	Amend	2-1-07
690-518-0020	1-5-07	Amend	2-1-07
695-007-0010	2-1-07	Adopt	3-1-07
695-007-0020	2-1-07	Adopt	3-1-07
695-007-0030	2-1-07	Adopt	3-1-07
695-007-0040	2-1-07	Adopt	3-1-07
731-005-0450	1-24-07	Amend	3-1-07
731-005-0600	1-24-07	Amend	3-1-07
731-005-0600(T)	1-24-07	Repeal	3-1-07
731-146-0010	11-17-06	Amend	1-1-07
731-147-0010	11-17-06	Amend	1-1-07
731-148-0010	11-17-06	Amend	1-1-07
731-149-0010	11-17-06	Amend	1-1-07
733-030-0011	3-1-07	Amend	4-1-07
733-030-0016	3-1-07	Amend	4-1-07
733-030-0021	3-1-07	Amend	4-1-07
733-030-0026	3-1-07	Amend	4-1-07
733-030-0036	3-1-07	Amend	4-1-07
733-030-0045	3-1-07	Amend	4-1-07
733-030-0050	3-1-07	Amend	4-1-07
733-030-0055	3-1-07	Amend	4-1-07
733-030-0065	11-24-06	Amend	1-1-07
733-030-0090	3-1-07	Amend	4-1-07
733-030-0100	3-1-07	Amend	4-1-07
733-030-0105	3-1-07	Amend	4-1-07
733-030-0110	3-1-07	Amend	4-1-07
733-030-0135	11-24-06	Amend	1-1-07
733-030-0350	11-24-06	Amend	1-1-07
734-010-0230	1-24-07	Amend	3-1-07
734-010-0240	1-24-07	Amend	3-1-07
734-051-0020	1-26-07	Amend	3-1-07
734-051-0035	1-26-07	Amend	3-1-07
734-051-0040	1-26-07	Amend	3-1-07
734-051-0070	1-26-07	Amend	3-1-07
734-051-0115	1-26-07	Amend	3-1-07
734-051-0125	1-26-07	Amend	3-1-07
734-051-0145	1-26-07	Amend	3-1-07
734-051-0155	1-26-07	Amend	3-1-07
734-051-0225	1-26-07	Amend	3-1-07
734-051-0285	1-26-07	Amend	3-1-07
734-051-0295	1-26-07	Amend	3-1-07
734-051-0500	1-26-07	Amend	3-1-07
734-051-0510	1-26-07	Amend	3-1-07
735-022-0000	11-17-06	Amend	1-1-07
735-022-0020	11-17-06	Repeal	1-1-07
735-022-0030	11-17-06	Amend	1-1-07
735-022-0040	11-17-06	Amend	1-1-07
735-022-0070	11-17-06	Amend	1-1-07
735-022-0080	11-17-06	Amend	1-1-07
735-022-0090	11-17-06	Amend	1-1-07
735-028-0020	11-17-06	Amend	1-1-07
735-040-0030	11-17-06	Amend	1-1-07
735-062-0080	12-13-06	Amend	1-1-07
735-062-0080(T)	12-13-06	Repeal	1-1-07
735-062-0140	12-13-06	Amend	1-1-07

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735-064-0005	11-17-06	Amend	1-1-07
735-064-0230	12-13-06	Amend	1-1-07
735-064-0235	12-13-06	Amend	1-1-07
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735-072-0130	1-24-07	Repeal	3-1-07
735-072-0150	1-24-07	Repeal	3-1-07
735-090-0101	11-1-06	Amend	3-1-07
735-158-0000	11-17-06	Amend	1-1-07
736-017-0000	12-15-06	Adopt	1-1-07
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736-017-0020	12-15-06	Adopt	1-1-07
736-017-0025	12-15-06	Adopt	1-1-07
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736-017-0035	12-15-06	Adopt	1-1-07
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736-146-0040	2-7-07	Adopt	3-1-07
736-146-0050	2-7-07	Adopt	3-1-07
736-146-0060	2-7-07	Adopt	3-1-07
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736-146-0080	2-7-07	Adopt	3-1-07
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736-146-0100	2-7-07	Adopt	3-1-07
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736-148-0010	2-7-07	Adopt	3-1-07
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736-149-0010	2-7-07	Adopt	3-1-07
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741-060-0035	3-7-07	Adopt	4-1-07
741-060-0040	3-7-07	Amend	4-1-07
741-060-0050	3-7-07	Amend	4-1-07
741-060-0060	3-7-07	Amend	4-1-07
741-060-0070	3-7-07	Amend	4-1-07
741-060-0080	3-7-07	Amend	4-1-07
741-060-0090	3-7-07	Amend	4-1-07
741-060-0095	3-7-07	Adopt	4-1-07
741-060-0100	3-7-07	Amend	4-1-07
741-060-0110	3-7-07	Amend	4-1-07
800-010-0015	2-1-07	Amend	2-1-07
800-010-0030	2-1-07	Amend	2-1-07
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800-010-0040	2-1-07	Amend	2-1-07
800-010-0041	2-1-07	Amend	2-1-07
800-010-0050	2-1-07	Amend	2-1-07
800-014-0070	2-1-07	Amend	2-1-07
800-015-0005	2-1-07	Amend	2-1-07
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801-010-0110	1-1-07	Amend	2-1-07
801-010-0345	1-1-07	Amend	2-1-07
801-020-0620	1-1-07	Amend	2-1-07
801-020-0690	1-1-07	Amend	2-1-07
801-030-0005	1-1-07	Amend	2-1-07
801-030-0010	1-1-07	Amend	2-1-07
801-030-0015	1-1-07	Amend	2-1-07
801-030-0020	1-1-07	Amend	2-1-07
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806-010-0145	12-13-06	Amend	1-1-07
808-003-0260	2-1-07	Amend	3-1-07
809-015-0010	3-14-07	Amend	4-1-07
809-020-0025	3-14-07	Amend	4-1-07
811-010-0085	11-24-06	Amend	1-1-07
812-001-0130	1-1-07	Amend	1-1-07
812-001-0135	1-1-07	Adopt	1-1-07
812-001-0500	1-1-07	Amend	1-1-07
812-002-0130	1-1-07	Repeal	1-1-07
812-002-0140	1-1-07	Amend	1-1-07

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812-003-0140	1-1-07	Amend	1-1-07
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812-003-0400	1-1-07	Amend	1-1-07
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812-004-0160	1-1-07	Amend	1-1-07
812-004-0180	1-1-07	Amend	1-1-07
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812-004-0300	1-1-07	Amend	1-1-07
812-004-0320	1-1-07	Amend	1-1-07
812-004-0340	1-1-07	Amend	1-1-07
812-004-0350	1-1-07	Amend	1-1-07
812-004-0360	1-1-07	Amend	1-1-07
812-004-0400	1-1-07	Amend	1-1-07
812-004-0420	1-1-07	Amend	1-1-07
812-004-0440	1-1-07	Amend	1-1-07
812-004-0450	1-1-07	Amend	1-1-07
812-004-0460	1-1-07	Amend	1-1-07
812-004-0470	1-1-07	Amend	1-1-07
812-004-0480	1-1-07	Amend	1-1-07
812-004-0500	1-1-07	Amend	1-1-07
812-004-0510	1-1-07	Amend	1-1-07
812-004-0520	1-1-07	Amend	1-1-07
812-004-0530	1-1-07	Amend	1-1-07
812-004-0535	1-1-07	Amend	1-1-07
812-004-0540	1-1-07	Amend	1-1-07
812-004-0550	1-1-07	Amend	1-1-07
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812-006-0400(T)	3-1-07	Repeal	4-1-07
812-007-0000	1-1-07	Amend	1-1-07
812-007-0010	1-1-07	Amend	1-1-07
812-007-0020	1-1-07	Amend	1-1-07
812-007-0030	1-1-07	Amend	1-1-07
812-007-0040	1-1-07	Amend	1-1-07
812-007-0050	1-1-07	Amend	1-1-07
812-007-0060	1-1-07	Amend	1-1-07
812-007-0070	1-1-07	Amend	1-1-07
812-007-0080	1-1-07	Amend	1-1-07
812-007-0090	1-1-07	Amend	1-1-07
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812-008-0072	1-1-06	Amend	1-1-07
812-008-0074	1-1-06	Amend	1-1-07
812-009-0010	1-1-07	Amend	1-1-07
812-009-0020	1-1-07	Amend	1-1-07
812-009-0050	1-1-07	Amend	1-1-07
812-009-0070	1-1-07	Amend	1-1-07
812-009-0090	1-1-07	Amend	1-1-07
812-009-0100	1-1-07	Amend	1-1-07
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812-010-0040	1-1-07	Amend	1-1-07
812-010-0085	1-1-07	Amend	1-1-07
812-010-0090	1-1-07	Amend	1-1-07
812-010-0100	1-1-07	Amend	1-1-07
812-010-0110	1-1-07	Amend	1-1-07
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812-010-0140	1-1-07	Amend	1-1-07
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812-010-0220	1-1-07	Amend	1-1-07
812-010-0260	1-1-07	Amend	1-1-07
812-010-0290	1-1-07	Amend	1-1-07
812-010-0300	1-1-07	Amend	1-1-07
812-010-0320	1-1-07	Amend	1-1-07
812-010-0340	1-1-07	Amend	1-1-07
812-010-0360	1-1-07	Amend	1-1-07
812-010-0380	1-1-07	Amend	1-1-07
812-010-0420	1-1-07	Amend	1-1-07
812-010-0425	1-1-07	Amend	1-1-07
812-010-0430	1-1-07	Amend	1-1-07
812-010-0460	1-1-07	Amend	1-1-07
812-010-0470	1-1-07	Amend	1-1-07
812-010-0480	1-1-07	Amend	1-1-07
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813-010-0016	1-11-07	Amend	2-1-07
813-010-0021	1-11-07	Amend	2-1-07
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813-010-0036	1-11-07	Amend	2-1-07
813-010-0042	1-11-07	Amend	2-1-07
813-010-0051	1-11-07	Amend	2-1-07
813-010-0700	1-11-07	Amend	2-1-07
813-010-0705	1-11-07	Amend	2-1-07
813-010-0710	1-11-07	Amend	2-1-07
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813-010-0740	1-11-07	Adopt	2-1-07
813-012-0010	1-11-07	Amend	2-1-07
813-012-0020	1-11-07	Amend	2-1-07
813-012-0030	1-11-07	Amend	2-1-07
813-012-0040	1-11-07	Amend	2-1-07
813-012-0050	1-11-07	Amend	2-1-07
813-012-0060	1-11-07	Amend	2-1-07
813-012-0070	1-11-07	Amend	2-1-07
813-012-0080	1-11-07	Amend	2-1-07
813-012-0090	1-11-07	Amend	2-1-07
813-012-0100	1-11-07	Amend	2-1-07
813-012-0110	1-11-07	Amend	2-1-07
813-012-0120	1-11-07	Amend	2-1-07
813-012-0130	1-11-07	Amend	2-1-07
813-012-0140	1-11-07	Amend	2-1-07
813-012-0150	1-11-07	Amend	2-1-07
813-012-0160	1-11-07	Amend	2-1-07
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813-012-0180	1-11-07	Adopt	2-1-07
813-030-0005	1-11-07	Amend	2-1-07
813-030-0010	1-11-07	Amend	2-1-07
813-030-0020	1-11-07	Amend	2-1-07
813-030-0025	1-11-07	Amend	2-1-07
813-030-0030	1-11-07	Amend	2-1-07
813-030-0031	1-11-07	Amend	2-1-07
813-030-0032	1-11-07	Amend	2-1-07
813-030-0034	1-11-07	Amend	2-1-07
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813-030-0070	1-11-07	Adopt	2-1-07
813-035-0005	1-11-07	Amend	2-1-07
813-035-0011	1-11-07	Amend	2-1-07
813-035-0016	1-11-07	Amend	2-1-07
813-035-0018	1-11-07	Amend	2-1-07
813-035-0021	1-11-07	Amend	2-1-07
813-035-0029	1-11-07	Amend	2-1-07
813-035-0033	1-11-07	Amend	2-1-07
813-035-0036	1-11-07	Amend	2-1-07
813-035-0040	1-11-07	Amend	2-1-07
813-035-0045	1-11-07	Amend	2-1-07
813-035-0051	1-11-07	Amend	2-1-07
813-035-0070	1-11-07	Adopt	2-1-07
813-035-0700	1-11-07	Repeal	2-1-07
813-035-0705	1-11-07	Repeal	2-1-07
813-035-0710	1-11-07	Repeal	2-1-07
813-035-0715	1-11-07	Repeal	2-1-07
813-035-0720	1-11-07	Repeal	2-1-07
813-042-0000	1-11-07	Adopt	2-1-07
813-042-0000(T)	1-11-07	Repeal	2-1-07
813-042-0010	1-11-07	Adopt	2-1-07
813-042-0010(T)	1-11-07	Repeal	2-1-07
813-042-0020	1-11-07	Adopt	2-1-07
813-042-0020(T)	1-11-07	Repeal	2-1-07
813-042-0030	1-11-07	Adopt	2-1-07
813-042-0030(T)	1-11-07	Repeal	2-1-07
813-042-0040	1-11-07	Adopt	2-1-07
813-042-0040(T)	1-11-07	Repeal	2-1-07
813-042-0050	1-11-07	Adopt	2-1-07
813-042-0050(T)	1-11-07	Repeal	2-1-07
813-042-0060	1-11-07	Adopt	2-1-07
813-042-0060(T)	1-11-07	Repeal	2-1-07
813-042-0070	1-11-07	Adopt	2-1-07
813-042-0070(T)	1-11-07	Repeal	2-1-07
813-042-0080	1-11-07	Adopt	2-1-07
813-042-0080(T)	1-11-07	Repeal	2-1-07
813-042-0090	1-11-07	Adopt	2-1-07
813-042-0090(T)	1-11-07	Repeal	2-1-07
813-042-0100	1-11-07	Adopt	2-1-07
813-042-0100(T)	1-11-07	Repeal	2-1-07
813-042-0110	1-11-07	Adopt	2-1-07
813-042-0110(T)	1-11-07	Repeal	2-1-07
813-060-0005	1-11-07	Amend	2-1-07
813-060-0010	1-11-07	Amend	2-1-07
813-060-0020	1-11-07	Amend	2-1-07
813-060-0025	1-11-07	Amend	2-1-07
813-060-0030	1-11-07	Amend	2-1-07
813-060-0031	1-11-07	Amend	2-1-07
813-060-0032	1-11-07	Amend	2-1-07
813-060-0036	1-11-07	Adopt	2-1-07
813-060-0038	1-11-07	Am. & Ren.	2-1-07
813-060-0040	1-11-07	Amend	2-1-07
813-060-0044	1-11-07	Amend	2-1-07
813-060-0045	1-11-07	Amend	2-1-07
813-060-0047	1-11-07	Amend	2-1-07
813-060-0055	1-11-07	Amend	2-1-07
813-060-0056	1-11-07	Amend	2-1-07
813-060-0061	1-11-07	Amend	2-1-07
813-060-0062	1-11-07	Amend	2-1-07
813-060-0065	1-11-07	Amend	2-1-07
813-060-0070	1-11-07	Adopt	2-1-07
813-090-0031	1-11-07	Amend	2-1-07
813-090-0031(T)	1-11-07	Repeal	2-1-07

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813-090-0036	1-11-07	Amend	2-1-07
813-090-0036(T)	1-11-07	Repeal	2-1-07
813-090-0070	1-11-07	Amend	2-1-07
813-090-0070(T)	1-11-07	Repeal	2-1-07
813-110-0010	1-11-07	Amend	2-1-07
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813-110-0033(T)	1-11-07	Repeal	2-1-07
813-110-0035	1-11-07	Amend	2-1-07
813-110-0035(T)	1-11-07	Repeal	2-1-07
813-120-0080	1-11-07	Amend	2-1-07
813-120-0080(T)	1-11-07	Repeal	2-1-07
813-120-0100	1-11-07	Amend	2-1-07
813-120-0100(T)	1-11-07	Repeal	2-1-07
813-130-0000	1-11-07	Amend	2-1-07
813-130-0000(T)	1-11-07	Repeal	2-1-07
813-130-0010	1-11-07	Amend	2-1-07
813-130-0010(T)	1-11-07	Repeal	2-1-07
813-130-0020	1-11-07	Amend	2-1-07
813-130-0020(T)	1-11-07	Repeal	2-1-07
813-130-0030	1-11-07	Amend	2-1-07
813-130-0030(T)	1-11-07	Repeal	2-1-07
813-130-0040	1-11-07	Amend	2-1-07
813-130-0040(T)	1-11-07	Repeal	2-1-07
813-130-0050	1-11-07	Amend	2-1-07
813-130-0050(T)	1-11-07	Repeal	2-1-07
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813-130-0060(T)	1-11-07	Repeal	2-1-07
813-130-0070	1-11-07	Amend	2-1-07
813-130-0070(T)	1-11-07	Repeal	2-1-07
813-130-0080	1-11-07	Amend	2-1-07
813-130-0080(T)	1-11-07	Repeal	2-1-07
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813-130-0090(T)	1-11-07	Repeal	2-1-07
813-130-0100	1-11-07	Amend	2-1-07
813-130-0100(T)	1-11-07	Repeal	2-1-07
813-130-0110	1-11-07	Amend	2-1-07
813-130-0110(T)	1-11-07	Repeal	2-1-07
813-130-0120	1-11-07	Amend	2-1-07
813-130-0120(T)	1-11-07	Repeal	2-1-07
813-130-0130	1-11-07	Amend	2-1-07
813-130-0130(T)	1-11-07	Repeal	2-1-07
813-130-0140	1-11-07	Adopt	2-1-07
813-130-0140(T)	1-11-07	Repeal	2-1-07
813-205-0000	1-11-07	Amend	2-1-07
813-205-0000(T)	1-11-07	Repeal	2-1-07
813-205-0010	1-11-07	Amend	2-1-07
813-205-0010(T)	1-11-07	Repeal	2-1-07
813-205-0020	1-11-07	Amend	2-1-07
813-205-0020(T)	1-11-07	Repeal	2-1-07
813-205-0030	1-11-07	Amend	2-1-07
813-205-0030(T)	1-11-07	Repeal	2-1-07
813-205-0040	1-11-07	Amend	2-1-07
813-205-0040(T)	1-11-07	Repeal	2-1-07
813-205-0050	1-11-07	Amend	2-1-07
813-205-0050(T)	1-11-07	Repeal	2-1-07
813-205-0051	1-11-07	Amend	2-1-07
813-205-0051(T)	1-11-07	Repeal	2-1-07
813-205-0052	1-11-07	Adopt	2-1-07
813-205-0052(T)	1-11-07	Repeal	2-1-07
813-205-0060	1-11-07	Amend	2-1-07
813-205-0060(T)	1-11-07	Repeal	2-1-07
813-205-0070	1-11-07	Amend	2-1-07
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813-205-0110	1-11-07	Adopt	2-1-07
813-205-0110(T)	1-11-07	Repeal	2-1-07
813-205-0120	1-11-07	Adopt	2-1-07
813-205-0120(T)	1-11-07	Repeal	2-1-07
813-205-0130	1-11-07	Adopt	2-1-07
813-205-0130(T)	1-11-07	Repeal	2-1-07
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818-001-0021	3-1-07	Repeal	4-1-07
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820-010-0400	11-21-06	Adopt	1-1-07
820-010-0605	11-21-06	Amend	1-1-07
820-010-0617	11-21-06	Amend	1-1-07
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820-010-0621	12-5-06	Adopt(T)	1-1-07
820-010-0622	11-21-06	Amend	1-1-07
820-010-0635	11-21-06	Amend	1-1-07
820-015-0005	11-21-06	Amend	1-1-07

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836-020-0770	2-12-07	Amend	3-1-07
836-031-0800	2-12-07	Adopt	3-1-07
836-031-0805	2-12-07	Adopt	3-1-07
836-031-0810	2-12-07	Adopt	3-1-07
836-031-0815	2-12-07	Adopt	3-1-07
836-043-0110	1-17-07	Amend	3-1-07
836-071-0146	1-1-08	Adopt	4-1-07
836-071-0180	1-1-08	Amend	4-1-07
836-071-0215	1-1-08	Amend	4-1-07
836-071-0220	1-1-08	Amend	4-1-07
836-071-0242	1-1-08	Amend	4-1-07
836-071-0250	1-1-08	Amend	4-1-07
837-012-0305	1-1-07	Amend	2-1-07
837-012-0310	1-1-07	Amend	2-1-07
837-012-0315	1-1-07	Amend	2-1-07
837-012-0320	1-1-07	Amend	2-1-07
837-012-0325	1-1-07	Amend	2-1-07
837-012-0330	1-1-07	Amend	2-1-07
837-012-0340	1-1-07	Amend	2-1-07
837-012-0350	1-1-07	Amend	2-1-07
837-012-0360	1-1-07	Amend	2-1-07
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837-012-1210	12-1-06	Amend	1-1-07
837-012-1220	12-1-06	Amend	1-1-07
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837-012-1240	12-1-06	Amend	1-1-07
837-012-1250	12-1-06	Amend	1-1-07
837-012-1260	12-1-06	Amend	1-1-07
837-012-1270	12-1-06	Amend	1-1-07
837-012-1280	12-1-06	Amend	1-1-07
837-012-1290	12-1-06	Amend	1-1-07
837-012-1300	12-1-06	Amend	1-1-07
837-012-1310	12-1-06	Amend	1-1-07
837-012-1320	12-1-06	Amend	1-1-07
837-012-1330	12-1-06	Amend	1-1-07
837-012-1340	12-1-06	Amend	1-1-07
837-012-1350	12-1-06	Amend	1-1-07
837-012-1360	12-1-06	Amend	1-1-07
837-012-1370	12-1-06	Amend	1-1-07
837-012-1380	12-1-06	Amend	1-1-07
837-012-1390	12-1-06	Amend	1-1-07
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837-040-0010	4-1-07	Amend	1-1-07
837-040-0020	4-1-07	Amend	1-1-07
837-040-0140	4-1-07	Amend	1-1-07
839-005-0010	2-2-07	Amend	3-1-07
839-005-0030	1-3-07	Amend	2-1-07
839-006-0205	2-1-07	Amend	3-1-07
839-006-0206	2-1-07	Amend	3-1-07
839-009-0250	1-17-07	Amend	3-1-07
839-009-0280	1-3-07	Amend	2-1-07
839-020-0004	11-27-06	Amend(T)	1-1-07
839-025-0020	1-23-07	Amend	3-1-07
839-025-0700	1-31-07	Amend	3-1-07
839-025-0700	11-20-06	Amend	1-1-07
839-025-0700	12-8-06	Amend	1-1-07
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839-025-0750	1-1-07	Amend	2-1-07
839-050-0140	12-6-06	Amend	1-1-07
845-005-0326	3-1-07	Amend	4-1-07
845-015-0199	1-1-07	Repeal	3-1-07
845-016-0005	9-1-07	Amend	4-1-07
845-016-0010	9-1-07	Amend	4-1-07
845-016-0015	9-1-07	Amend	4-1-07
845-016-0016	9-1-07	Adopt	4-1-07
845-016-0020	9-1-07	Amend	4-1-07
845-016-0030	9-1-07	Amend	4-1-07
845-016-0035	9-1-07	Amend	4-1-07
845-016-0036	9-1-07	Adopt	4-1-07
845-016-0045	9-1-07	Amend	4-1-07
845-016-0075	9-1-07	Amend	4-1-07
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847-008-0015	1-24-07	Amend	3-1-07
847-008-0022	1-24-07	Amend	3-1-07
847-008-0023	1-24-07	Amend	3-1-07
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847-010-0063	1-24-07	Amend	3-1-07
847-010-0073	1-24-07	Amend	3-1-07
847-020-0110	1-24-07	Amend	3-1-07
847-020-0140	1-24-07	Amend	3-1-07
847-020-0155	1-24-07	Adopt	3-1-07
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847-028-0030	1-24-07	Amend	3-1-07
847-035-0030	1-24-07	Amend	3-1-07
847-080-0001	1-24-07	Amend	3-1-07
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848-010-0015	4-1-07	Amend	4-1-07
848-010-0033	4-1-07	Amend	4-1-07
848-010-0035	4-1-07	Amend	4-1-07
848-015-0010	4-1-07	Amend	4-1-07
848-015-0020	4-1-07	Amend	4-1-07
848-020-0000	4-1-07	Amend	4-1-07
848-040-0100	4-1-07	Amend	4-1-07
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848-040-0160	4-1-07	Amend	4-1-07
850-060-0225	12-11-06	Amend	1-1-07
850-060-0226	12-11-06	Amend	1-1-07
851-002-0020	11-29-06	Amend	1-1-07
851-002-0035	11-29-06	Amend	1-1-07
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851-062-0016	11-29-06	Amend	1-1-07
855-001-0005	12-19-06	Amend	2-1-07
855-006-0005	12-19-06	Amend	2-1-07
855-021-0016	12-19-06	Adopt	2-1-07
855-050-0070	1-1-07	Amend(T)	2-1-07
855-060-0001	12-19-06	Amend	2-1-07
855-065-0001	12-19-06	Amend	2-1-07
855-065-0005	12-19-06	Amend	2-1-07
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860-016-0025	12-15-06	Amend	1-1-07
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863-025-0080	3-12-07	Adopt	4-1-07
918-040-0000	12-29-06	Adopt	2-1-07
918-040-0020	12-29-06	Adopt	2-1-07
918-040-0030	12-29-06	Adopt	2-1-07
918-040-0040	12-29-06	Adopt	2-1-07
918-098-1000	1-1-07	Amend	2-1-07
918-098-1005	1-1-07	Amend	2-1-07
918-098-1010	1-1-07	Amend	2-1-07
918-098-1020	1-1-07	Am. & Ren.	2-1-07
918-098-1025	1-1-07	Amend	2-1-07
918-098-1030	1-1-07	Amend	2-1-07
918-098-1040	1-1-07	Repeal	2-1-07
918-098-1042	1-1-07	Repeal	2-1-07
918-098-1045	1-1-07	Repeal	2-1-07
918-098-1050	1-1-07	Repeal	2-1-07
918-098-1055	1-1-07	Repeal	2-1-07
918-098-1060	1-1-07	Repeal	2-1-07
918-098-1065	1-1-07	Repeal	2-1-07
918-098-1070	1-1-07	Repeal	2-1-07
918-098-1075	1-1-07	Repeal	2-1-07
918-098-1085	1-1-07	Repeal	2-1-07
918-098-1200	1-1-07	Repeal	2-1-07
918-098-1205	1-1-07	Repeal	2-1-07
918-098-1220	1-1-07	Repeal	2-1-07
918-098-1305	1-1-07	Amend	2-1-07
918-098-1310	1-1-07	Amend	2-1-07
918-098-1315	1-1-07	Amend	2-1-07
918-098-1320	1-1-07	Amend	2-1-07
918-098-1325	1-1-07	Amend	2-1-07
918-098-1330	1-1-07	Amend	2-1-07
918-098-1400	1-1-07	Repeal	2-1-07
918-098-1440	1-1-07	Amend	2-1-07
918-098-1450	1-1-07	Amend	2-1-07
918-098-1620	1-1-07	Amend	2-1-07
918-098-1630	1-1-07	Amend	2-1-07
918-225-0230	12-29-06	Repeal	2-1-07
918-225-0430	1-1-07	Amend	2-1-07
918-225-0435	1-1-07	Adopt	2-1-07
918-225-0570	1-1-07	Amend	2-1-07
918-251-0070	12-29-06	Repeal	2-1-07
918-261-0034	1-1-07	Adopt	2-1-07
918-281-0020	1-1-07	Amend	2-1-07
918-395-0400	1-1-07	Amend	2-1-07
918-400-0260	12-29-06	Repeal	2-1-07
918-400-0455	1-1-07	Amend	2-1-07
918-400-0458	1-1-07	Adopt	2-1-07
918-440-0010	4-1-07	Amend	3-1-07
918-460-0010	4-1-07	Amend	3-1-07
918-460-0015	4-1-07	Amend	3-1-07
918-480-0010	4-1-07	Amend	3-1-07
918-690-0400	12-29-06	Repeal	2-1-07
951-003-0005	11-17-06	Amend	1-1-07
951-004-0000	11-17-06	Adopt	1-1-07

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951-005-0000	11-16-06	Adopt	1-1-07
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